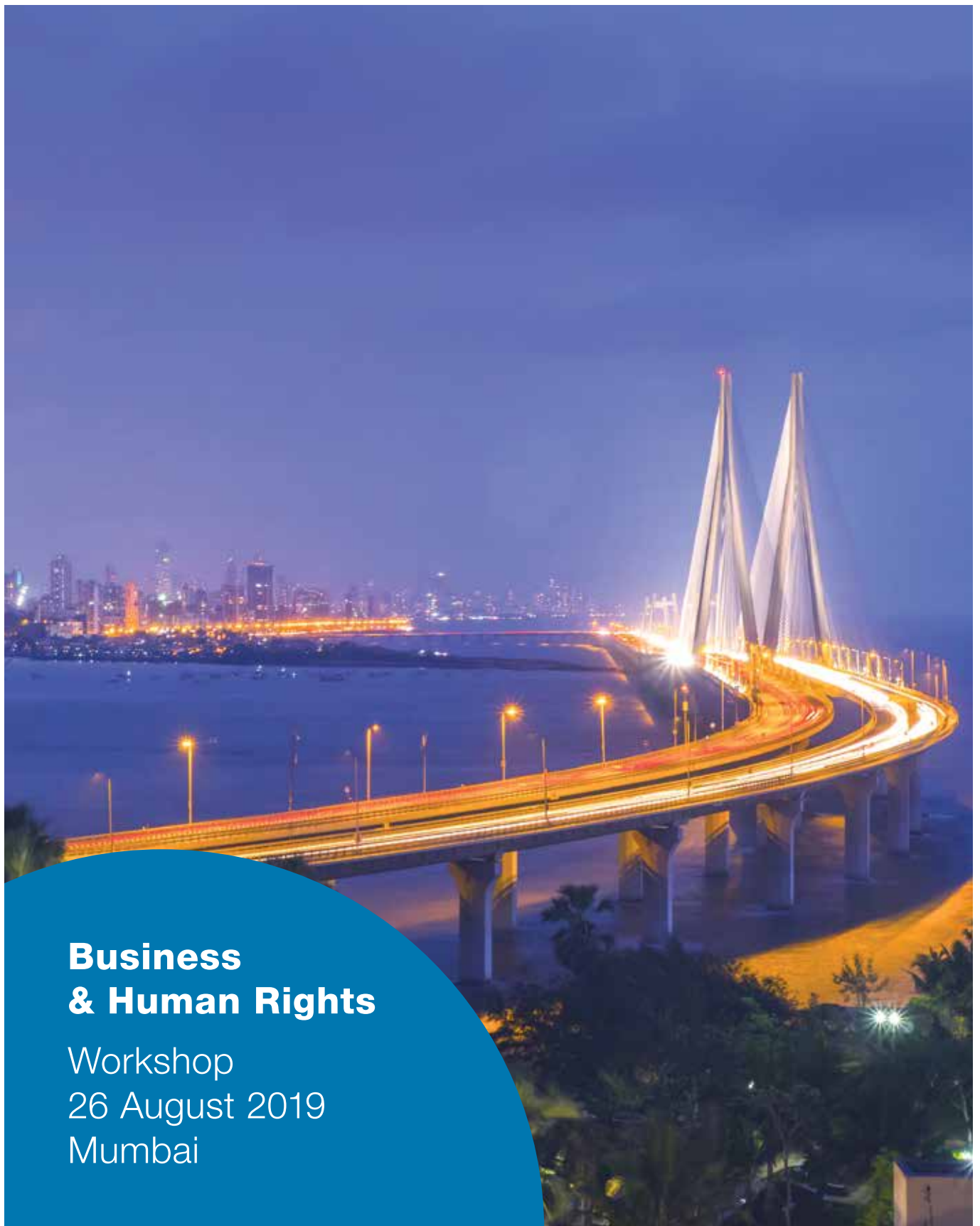


Insights Report



Business & Human Rights

Workshop
26 August 2019
Mumbai

About this practical human rights workshop for business

On 26 August 2019, the Global Business Initiative on Human Rights (GBI) and the World Business Council for Sustainable Development (WBCSD) convened a practical business workshop in Mumbai on business and human rights.

