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UN FORUM SERIES – Business and human rights: No progress without protection for defenders

Damiano de Felice

This post was contributed by Michael Ineichen, Programme Manager and Human Rights Council Advocacy Director at the International Service for Human Rights.

The level of protection enjoyed by those defending rights has long been recognised as a vital indicator for the overall respect for human rights in a given context and country. Tracking progress on business respect for human rights therefore cannot ignore the evidence of increasing restrictions placed on human rights defenders and civil society in a number of countries around the world.

Both to assess its investment and operating environment, and to gain vital partners in mitigating and remedying potential negative human rights impact, business has a clear interest in contributing to a safe and enabling environment for human rights defenders. Unfortunately, in too many contexts, working to secure respect for human rights is dangerous, despite the vital contribution of this work to the rule of law, democracy and, indeed, to good business.

Human rights defenders come from all walks of life, and wear many hats; they can be human rights journalists, lawyers, anti-corruption campaigners, indigenous and church leaders or pro-democracy activists. As documented by [civil society groups](#) and the [United Nations](#), those promoting corporate respect for human rights and accountability for violations face particular threats, risks and restrictions, whether they work in Africa, Asia, Latin America or in Western European States.

They face restrictions ranging from surveillance to stigmatisation, and from the excessive use of force against peaceful protesters to killings and disappearances. Stigmatised and defamed in India as 'anti-development' or as 'economic saboteurs', murdered in Honduras for protesting the Agua Zarca Dam, or vexatiously prosecuted in Angola for exposing corruption in the diamond industry, these defenders are often caught between authoritarian governments and irresponsible business.

The good news is that [business](#), [States](#) and [intergovernmental institutions](#) are starting to turn their attention to the protection needs of defenders. Far from being an activist view, the fundamental correlation of protecting human rights work and protecting business interests is increasingly affirmed by business itself.

As Nicolas Patrick of DLA Piper and Owen Larter of Microsoft recently wrote, 'our collective experience certainly supports the belief that [businesses thrive in communities that are rights respecting](#)'. What is more, they say, 'human rights defenders are crucial in fomenting rights respecting communities. It is therefore in our own self-interest as global businesses to support programmes which strengthen respect for human rights defenders and the rule of law across the globe.'

In reality, however, business often fails to engage with human rights defenders or wilfully ignores the repressive environment for civil society. A case in point is the general refusal of companies sponsoring the recent European Games in Azerbaijan to speak up against the repressive laws and widespread arbitrary detention of defenders in that State. These laws and actions have all but eliminated independent civil society.

Perhaps on the back of such examples, and despite the recognition of the value of mutual engagement between human rights defenders and business, skepticism and mistrust often prevail among defenders towards corporates. In some instances, their fears for safety and security are justified, especially where there are examples of [collusion between businesses, the State and even organised crime groups aimed at silencing dissent](#).

Relevant examples are documented in a recent [report](#) on the situation of human rights defenders of the rights to land, territory and the environment by ISHR and others. In other cases, the perceived power imbalance between business and civil society, or vastly diverging 'corporate' cultures, prevent cooperation.

Overall, however, the strategic value of engaging directly with companies, and for business to consult, protect and support human rights defenders is clear. This is why ISHR's new [Human Rights Defender Toolkit for Promoting Business Respect for Human Rights](#) aims to encourage and build the capacity of human rights defenders to engage constructively and positively with business, recognising the vital contribution that responsible business can make to the promotion and protection of human rights and to sustainable development.

Written for defenders from the perspective and with the insight of business, it provides good practice examples from companies around the world, and seeks to contribute to strengthening understanding, trust and relationships between business and human rights defenders. It is our hope that the toolkit will allow us – over time – to show concrete advances in the level of cooperation between business and human rights defenders, and will help to mobilise business in the defence of defenders.

With regard to the former, we hope that human rights defenders will be better capacitated and equipped in 'speaking to business eye to eye', as the toolkit contributes to closing the capacity gap, and help human rights defenders understand

business rationales in respecting – or not – human rights. It also seeks to help defenders in inserting new tools in their range of advocacy strategies, and develop new tactics to further their work.

With regard to the latter, mobilising business, the progress we seek can be grouped under four key categories. Some are legal obligations arising from the UN Guiding Principles on Business and Human Rights and from international law, others are good business practice.

- The first is the legal obligation of business, recognised in the Guiding Principles and derived from international law such as the ICCPR, to respect human rights defenders. This involves desisting from, or in any way being complicit in, physical or legal attacks against defenders, including those exercising their rights to freedom of expression, association, assembly and protest against the business or its interests.
- The second category of actions arise from the legal obligation, recognised in the Guiding Principles, to engage with and consult defenders and the communities they represent in the design, implementation and evaluation of projects and in due diligence and human rights impact assessment processes. This is also, of course, good business practice, such as in [enhancing supply chains](#) as demonstrated by Michael Posner.
- The third category of actions, making for good business practice, involves corporations partnering with and supporting defenders. This could involve providing financial and in-kind resources and support to defenders and their organisations, such as those generously provided to ISHR by Ashurst, DLA Piper, Freshfields and others to [develop legislation on protecting defenders](#).
- The fourth and final category of actions, perhaps the most important but also the least common, involves business actively advocating and seeking remedy for human rights defenders and against laws and policies which restrict them. Such action could be private. It could also be public, such as the open letters and press statements issued by Tiffany & Co and others for the release of [Angolan defender and journalist Rafael Marques](#).

In conclusion, while the benefits of engaging with human rights defenders and promoting a more safe an enabling environment for civil society is increasingly recognised by some companies, much more progress is needed to make the protection of defenders a central tenet of business practice. This will require more business leadership to stand with civil society, and to actively [consult, respect and protect](#) defenders.

For their part, all of the actors involved in the protection of defenders, including States, regional and international human rights mechanisms and civil society have to ensure that the voice of human rights defenders is central to the business and human rights agenda. This means ensuring that national processes – such as the development of national action plans – expand defenders' protection. It means that intergovernmental spaces such as the Forum on Business and Human Rights and the 'treaty-process' are safely accessible to civil society. And it means that human rights defenders have to invest in learning how to better mobilise business for their protection.



Michael Ineichen is Programme Manager and Human Rights Council Advocacy Director at the International Service for Human Rights. He leads ISHR's work in support of human rights defenders who promote corporate respect for human rights and corporate accountability for violations. Follow him at [@ineichenM](#).

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