



# **Submission on Ireland's National Plan on Business & Human Rights**

**March 1<sup>st</sup> 2015**

**Kara McGann**

## **Table of contents**

<b>Introduction</b>	<b>3</b>
<b>What is the perspective of business regarding the implementation of the UNGPs?</b>	<b>3</b>
<b>Is there recognition of the business benefits of integrating respect for human rights into operations, products and services?</b>	<b>4</b>
<b>What tools should the Government develop to help business implement the UNGPs?</b>	<b>5</b>
<b>What lessons can the Government learn from business on best practice on integrating human rights into business operations?</b>	<b>8</b>
<b>Conclusion</b>	<b>9</b>

# Submission on new National Plan on Business and Human Rights

## Ibec Submission

March 2015

### Introduction

This submission will outline Ibec's priorities regarding the National Plan on Business and Human Rights set out in the consultation paper. As an active member of the IOE and the ILO, Ibec is cognisant of the importance of human rights to how we do business for individuals, societies and organisations alike. Extending Ireland's global reach is one of Ibec's key business priorities. In its campaign, ***An Ireland that works***, Ibec asserts a number of business priorities for growth and jobs; one of which being "Extend Ireland's global reach". This is a social and economic imperative as Irish business is increasingly global in focus, based on innovative manufacturing and internationally traded services.

Ireland remains one of the world's most open economies. Our prosperity is determined by important economic and strategic ties with major global partners. Investment and trade success will be central to our economic recovery and we must continue to foster effective international links. As a modern and progressive country, Ireland takes its responsibilities as part of the global community seriously. This means having regard to international law and norms, while at the same time seeking to respect and maintain national systems and practices which have served us well.

### 1. What is the perspective of business regarding the implementation of the UNGPs?

Ibec welcome the development of the UN Guiding Principles (UNGPs) on Business and Human Rights which provide a clear framework to guide companies and other stakeholders. The 'Protect, Respect, Remedy' framework assigns responsibility to organisations to respect human rights, to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved. Around this topic of business and human rights there are multiple terms or methods that seek to address the area and they include concerns around corporate social responsibility, ethics, diversity and inclusion, anti-discrimination and so on. What is clear is that diversity, inclusion and respect for human rights is very much part of a modern business model.

Employers have been taking the necessary steps to address some of the challenges in this area throughout their business activities and relationships. Many organisations have engaged in diverse,

formal and informal initiatives to support people, communities and the local environment and economy embedding human rights considerations into their business operations. For example, Accenture is doing great work developing conservation, agriculture and building skills in Malawi and Zambia; IBM Ireland use their Integrated Supply Chain Social and Environmental Management System which has resulted in many firms who work alongside them adopting a more responsible approach to social and environmental issues, similarly CRH place business ethics and CSR at the forefront of all business dealings, choosing only suppliers who share their commitment to good ethical practices and who meet their standards in respect of human rights, health & safety and environmental stewardship; while Boots consider every product as a representation of their brand, thereby ensuring that they can stand over their ethical and environmental impact throughout the supply chain.

Ibec have seen such employer commitment broaden year on year in the area of equality, diversity, CSR, anti-discrimination, and health and safety to ensure that the necessary supports and protections are in place for stakeholders. Responsible business behaviour is crucial for building trust towards the market economy, trade openness and globalisation. The focus on these areas refers to economically successful business practices that involve a responsible approach towards the treatment of people and the societies and environment in which organisations operate.

## **2. Is there recognition of the business benefits of integrating respect for human rights into operations, products and services?**

Responsible action by the private sector on human rights is good for business and communities; it helps create jobs, customers and a sense of fairness; it contributes to a market's sustainability and therefore its potential to generate long-term growth. What is required is a long-term, mutually beneficial relationship between business and its key stakeholders that enables us to address critical local and international challenges and to ensure the future wellbeing of the Irish economy, society and environment by increasing productivity, fostering innovation and reducing business costs, while maintaining and respecting human rights.

