

Irish Coalition for Business & Human rights submission to Joint Oireachtas Committee on Enterprise, Trade and Employment. 19/10/2022

Dr. Rachel Widdis - School of Law Trinity College / Article One

Chair, members of the Committee, I thank you for the opportunity to present this morning.

I input as a practitioner, in my capacity as Director EMEA at Article One I work with corporations globally to advance respect for human rights throughout their operations and supply chains. I teach the Business and Human Rights at the School of Law Trinity College, and am a non-executive Director of a State owned company. As a member of the Irish Coalition for Business and Human Rights, I support the contribution of my colleagues today.

For context, there have been important changes in what is expected of **business** regarding impacts on human rights and environment.

A decade ago, the UN Guiding Principles on Business and Human Rights set down the expectation that business would respect human rights and **'do no harm'**. Some companies voluntarily adopted these Principles, and are considered leaders in practice today. However, most did not. In practice, positive change was slow and **ultimately low**.

Now, key trends have altered this landscape.

Firstly, interest from consumers, employees, and shareholders in better business practices. Countries adopted 'single issue' laws, for example, the UK Modern Slavery Act.

Secondly, the **scope and pace of regulation has accelerated**. European countries passed broader so-called supply chain due diligence laws –in 2021, Norway, Switzerland, and Germany.

These laws aim to prevent harm occurring in the first place. Broadly, they require certain companies to identify, assess, and address their negative impacts on human rights **across their operations and global supply chains**, and be accountable for this process. The German law, coming into force on January 1, requires certain companies to report publicly on the effectiveness of their due diligence, for example to prohibit child labour.

I work with companies evolving their business model and practices. Responsible Business Conduct is an adjustment. They recognise it is the right thing to do, and we presume no business wants the operational, reputational or legal risk of being linked to abuses of human rights and damage to environment. In short, **engaged businesses recognise it is their business to engage**.

In March, the EU Commission published the proposed Corporate Sustainability Due Diligence Directive. As stated, 'with these rules we want to stand up for human rights and the green transition'. The hope or expectation is that this EU initiative will in time lead a global standard of business practice.

National laws, and the proposed Directive mark a paradigm shift, from voluntary principles to hard law. They go beyond reporting out, and set down corporate due diligence as a robust process.

The EU framework itself, needs to be 'content' ambitious, and aim for a level playing field.

It would require large EU and non-EU companies, and later companies in identified 'high impact sectors' to take appropriate measures to prevent, mitigate and remediate adverse impacts, from

inadequate workplace health and safety, exploitation of workers, to biodiversity loss and ecosystem degradation. It includes accountability mechanisms, and oversight by directors of EU companies, both important to deliver remedy for those affected and underpin success.

Key, is that the thrust of the proposed Directive should not be watered down. It will evolve and could be strengthened in multiple ways.

In my work, I see both positive impacts of business and also terrible abuses affecting people and communities. I see companies here in Ireland and across the world moving to align with new human rights and environmental due diligence laws. They, are supportive, and seeking guidance.

Across the EU, citizens and stakeholders expect products and services delivered with responsible business conduct. These laws and the proposed Directive are needed and valuable markers to advance and deliver that.

I am pleased to assist with further detail.

Thank you

Caoimhe de Barra – Trócaire CEO

Chair, members of the Committee, I would like to thank you for the opportunity to present this morning. Trócaire is chair of the Irish Coalition for Business and Human Rights - a broad civil society coalition bringing together organisations working with human rights defenders, development organisations, environmental organisations and trade unions.

Our organisations witness first-hand the impacts of corporate harm on the communities we work with. These harms include human rights violations such as child labour, land grabs, attacks on human rights defenders, and violence against women. We also witness significant environmental harms such as deforestation, oil spills and unchecked carbon emissions. Those who stand up to defend their communities against corporate exploitation are increasingly under threat.

The uncomfortable truth is that many European companies are linked to these types of harms. Indeed, here in Ireland, a number of businesses based here have been linked to human rights violations throughout their global value chains, which our coalition has documented in our recent report 'Make it Your Business'.

This is a global issue. I personally have met many brave men and women affected by corporate harms, from communities in Guatemala, to Honduras, to Palestine, to Myanmar. These have included communities who have had land confiscated, forests cut down and those who have even lost family members who have been murdered for daring to stand up and defend their communities against corporate interests.

To meaningfully address these types of violations, we need stronger legislative frameworks that can prevent such harms from happening and provide justice for victims when violations do happen. As such, our coalition is very encouraged to see the EU propose the Corporate Sustainability Due Diligence (CSDD) Directive. Our coalition strongly welcomes this new Directive, and we particularly welcome the inclusion of civil liability within the draft.

However, at present, there are significant weaknesses and some serious flaws in the draft text that risk it being ineffective.

Firstly, we believe the scope of the Directive applies to far few businesses. 99% of EU businesses will be excluded from these new rules. We estimate that here in Ireland, fewer than 700 Irish companies will be covered.

Secondly, we are concerned that companies will only be required to assess their value chains where they have 'established business relationships'. Therefore, the full extent of value chains won't be covered. Indeed, it is often in informal work where we see many rights abuses.

Thirdly, victims and rights-holders are not the primary focus of the draft Directive. It is weak on meaningful engagement with communities, unions and the protection of human rights defenders. The draft also fails to address the gender dimensions of corporate harm and is weak in its gender response.

As this Directive is being negotiated in the coming months at the Council of the EU, we would recommend the following:

- That the Minister for Enterprise, Trade and Employment, leads on outlining a clear policy position of the Irish Government on the Corporate Sustainability Due Diligence Directive, and seeks to raise the ambition of the Directive and address the weaknesses that we have outlined;
- That the Government outlines a clear timeframe with steps for the preparatory work, development and ultimate transposition and implementation of the CSDD Directive into Irish law;
- We would also respectfully suggest that this Committee support these recommendations, and conduct further hearings with experts and carry out full pre-legislative reviews of the draft Directive.

Fundamentally, if we fail to adequately address the exploitation, violence and pollution in the value chains of our everyday products such as our clothes, our smart phones and food – then we will have missed a historic opportunity and we will have failed in our responsibility to respect, promote and protect human rights.

Thank you.