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In recent decades the international development community has come to see business as a key partner in the promotion of human rights. The *Universal Declaration of Human Rights* of 1948 'applies to states and individuals and to "organs of society" including business' (Aspen Publishers 2003, 2). But the precise nature of international human rights obligations for business requires further clarification. Current efforts to develop a set of UN-endorsed human rights standards for business, in the form of *Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights*, reflect the international community's recognition that a clear role exists for business in the promotion of human rights (Amnesty International 2003).

Privatisation and the nature of global markets have to some extent changed the role of national governments in the international policy arena as transnational businesses gain greater prominence. In a globalising world, with shifting production, labour and consumer markets and increased competitiveness, the role of business, as well as government and NGOs in actively protecting and promoting human rights is now widely recognised and is gaining new practical relevance. As global corporates re-locate, span a range of global locations or produce off-shore in developing countries, the complexity of rights issues is heightened. With increasing public and media scrutiny, there is a rising tide of expectations that business, and for that matter, the full range of social partners will embrace and promote human rights standards.

The business community itself increasingly recognises its obligation to respect and promote human rights when operating internationally. Corporate social responsibility frameworks have long espoused corporate obligations to adhere to human rights standards in countries in which they operate. Various international initiatives such as the *UN Global Compact*, the *OECD Guidelines for Multinational Enterprises* and the *Voluntary Principles on Security and Human Rights*, all establish frameworks linking business to human rights. The international development community more broadly, including international civil society groups such as *Human Rights Watch* and *Amnesty International*, have also had a long-time interest in questions of business practices and human rights abuses and are now working closely with transnational business to identify ways that business can best promote adherence to human rights standards.

The *UN Global Compact* (see Appendix) 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’. However, its major weakness is that it is a voluntary non-regulatory instrument and it lacks enforcement provisions and penalties for non-compliance.

As reported by the UN High Commissioner on Human Rights:

In contrast with the OECD Guidelines and the ILO Tripartite Declaration, the Global Compact has no monitoring mechanism, relying on public accountability, transparency and the enlightened self-interest of companies, labour and civil society to initiate and share action in pursuing the ten principles (United Nations High Commissioner on Human Rights 2005, at paragraph 16).

In 2005 the UN established a Special Representative on Business and Human Rights. John Ruggie, a Harvard international law professor, sees as challenges the ambiguity of current legal remedy and the occurrence of the most serious abuses in ‘weak governance zones’, which he observes, are not ‘law-free zones’ (Ruggie 2006, p.34).

There is ongoing debate about the efficacy of voluntary human rights initiatives such as the UN Global Compact compared to global regulatory mechanisms. Moreover, corporate uptake of voluntary initiatives has been limited and out of over 2000 companies that have joined the UN Global Compact, UK-based International Business Leaders Forum report that less than 100 have published human rights policies or identified risks. They also say that voluntary reporting and the lack of robust independent monitoring attract criticism (Amis et al 2005, p. 3). Nevertheless, there is widespread recognition that responsible transnational corporations must incorporate human rights considerations into their strategic operations.

The Business Case For Human Rights

The international development community's efforts to engage the business community as pro-active human rights advocates has centred largely on making the 'business case' for human rights. Here, businesses are encouraged to mainstream human rights concerns as a fundamental component of both international operations and reporting frameworks because it makes financial sense.

The International Business Leaders Forum (Amis et al 2005, p.1) for example, lists eight reasons why business should be concerned with adhering to and promoting human rights in their operations in developing countries where human rights records have been questionable:

- Safeguard reputation and brand image
- Gain competitive advantage
- Improve recruitment and staff loyalty
- Foster greater productivity
- Secure and maintain a licence to operate
- Reduce cost burdens
- Ensure active stakeholder engagement
- Meet investor expectations.

Efforts to promote corporate adherence to human rights standards are laudable, and although efforts to strengthen the business-human rights interface should be encouraged, there has been a tendency to focus on human rights as an international rather than a domestic challenge. The concept of human rights is rarely used as an explicit mechanism to gauge corporate behaviour domestically. But if there is a business case for corporations to promote human rights internationally, surely there should be an equal case for business to promote human rights domestically?
Human Rights – Not Just An International Obligation

It may come as a surprise, but ‘Australia is the only western nation without a national or state Bill of Rights’ (Government of Victoria 2005, p.4). While Australia has signed many international human rights treaties, these treaties do not automatically form part of our law and there are gaps in our human rights provisions. Consequently, public interest has increased regarding ways to strengthen human rights in Australia, such as through a Bill of Rights or Charter of Human Rights.

In the absence of federal leadership on this issue, several states/territories have taken on this agenda. In 2004 the ACT legislature introduced Australia’s first human rights Charter, the Human Rights Act.

In 2005, the Victorian Government signalled its interest in introducing a legislative Charter of Human Rights and Responsibilities, focused on civil and political rights, to buttress human rights in Victoria. A discussion paper setting out the case for a Victorian Charter of Human rights received over 2,500 submissions from civil society groups and other interested parties. According to the Victorian Government, the case for a state-based Charter lies in its capacity to protect people against actions of government.