These discussions brought together approximately 35 business practitioners to:

- Explore the vital role of senior business leaders in driving change
- Gain expert insights on the latest legal and policy developments, as well as regional challenges
- Better understand how the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#) apply in practice
- Work through scenarios to explore how a company can respond to key human rights challenges
- Exchange practical experiences and learn from each other

This brief report shares key insights, tips and experiences shared during the workshop discussions. To protect the safe space provided during the workshop, this report does not provide a summary of each session or attribute the insights captured below.

Business and human rights in India

India is currently the fastest-growing country in the world, as well as the second largest country by population and the largest democracy. It is home to a number of vibrant and successful businesses and is an increasingly attractive market for local and international companies. However, India also faces a number of environmental, social and development challenges, partly as a result of resource scarcity and population density. Accordingly, it is increasingly important for companies to implement policies and processes to manage human rights issues effectively to meet their responsibilities under key standards and stakeholder expectations and, in doing so, make a vital contribution to achieving the SDGs and sustainable development in India.

Engagement with business-related human rights issues is growing amongst businesses, driven largely by international pressure (including from foreign investors and multinational companies operating in or sourcing from India), increased efforts by government to establish clear expectations of business and pressure from civil society. Key challenges facing companies vary, depending on their sector and operations. However, priorities for many companies include improving working conditions in supply chains (including issues regarding forced and child labour, working hours and wages) and addressing land rights, environmental challenges, discrimination, and health and safety issues.

Many companies in India are increasingly committed to finding effective approaches to address challenges, innovate, build internal know-how and learn from peers. Some companies – both national and foreign affiliates – now have significant experience working with these issues, are demonstrating real leadership and working to share practices and approaches. The Indian government is also stepping up its engagement with business and human rights challenges at a national and international level.

The increasing energy and momentum to address these issues created a timely opportunity for GBI and WBCSD member companies to come together to share experiences, insights and practices.

Key themes and insights

Companies in India are increasingly working to implement a robust and proactive approach to human rights risk identification and management.

It is easy to take for granted that colleagues and business partners follow good principles in their daily work – and that this is enough to avoid involvement in human rights issues. However, there is increasing awareness within business that robust policies and processes are needed to ensure human rights risks are identified and addressed. In some cases, these will pick up wrongdoing. In others, they may identify issues that arose inadvertently or are rooted in complex systemic challenges. Regardless, all companies need a proactive approach in place to know and show they are managing human rights risks effectively. The UNGPs provide a practical roadmap to do this. However, to advance meaningful discussions and action on human rights within the company, practitioners need to be able to articulate the business case, transform mind-sets and ways of working across the company. They must identify priorities and build a strategy and approach that will work for their company.

Awareness-raising, training and capability-building are needed to familiarise colleagues and partners with human rights issues and equip them with the know-how to manage them effectively.

The term ‘human rights’ encompasses a wide range of issues and is often not intuitive to colleagues and business partners. For some, it may have negative connotations connected with media coverage of human rights issues. Others may need support to understand what is and is not within the scope of the company’s human rights responsibilities. A plain language list of key human rights – such as those set out in the Universal Declaration of Human Rights – can make conversations about human rights more concrete. Practitioners also noted the value of using the everyday language of the business – for example, rather than talking about human rights, discussing child labour, land rights or working hours. Case studies examining real-life human rights issues the company has been involved in can bring human rights to life and help them feel real and relevant to colleagues. Demonstrating the value-add to the business of implementing more robust approaches to identifying and managing human rights issues can help build buy-in and commitment internally.

Senior leaders have a powerful and critical role to play to drive respect for human rights within the company.

Engagement by senior leaders with human rights issues is growing. For example, 35 CEOs recently signed WBCSD’s [CEO Guide to Human Rights](#). Individual CEOs and senior leaders are also increasingly demonstrating leadership on specific human rights issues. Senior leaders can play a powerful role to inspire leadership and commitment within their companies and beyond, and to set the ‘tone from the top’ that human rights matter. To get traction with senior leaders, it is important to be able to articulate the business case clearly. For example, it may be helpful to focus on increasing regulation and pressure from investors and other stakeholders, the need to live the company’s values, and the benefits to the business of managing human rights issues effectively – such as improved relationships with business partners and the ability to spot problems early and resolve them before they escalate. Practitioners noted the value of considering how best to inspire senior leaders. Some practitioners observed that CEOs and other leaders often respond better to stories than statistics and numbers. Positive stories sharing improvements achieved in the supply chain can help inspire and build buy-in and commitment. Practitioners also observed that KPIs for senior leaders can be invaluable by providing a goal and accountability for leaders’ success in driving respect for human rights within the company.