Ireland has a strong history and body of legislation across the full spectrum of employment rights, from the national minimum wage, the provision of information and consultation, consumer and environmental protection and equality to name but a few. All of these are supplemented by a strong legislative base which organisations in Ireland already embrace. Our system of industrial relations is based on a voluntarist approach with terms and conditions of employment being determined in the

main by a process of voluntary negotiation between parties without State intervention. This is supported by a breadth of statutory rights that can be improved but not taken away by negotiation. We have established work codes in place surrounding the employment of migrant workers, undocumented and irregular workers and have moved to a more integrated society. While there will always be individual issues, as in any country, we have made great strides in terms of the legislation and protections. From this strong foundation of protections, promotion of positive behaviours and correction of negative behaviours, a National Plan should be developed without unfair costs or unnecessary additional administrative or regulatory burdens. What is required now is a new way of looking at the relationship between business and society that does not measure corporate success and social equity as a zero-sum game. This can be best achieved if parties with different interests and target groups have a shared agenda and work together. This includes employer and employee representatives, NGO's, as well as educational institutions, so that knowledge can be transferred and future entrepreneurs and managers will be aware of business responsibility for human rights, social impacts, ethics and CSR.

Governments have the responsibility to provide a favourable environment for the growth of business while guaranteeing the ethical and legislative framework within which the market can flourish and within which ethical market behaviour will be fostered. Ireland has a culture of human rights, equality awareness and protection with excellent infrastructure which provides for existing obligations and practices that can be built upon to ensure the protection and promotion of human rights. This will require a combination of proactive leadership and innovative policies and practices rather than a narrow regulatory approach.

### **3. What tools should the Government develop to help business implement the UNGPs?**

There are a number of areas whereby Government could help business to implement the UNGPs.

#### **Clarity**

The publishing of this consultation and the call for a National Plan on Business and Human Rights has in some cases left employers with questions. Firstly, a full definition of human rights as covered in this context is unclear. Questions surround where does corporate social responsibility end and human rights responsibility begin? Business needs guidance from the State on the distinction between human rights and CSR and clarity around how human rights is at the heart of the way we do business rather than an 'add on' or recompense for any perceived ills of doing business. In particular, organisations need to understand the expectation the Government has for them in terms

of due diligence, and clarification is sought. This needs to be presented in the language of business – it is a business issue and makes both social and economic sense so as such should be presented in that manner.

### **Awareness raising**

There is a real gap in distinguishing between human rights activity and what aspects of business processes need scrutiny to ensure adherence to and implementation of the UNGPs. Some organisations are addressing human rights issues but often focusing on them through the lens of labour standards, equality or health and safety. There is a role for Government to clarify and raise awareness for business regarding their responsibilities to help them comply. Using our robust legislation and the fact that Ireland transposes European legislation to a very high standard means that the foundation is in place and only the tools to enact are required.

Sector-specific guidance for employers would be essential as the challenges facing for example ICT compared to those of the extractive industries are worlds apart and navigating this area needs to be made accessible. For example, from an ICT perspective business needs to build privacy by design into every app and system that uses an individual's data. Future data protection rules, however, must not create disproportionate burdens for businesses, and the possibility of data flowing across borders should not be limited without objective reasons. If simplification and legal certainty can be achieved overall, compliance with and enforcement of the rules will increase, strengthening safety in the single market and enhancing consumer trust.

Organisations of different sizes may also need tailored guidance as SME's in particular may require greater assistance in examining human rights issues around how they do business as due to resource and time constraints they may have less capacity than larger employers to absorb the requirements yet no less of the responsibility.

It would be important that learning is developed around human rights and the UNGPs which are embedded in the curricula of business and entrepreneurship education to ensure it becomes a matter of course for future business leaders.

### **Due diligence**

When it comes to human rights issues, prevention is definitely better than cure. Fundamental to the successful engagement in business activities that address human rights is to ensure that forward

planning and due diligence is carried out. Organisations need to assess the risk of actual or potential impacts of their operations on human rights and to prioritise the relevant issues and the levels of risk. In this way organisations can identify, prevent, moderate and account for how they address their impacts on human rights as part of normal due diligence, for example, before entering into a partnership agreement or establishing a presence abroad. This requires looking at indigenous people, women, ethnic groups, religious minorities, children, people with disabilities and migrant workers (this is not an exhaustive list) as a first step in light of the operations of the organisation across all locations and activities, the relevance of which may vary by location. It is also something that needs to be reviewed periodically.

