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Turning Point

The Advantages of a Proactive Business Response to Human Rights Reporting

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In a globalising world, with shifting production, labour and consumer markets and increased competitiveness, human rights are gaining new practical relevance. As global corporates and NGOs (non-governmental organisations) relocate, span a range of global locations or produce offshore in developing countries, the complexity of rights issues is heightened. There is a rising tide of expectations, with increasing public and media scrutiny, that business will embrace human rights standards.

Human rights international law has been formed over more than half a century, in conventions and international treaty law, from the UN Declaration of Human Rights, adopted by the 48 members of the UN General Assembly in 1948. The Declaration applies to ‘every individual and every organ of society’ and businesses widely recognise their obligation to respect human rights as enshrined in the Declaration. Over this 60-year period, the governments of nation-states have come together to construct consensus resolutions including protections for civil, political, economic, social, cultural, labour and, more recently, environmental rights and protections against corruption.\(^1\)

While UN declarations are constructed by governments and their representatives, more recently an expectation has emerged that business has a crucial role in building and reinforcing rights. Business responsibility underpins business and human rights standards including the OECD Guidelines for Multinational Enterprises and the Voluntary Principles on Security and Human Rights.\(^2\) The UN Global Compact\(^3\) presented by UN Secretary-General Kofi Annan to the World Economic Forum at Davos in 1999, sought to create a voluntary international corporate citizenship

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1. In addition, the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966) set down and define human rights standards.
2. www.oecd.org/department; www.voluntaryprinciples.org
3. www.unglobalcompact.org
network to bring together private-sector and other social actors. Its central aim is to advance ‘responsible corporate citizenship and universal social and environmental principles to meet the challenges of globalisation’ (United Nations Global Compact 2006). The Global Compact is significant in bringing together pressing social and environmental concerns, challenging business to incorporate the ten principles into strategy, culture and day-to-day operations and to annually report ‘Communication on Progress’.

Human rights

► **Principle 1**: Businesses should support and respect the protection of internationally proclaimed human rights

► **Principle 2**: Make sure that they are not complicit in human rights abuses

Labour

► **Principle 3**: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining

► **Principle 4**: The elimination of all forms of forced and compulsory labour

► **Principle 5**: The effective abolition of child labour

► **Principle 6**: The elimination of discrimination in respect of employment and occupation

Environment

► **Principle 7**: Businesses should support a precautionary approach to environmental challenges

► **Principle 8**: Undertake initiatives to promote greater environmental responsibility

► **Principle 9**: Encourage the development and diffusion of environmentally friendly technologies

Anti-corruption

► **Principle 10**: Businesses should work against all forms of corruption, including extortion and bribery

Leading business advocates argue that proactively incorporating the UN Global Compact principles makes more than just good business sense. Much of the past focus has been on the role of multinational corporations in developing countries. Momentum is now building for a more comprehensive approach, acknowledging corporates’ responsibilities both domestically and internationally.

In late 2005 over 500 leaders from business, government, civil society, labour and academia met in Shanghai for the UN Global Compact Summit: China, to debate corporate citizenship and responsibility and the Global Compact. The 15-point Shanghai Declaration addressed the role of business in society and outlined actions for responsible business.

The business (and ethical) case for corporate engagement in human rights reporting is strengthening, although much still needs to be done. The Danish Human Rights and Business Project4 launched its 2006 educational project on company codes of conduct aimed at developing models for business in the pharmaceutical, steel, agricultural, logging, lumber, paper and cardboard, and apparel and textile industries, assessing company codes against international human rights standards. It identifies the human rights duties of business in terms of four complementary duties: ‘respect, protect, pro-

4 www.humanrights.dk
They argue that business has positive responsibilities in four key areas: in relation to workers; ensuring their products do not violate human rights; in relation to those (especially indigenous people) residing on its land; and when a corporation takes over an area and in some areas ‘replaces government’ (Danish Centre for Human Rights 2006).

Amnesty International (2006) argues for an onus on all companies to adopt explicit policies on human rights, including support for the Universal Declaration and awareness of the issue of ‘corporate complicity’: ensuring that company staff are never complicit in human rights abuses.