Practical insights on human rights due diligence (HRDD)

The UNGPs are a valuable reference for companies committed to respecting human rights: They set a challenging standard but are pragmatic and provide clarity for companies. By working towards meeting the expectations set out in the UNGPs, companies can position themselves to meet stakeholders' expectations as well as emerging legal and regulatory requirements.

There is no one right way to approach HRDD: Companies implement diverse approaches to identify and address human rights issues. These will often reflect the company's internal culture, existing risk management processes and operating context. They will also evolve over time, as the company deepens its understanding of what works and what doesn't, and as its operations and human rights risks change.

Examples of HRDD approaches

- **Corporate level gap analysis:** One company has developed an initial Excel-based tool that uses a simple methodology to identify potential human rights issues at its own sites and those of its contractors. It draws on human rights set out in the Universal Declaration of Human Rights. In addition to self-assessment reports submitted by each site, the tool incorporates secondary data, such as publicly available information from civil society reports. Results are captured in a dashboard that applies a priority ranking to any identified issues. An action plan is then developed, with progress on actions tracked using the dashboard.
- **Deeper due diligence on key issues:** Having undertaken initial corporate level due diligence to identify priorities, one company has implemented deeper due diligence to address priority challenges. The company undertakes a risk assessment of countries where it operates, which is repeated every three years to capture changes in the company's business model, as well as social and economic changes. Where issues are identified, the company works to raise awareness amongst stakeholders, to monitor compliance and improvement over time, and to remediate problems, at a local level.
- **Supply chain due diligence:** One company has implemented a global programme to identify and address human rights risks in its supply chain. This programme incorporates training, onsite assessments and monitoring activities. The company establishes expectations for its suppliers through its Supplier Code of Conduct. Where issues are identified through onsite assessments, the company provides support to the supplier to resolve the issues and conducts a follow-up audit to assess improvement.

Companies can develop their HRDD process in-house or with external support: The benefits of an in-house approach include ensuring the methodology and approach is tailored to the company's objectives and existing ways of working. Other companies draw on external expertise and tools – however, when doing so it is important to ensure that external experts have the right expertise. External providers referenced during the session include ERM and Mazars.

Companies face a number of common challenges when implementing HRDD: These include shifting the mindset of colleagues and business partners, ensuring human rights are regarded as a priority by colleagues, implementing effective and practicable actions to address identified issues, suppliers and other partners, and the reality that – in many parts of the world – relevant laws are not effectively enforced by regulatory bodies.

CSR programmes can be targeted strategically to reinforce efforts to manage human rights challenges: Discussions about HRDD commonly focus on how companies manage their involvement with human rights risks, rather than their philanthropic efforts to contribute to sustainable development. However, CSR programmes can be used strategically to help address underlying systemic challenges that increase the risk of human rights issues in the company's operations or value chain. For example, a company working to address child labour in the agricultural sector could direct its CSR efforts to address the underlying issues that drive children into the workforce – for example, by collaborating with NGOs to raise awareness in communities about the value of education.



Practitioners are thinking creatively about how to use leverage in their business relationships to help solve human rights challenges in their value chains.

Companies can be involved in human rights impacts in different ways – including by causing, contributing to and being directly linked to an adverse impact. The UNGPs set out what is expected of companies in each of these situations – and these expectations have been widely adopted by companies’ stakeholders. In particular, it is now clear that, in situations where a company is directly linked to a human rights impact, it is expected to do something, even if it cannot solve the problem alone. This goes beyond the more familiar concepts of ‘cause’ and ‘contribute’. To assess how the company is involved, it can be helpful to consider the chain of events or circumstances that have led to the impact – as well as the involvement of other entities. However, it is important to then also take action to address the situation. Participants recognised the value of thinking creatively about the role a company could play in helping to resolve a human rights impact, including by building and using its influence with other stakeholders. For example, a company can work with business partners to improve practices, engage at an industry level to raise standards, and encourage governments to enforce relevant laws. Companies can also use their influence to tackle root cause issues at a local/community level. When engaging with specific human rights situations, it is important to think critically about the experience and vulnerability of those affected, and to engage with them on what change is needed.