Regarding the issue of supply chain, this can be a very complex area and one which due diligence procedures can help with to ensure all reasonable steps to avoid any involvement in human rights abuses arising from supplier actions have been examined. While it is desirable to avoid the setting of criteria for organisations, to do this well a template that adds a human rights lens to an organisations already established due diligence programme would be very valuable. While there is no one-size-fits all process, a template with the pertinent questions to be answered would give organisations a starting point from which to work. Some of the questions posed by the existing guides produced by the International Organisation of Employers (IOE) and the Office of the High Commissioner for Human Rights (OHCHR) may be of assistance and help to make the UNGPs more accessible.

Similarly an audit tool could be developed and a series of employer workshops could be rolled out by Government to embed best practice and the UNGPs for employers. These workshops could assist with the development of policies, the identification of and prioritisation of risks faced. A barrier identified to full engagement by organisations in the research includes a lack of know-how. Therefore providing guidance tools and direction to technical support could be invaluable. Organisations would be in a position to self audit or engage the services of a specialist in this area to audit. Employer bodies could disseminate information, exchange experiences and good practice at member forums to further this.

### **Being informed**

Related to the area of due diligence is the importance of organisations staying informed and acquainting themselves with the human rights situation in countries they are engaged with. Some of this may be provided through UPR or UN reports while the Department of Foreign Affairs has an

important role to play here in supporting organisations with some of this sensitive information around potential or existing impacts.

### **Best practice cases and guidelines**

To assist organisations in address human rights within their business processes and policies it would be useful to showcase best practice and cross-sectoral examples of the activities others have engage in. For example, an organisation dealing with human rights with their supply chain could learn from the likes of CRH or Smurfit Kappa and how they have engaged in business internationally. An Irish portal capturing human rights information and tools in addition to links to the Department of Foreign Affairs and country information could provide a useful base for organisations to access pertinent and current information.

### **Government procurement**

Government is conscious of the supply chain and we are governed by the national legislation and European directives. Government can model best practice in their own procurement processes and their engagement in due diligence.

Finally in terms of remedy and redress, Ibec would not be in favour of the proposal made regarding the establishment of a global ombudsman function. There is no argument to convince how this would be practical or possible or would address the lack of access to effective and impartial mechanisms at national and local levels.

## **4. What lessons can the Government learn from business on best practice on integrating human rights into business operations?**

A number of employers are engaged in excellent human rights practices including those referenced above, although some may not necessarily term them “human rights” because it is part of their ethos and good responsible business practice. Learning from these examples and sharing these case studies with other employers could offer clarity and confidence to organisations embarking on a deliberate focus on human rights.

Gender is one area that organisations have engaged significantly on and particularly the area of gender balanced leadership. With a history and tradition of equality legislation in Ireland, employers are going beyond the legislation to look at developing their gender pipeline and removing obstacles



for women's progression to decision-making positions in organisations. Private and Public sector employers have come together repeatedly to share good practice, develop tools and guidelines and to progress this issue. We have seen significant results in the number of women breaking through the "glass ceiling" in business and today a concerted effort is being made in boardrooms and at decision-making levels to tackle any residual barriers preventing gender balance.

Similarly a number of employers are signed up to, or participants in, various international standards such as the UN Global Compact (2000) and the UN Principles for Responsible Investing (2006). This should be promoted strongly so that employers can engage with these where appropriate. Some organisations have articulated in the form of a company policy their commitment to human rights in their operations and engagement with all stakeholders from employees to the community, while setting a course of action for issues identified.

## **Conclusion**

Organisations will vary in the degree of risk they face regarding human rights abuse but the expectation is that all organisations will have due regard for the UNGP's and human rights in their operations. With the right information, guidance and preparation organisations can meet their business goals while supporting and maintaining human rights.

Ireland has a strong history and body of legislation governing the full spectrum of employment rights, corporate governance and responsible business practices. Ibec would like to see a National Plan on Business and Human Rights that:

- reflects this ethos;
- promotes understanding of how addressing human rights risk and impacts can help build business success;
- is pragmatic and practical in supporting an international level playing field;
- supports the delivery of competitive business policies and procedures that involve a responsible approach towards the treatment of people, societies and the environment organisations operate in.