

2. Effectiveness of regulatory interventions governing business to enable sustainability and human rights

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Introduction

Global challenges such as climate change and the consequences of globalization, like workers' abuse and human rights violations in global value chains, require innovative regulatory responses as current regulatory interventions are not sufficient and oftentimes not very effective. Yet business activity is increasingly connected to climate change, workers' and human rights related issues. This has caused the emergence of a new societal compact demanding accountability of multinational operating enterprises regarding their measures to counter climate change and irresponsible business conduct, also in their value chains.

Due to the global nature of these challenges traditional national legislation and public supervision for business enterprises with their seat in this country cannot provide a sufficient framework to address these challenges. For example, it is hard to regulate total emissions of an internationally operating enterprise, which is even more challenging because of adverse incentives in international markets and level playing field issues. Furthermore, workers' and human rights abuses are often not caused by the enterprise itself, but are the result of operations of a subsidiary or a supplier in other countries. Thus, innovative regulatory approaches are needed. Preferably, these approaches do not focus on one measure, for example a specific type of legislation, but aim to develop a 'smart mix' of instruments

However, the art of aligning different types of regulatory measures in order to develop a coherent and effective regulatory system, whether or not of a public or private nature or a mix of those two, has not been researched frequently. Furthermore, managerial stances of enterprises may influence their susceptibility to regulatory measures. For example, enterprises which have implemented a very proactive approach in this field may benefit from voluntary collaborative initiatives enabling them to learn from others and collectively improve their performance, whereas reactive companies may act upon legislation only.

Thus, the project aims to develop guidance for a smart mix of regulatory interventions which influence the day by day practice of enterprises these interventions are aiming at.

PhD project

The PhD project implements part of the foregoing and focusses on the effects of three types of legislation in order to enable further thinking on the 'smart mix'. These types of legislation require either (i) reporting or (ii) human rights due diligence or (iii) connect the duty of care to

exercise (human rights) due diligence with access to remedy for affected individuals or communities. To date it is unclear how these types of legislation influence corporate behaviour in practice. The PhD research achieves to enlighten this issue.

The project focusses on four research questions: (a) how to identify managerial stances (inactive, reactive, active or proactive), (b) whether either reporting or human rights due diligence obligations or a duty of care connected with access to remedy are able to influence and alter these managerial stances, (c) which legislative intervention is most effective without hampering active or proactive enterprises in their efforts and (d) which role plays public or private supervision in this regard.

Empirical research

To date little knowledge exists regarding the actual impact of legislative instruments on the day by day practice of (multinational) enterprises on which these instruments are aiming. This is even more so if one includes different managerial stances within enterprises in the equation. This project aims to develop concrete empirical steps to identify these managerial stances and the effects regulatory interventions have on these stances.