The Indian government is actively engaging with business and human rights challenges, and is working to encourage business uptake of the UNGPs in India and around the world.

In recent years, the Indian government has increased its efforts to support and encourage companies to operate responsibly, including by managing human rights issues effectively. It has committed to developing a National Action Plan (NAP) on Business and Human Rights by the end of 2020 and published a [Zero Draft of the NAP](#) in 2018. A series of consultations, including with business, are planned for 2020 and will provide companies with an opportunity to input into government policy-making on business and human rights. Further, in 2019, the [National Guidelines on Responsible Business Conduct](#) (2019 Guidelines) were released. The 2019 Guidelines are a revision of the earlier National Voluntary Guidelines on the Social, Environmental and Economic Responsibilities of Businesses. The 2019 Guidelines were introduced to better align with the UNGPs, among other things. While companies are not legally required to implement the 2019 Guidelines, all companies investing or operating in India are expected to follow them. Participants noted that the Indian government is unlikely to adopt exactly the same approach taken by foreign governments, and will instead develop its own policy frameworks to address business and human rights-related challenges. For more information, see WBCSD publication, [Business & Human Rights Ambitions and Actions in India: A primer for WBCSD members doing business in India](#).

The legal landscape is evolving rapidly, and companies operating in India should consider both international and local regulatory developments.

Companies in India would be well-advised to track developments around the world – such as emerging regulation in Europe, North America and Australia, even if they are not directly subject to these requirements. By following the regulatory direction of travel around the world, companies can ensure they are well-placed to meet any future domestic requirements. More immediately, companies in the value chains of foreign multinationals required to comply with European, North American and Australian laws are likely to face stronger expectations from these companies, as they work to provide assurances to their own stakeholders



that they know about and are responding effectively to human rights impacts in their value chains. Companies should also be mindful of the changing legal environment in India. Whilst there may be few explicit ‘business and human rights’ regulatory requirements in place, there are a broad range of domestic requirements relevant to companies’ human rights performance – including corporate laws, CSR laws, mining regulations, labour laws, discrimination laws, and stock exchange reporting requirements. Enforcement of these laws may be patchy, but this situation is likely to shift as pressure on governments to address these challenges increases. For more information, see [Business and Human Rights: Navigating a Changing Legal Landscape](#), a joint publication by GBI and Clifford Chance.

Companies should aim to meet the standard set out in the UNGPs.

Business and human rights-related regulation tends to be narrower in focus and expectation than the UNGPs. For example, a law may focus primarily on reporting and disclosure, or on a specific human rights issue, such as modern slavery. However, companies would be well-advised to take a holistic approach to implementing respect for human rights as set out in the UNGPs to ensure a consistent and coherent approach to legal compliance and – importantly – to meet growing stakeholder expectations, which are increasingly set by reference to the UNGPs. Companies should be aware that there are ongoing discussions about whether emerging regulatory requirements are effective, and stakeholders may expect companies to do more than comply with legal requirements. Emerging regulatory requirements are also likely to increase the role of corporate lawyers in companies’ human rights programmes. This presents a potentially powerful opportunity to leverage the influence of in-house legal teams with senior management. Some companies have found it helpful to build a stronger collaborative relationship between their legal and corporate responsibility teams, and a shared understanding of the companies’ human rights responsibilities and priorities.



Looking forward

In India, business and government are increasingly focused on business-related human rights issues. Opportunities for peer learning and cross-stakeholder dialogue are now needed to transform this energy into meaningful action and progress.

