

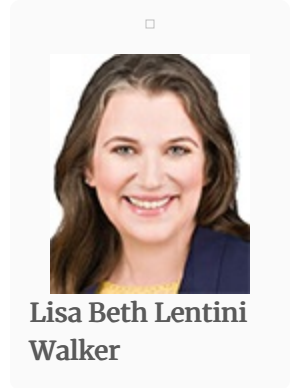
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### ESG in focus: Human rights in the supply chain

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By Lisa Beth Lentini Walker

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In a time of turmoil, knowing your supply chain and safeguarding your brand and its reputation are critical. Over the past decade or more, oversight of supply chains has shifted from mere financial and operational capabilities to a far more sophisticated model of third-party risk management. Understanding the impact of areas like cybersecurity and privacy on companies within a value chain, along with appreciating potential anti-bribery/anti-corruption risks, has been in focus for a period of time. But where do environment, social, and governance (ESG) factors sit in the supply chain, and specifically, how do organizations ensure that an emphasis on fundamental human rights is observed? According to Doug Chia of Soundboard Governance, “human rights issues in supply chains have long been major concerns for faith-based investors and SRIs [socially responsible investors], with little attention paid by others. But because of today’s global supply chain failures, geopolitical environment, and focus on systemic risks, the largest institutional investors need to be more attuned to human rights in supply chains from a governance perspective. The Russian invasion of Ukraine drives this home with an exclamation point!”

The United Nations (UN) *Guiding Principles on Business and Human Rights* recognizes that companies should undertake “human rights due diligence” measures to ensure their operations respect human rights and do not contribute to human rights abuses.<sup>[1]</sup> The corporate responsibility to respect human rights requires companies to conduct human rights due diligence to identify, address, and mitigate adverse human rights impacts with which they may be involved through their business relationships. While there are laws such as the UK Modern Slavery Act of 2015 and the California Transparency in Supply Chains Act that focus on the scourge of human trafficking and unacceptable labor conditions, they don’t address the full spectrum of human rights.

“Organizations will continue to feel increasing pressure to improve their management of human rights risks from various stakeholders—including investors, civil society, their customers, and even their own employees. In addition, emerging regulations in the European Union will mandate organizations conduct human rights due diligence aligned with international standards such as the UN *Guiding Principles* and the OECD [Organisation for Economic Co-operation and Development] *Due Diligence Guidance for Responsible Business Conduct*. For those with little experience in human rights due diligence, it will be a steep learning curve and they will need to urgently build their capacity to keep pace with these rising stakeholder expectations,” indicated Hamlin Metzger, vice president of membership and engagements for the Responsible Business Alliance.

Adverse human rights impacts can occur at any level of a supply chain—within the four walls of the headquarters or strategic suppliers; all the way down via multiple layers of subsuppliers and subcontractors; to those providing the subcomponents, raw materials, and specific minerals critical to the supply chain; or even in groups not responsible for the production of product. The supply chain and set of third parties can be even further complicated by relationships with licensees, multiple layers of vendors, or other agents and associated connections. “It is important to realize third parties may be participating in your supply chain that you are not

aware of—third parties that may be using unethical recruiting practices to obtain the labor needed to meet the supply demands your company is actually creating. Take a careful look at your sourcing practices. Do your supply contracts include penalties for failure to deliver ‘on time’? Do your contracts allow you to double or triple order volume or shorten delivery times unilaterally? If so, your company may be unintentionally creating the exact conditions in which forced labor and other human rights violations are more likely to occur,” explained Gwen Hassan, adjunct professor for Loyola University Chicago and founder and host of her podcast about human trafficking prevention, *Hidden Traffic*. In order to meet an organization’s responsibility to respect human rights, companies need to understand human rights risks throughout their ecosystem—not just the suppliers in the first chain for production.

This importance of deeper supply chain awareness is seen throughout many industries. In the plastics space, which is a key component in packaging, there are choices that could implicate human labor in collection or manufacturing. Similarly, coconut, cocoa, and coffee bean collection have all been targeted with campaigns due to the labor conditions for humans and animals, making this a relevant issue for companies that use these ingredients in their end product. Even your local water park may have temporary hires from other jurisdictions and may use minors as part of the work force, which may create potential human rights issues.

Organizations also need to make strategic decisions about whether to invest in countries and companies where human rights do not meet global standards in the hopes to improve standards or whether they limit their exposure to jurisdictions where human rights practices better align to the values that the organization holds and the commitments that the organization has made to stakeholders.

Compliance professionals are uniquely positioned to help in taking a risk-based approach to identifying risks, developing clear and concise frameworks to safeguard human rights throughout the value chain, training and raising awareness, auditing, monitoring, escalating issues, and working toward remediation and accountability through reporting. As compliance and ethics professionals continue to be engaged in support and leadership of ESG initiatives, using structures such as third-party risk management to yield better outcomes should be a first step toward improving the underlying framework and controls in alignment with stated organizational values.

## Takeaways:

- Knowing your direct supplier is only a small fraction of the story.
- Human rights due diligence is becoming an increasing expectation for all third-party interactions.
- Regulations regarding human rights have been in place, but there is momentum for the enforcement of those laws.
- Any industry that uses humans in the supply chain should be aware of and monitoring for human rights.
- As a compliance professional, it is critical that you have human rights on your radar as both an ethical matter and a regulatory matter for consideration.

<sup>1</sup> Office of the High Commissioner, *Guiding Principles on Business and Human Rights*, United Nations, accessed June 7, 2022, [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf).

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