The Prince of Wales International Business Leaders Forum (IBLF) paper Human Rights: It is Your Business sees business rights obligations not only in terms of the business at hand, but throughout supply and distribution chains. The authors revisit the business case and argue that, by acting on human rights, companies can safeguard reputation and brand image; gain competitive advantage; improve recruitment and staff loyalty; foster greater creativity; secure and maintain a licence to operate; reduce cost burdens; ensure active stakeholder engagement; and meet investor expectations (Amis et al. 2005).

At the 2005 Business and Human Rights Seminar in London, Peter Sutherland, Chairman of BP plc and of Goldman Sachs International, argued: ‘Society thrives where business thrives, and business thrives where society thrives. Both thrive where human rights are valued and protected, and where there is a genuine concern for social wellbeing and the health of the planet.’

Sutherland argues that, while mandatory laws and regulations set minimum standards, voluntary approaches ‘focus on raising the bar’. However, he states: ‘you can’t expect business to go against its fundamental mandate, which is to bring returns for its shareholders’ (Shinn 2005: 6–7, 11).

In the context of competitive globalisation and some high-profile scandals involving business and human rights abuses, it is timely that the UN has turned its attention to consolidating a comprehensive list of human rights publications relevant to business. The Resolution on Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (the Norms) has involved bitter debate. Controversy centres on whether the Norms will become a binding instrument and rather than passing the Resolution, the Office of the UN High Commissioner for Human Rights has been asked to examine the scope and relevance of existing standards for transnational businesses. Taken together with the 2005 UN establishment of a Special Representative for Business and Human Rights, the emphasis on examining business versus state obligations is new (Obara 2006: 1).

The new UN Special Representative, a Harvard international law professor, John Ruggie, sees as challenges the ambiguity of current systems of legal remedy and the occurrence of the most serious abuses in ‘weak governance zones’, which, he observes, are not ‘law-free zones’. ‘Slowly, home country law may stretch to cover these operations, but it’s unpredictable and uneven, so we need modification in this core position among some members of the business community’ (Ruggie 2005: 34).

A number of global companies have adopted human rights policies, and some proactively support sector initiatives such as the Ethical Trading Initiative (retail), Voluntary Principles on Security and Human Rights for the Extractive Sector (oil, gas and mining) or the Equator Principles (in financial services). However real take-up is low and, out of over 2,000 companies that have joined the UN Global Compact, IBLF report that less than 100 have published human rights policies or identified risks. Voluntary reporting and the lack of robust independent monitor-

ing have attracted criticism (Amis et al. 2005).

An Australian investment market study reviewed human rights and socially responsible investing (SRI) practices in the 100 financial services companies listed in the Standard & Poor’s AllOrdinaries Index. Of the 16 financial services companies adopting SRI, only seven subscribed to external human rights codes of conduct (including the UN Declaration of Human Rights, the UN Global Compact, ILO Core Standards, Global Reporting Initiative, OECD Guidelines, Collevecchio Declaration, Equator Principles and AccountAbility 1000). Most lacked policies requiring the companies in which they invest to comply with human rights codes and only one stipulated a time-frame (three years) for such human rights compliance (Moors 2005). On the other hand, consumer demand is growing, SRI is growing at high yearly rates in the US and Europe, and surveys confirm public expectations that companies should take some responsibility for reducing human rights abuses.

In this new millennium, all social partners have a role to play in reinforcing human rights and instilling business practices that help advance internationally, social, cultural and economic inclusion and ecological sustainability. Building trust as well as the business case are strong incentives for business taking human rights seriously. With the success of the multi-stakeholder resolution on the UN Global Compact, there are hopes that new initiatives will find new ways for business to take a central responsibility in protecting human rights. As Ruggie suggests, this entails a review of both government and corporate responsibilities: broadening the role of government to that of enabler, facilitator and partner, and of business corporate responsibility to embrace ‘not only legal compliance, but also the role of social norms, moral considerations and strategic behaviour’ (Ruggie 2005: 34).

References


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