There is growing momentum behind efforts to focus on and address business and human rights challenges in India. Government efforts to strengthen relevant policy and regulatory frameworks are increasing, as are efforts by companies to implement effective policies and processes to identify and address their human rights issues. Amongst business, participants observed that there is now a real need for safe spaces in which business practitioners can come together to share experiences, insights, approaches and challenges, in order to learn from each other and accelerate their internal work. There is also a need to mainstream discussion about business-related human rights challenges and increase uptake across major companies, their suppliers, and other business partners. The [GBI Business Practice Portal](#) provides a valuable ‘by business, for business’ resource that practitioners can draw on to build their own capability and which they can share with colleagues and partners. But in-person opportunities are also needed. More opportunities for constructive dialogue across stakeholder groups would also be helpful, to build a stronger shared understanding of the challenges and identify opportunities for coordination and collaboration.



Event organisers

- [Catie Shavin](#), Director, GBI and [Jo Reyes](#), Director, GBI
- [Joe Phelan](#), Director, WBCSD India and [Davide Fiedler](#), Manager, WBCSD

Delivered with support from Rishi Sher Singh, GBI Advisor and Value Chain Specialist.

Agenda overview

PRACTICAL WORKSHOP BUSINESS & HUMAN RIGHTS

A full-day practical workshop for business representatives to discuss key business-related human rights challenges in India and share approaches to identifying and addressing these.

Managing human rights issues in India and around the world

Companies in India and around the world are increasingly expected to know what their human rights challenges are, and to be taking effective steps to address these. During this introductory session, participants were invited to share their perspectives on emerging drivers for companies to implement stronger human rights management approaches, as well as human rights-related priorities for companies operating in India.

Engaging senior leaders on business and human rights

During this session, participants explored practical approaches practitioners can take to successfully engage with, and get buy-in and support from, senior leaders on human rights issues. As part of this discussion, participants considered successful strategies as well as common challenges confronted when seeking to engage senior leaders – and ways to overcome these. Davide Fiedler provided an introduction to WBCSD's recent CEO Guide to Human Rights.

Human rights due diligence in practice

This session commenced with a brief, practical discussion about the value to the business of good human rights due diligence and key elements of an effective human rights due diligence process. Participants then shared approaches, methodologies and tools they use to identify and assess human rights issues in their own organisations and across their value chains. Participants were also encouraged to reflect on what is needed to embed these processes across the company and build the know-how of key colleagues.

Responding to involvement in a specific human rights impact

During this session, participants worked through a real-life case study to explore practical steps a company can take to respond to involvement in a specific situation of forced labour. The case study was drawn from the garments/apparel industry, but yielded insights that can be applied by companies working to improve working conditions across different industries. The session supported practitioners to build confidence analysing the involvement of a company (and other entities) in specific human rights impacts and identifying and assessing the actions each entity can take to respond effectively to the impact – including by using leverage.

Recent legal and policy developments

During this session, participants had an opportunity to discuss emerging legal and policy developments in India and around the world, with a focus on the following questions:

- What legal and policy developments do companies operating in India and South Asia need to know about?
- How are these developments impacting (or likely to impact) companies in the region?
- Looking ahead, what business and human rights-related trends (globally and in India) should companies be monitoring?
- What steps should companies be taking now to ensure they are well-positioned to meet new requirements and expectations concerning human rights?

About the organisers



Global Business Initiative on Human Rights

The Global Business Initiative on Human Rights (GBI) is a business-led organisation that seeks to advance corporate respect for human rights through peer learning and by engaging globally to share insights from business practice. GBI has 20 member companies, representing diverse industries and headquartered in different parts of the world. As a group, they represent a combined revenue of USD \$1.4 trillion, do business in 190 countries and have approximately 2.5 million direct employees and more than 2 million first tier suppliers.

www.gbibr.org



World Business Council for Sustainable Development

World Business Council for Sustainable Development

The World Business Council for Sustainable Development (WBCSD) is a global, CEO-led organisation of over 200 leading businesses working together to accelerate the transition to a sustainable world. WBCSD members come from all business sectors and all major economies, representing a combined revenue of more than USD \$8.5 trillion and with 19 million employees.

Through its Human Rights project, WBCSD is working to inspire and support business action to address human rights issues with a view to mainstreaming corporate respect for human rights throughout the value chain.

www.wbcasd.org

<http://humanrights.wbcasd.org/>