When rights … are set out in law, such as in a Charter of Human Rights, they can protect people against the actions of government. They can also promote better government by providing an accepted standard for how government should operate in dealing with the community. Perhaps most importantly, human rights can promote respect for others and can change individual and community attitudes (Government of Victoria 2005, p.4).

As the above quote illustrates, efforts to strengthen human rights domestically have by-and-large focused on human rights as a protection against government. In this context, a Charter of Human Rights is rightly seen as an empowering mechanism for civil society groups and citizens to call government to account. Less obvious is the question of business and human rights. There is a tendency to dismiss the relevance of domestic human rights initiatives in a country such as Australia, which has a well-established social protection framework and political system based on democratic principles.

In Australia, human rights appear to be embedded within existing regulatory frameworks and thus implicitly adhered to by law-abiding businesses. This prompts the question how might a Victorian human rights framework be relevant to business? Civil society groups, particularly from the community sector, have long drawn on human rights as a basis for advocating better economic, political and social standards. How are human rights relevant to businesses and to entities such as local government, which are run on business models and involve contractual relationships with multiple stakeholders? What obligations would a Victorian human rights charter impose on business and on government relations with business and civil society?

There are many ways in which human rights are directly relevant to business and civil society in Australia. Responsible businesses now recognise the fundamental importance of respecting human rights, as enshrined in the Universal Declaration of Human Rights. Many businesses already integrate human rights considerations into mainstream decision-making in developed countries, by various means including by:

- Improving workplace conditions;
- Ending racial, religious and gender discrimination;
- Guaranteeing freedom of association;
• Ensuring responsible marketing and product testing; and
• Promoting human rights by engaging with stakeholders and governments.

However, a Charter of Human Rights and Responsibilities should interest business for a number of reasons:

• There are many gaps in Australia’s adherence to various human rights instruments. While the Commonwealth has passed legislation protecting people from discrimination which draws upon the International Covenant for Civil and Political Rights (ICCPR) and other treaties, significant gaps remain. The United Nations Human Rights Commission’s third and fourth periodic reports regarding Australia’s implementation of the ICCPR stated that ‘there remain lacunae in the protection of Covenant rights in the Australian legal system’ (cited in Mallesons Stephen Jaques 2005). Seen in this context, greater rights awareness could provide a basis for ‘best practice’ corporate citizenship over and above current Australian standards.

• An explicit human rights framework underpinned by a Charter of Human Rights could help raise human rights awareness and promote cultural change within Australian businesses, civil society organisations and society at large. Indeed, proponents of a Victorian Charter recognise it will have only marginal effect in terms of legislative consequences but consider it will help promote greater awareness of human rights issues within government and the community. At the very least, a Charter would provide an important international standard against which companies could benchmark their domestic performance. Moreover, greater human rights awareness within domestic business could reinforce efforts to strengthen human rights awareness abroad.

• Australia has undergone profound economic, social and political restructuring over the last three decades, rendering many of our traditional social protection frameworks weak and ineffectual. For example, recent labour market reforms have been designed to promote economic efficiency but may come at the cost of greater equity and protection of vulnerable workers. A human rights framework could provide an effective basis for engaging with contemporary social justice challenges, such as the rise of casualised employment and the rights of workers in the non-union sector, giving businesses a framework for considering the social impact of their employment strategies.

Nevertheless, domestic business has yet to recognise the importance of considering human rights at home. A Deakin University Australian investment market study reviewed human rights and socially responsible investing (SRI) practices in the 100 financial services companies listed in the Standard and Poors All Ordinaries Index. Of the 16 financial services companies reporting adoption of SRI, only 7 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, Collevcechio 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 (3 years) for such human rights compliance (Moors 2005). On the other hand, consumer demand is increasing and 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.

Human Rights Reporting – The Way Forward

In a practical sense, how might business within Australia approach the issue of human rights? One promising way would be for business to apply domestically, many of the human rights reporting tools which businesses are now using to report on and assess the human rights compliance of their overseas operations. For example, the International Business Leaders Forum has developed a ‘framework for action’ (Amis et al 2005, p10-11) setting out ways companies can address the human rights agenda in developing countries. This includes eight dimensions, requiring business to:

- Understand the concerns and expectations of key stakeholders
- Identify the company’s key human rights risks
- Recognise the company’s sphere’s of influence
- Define and publish clear policies on human rights
- Assign management responsibility and devise implementation procedures
- Conduct human rights impact assessments
- Establish monitoring mechanisms
- Be transparent.

Amnesty International and The Prince of Wales Business Leaders Forum (2000, p.11-12) have similarly identified ways in which businesses can integrate human rights into company operations.

- Incorporate an explicit commitment to support the Universal Declaration of Human Rights and core ILO standards in company business principles and operations, and secure explicit Board/Senior Management support.

- Assign responsibility to a senior manager for mainstreaming human rights policy across the company operations including resolving tensions across internal company policies.

- Consult widely with internal and external stakeholders in developing the human rights policy.

- Develop practical internal guidelines and performance indicators for staff.

- Ensure widespread dissemination of human rights policies to all staff.

- Conduct human rights training for staff (including by independent NGOs).

- Require regional managers to demonstrate human rights awareness in their spheres of influence and application of human rights policies.

- Establish procedures for country managers to apply in the event staff members are subjected to human rights abuse.

- Establish an ongoing human rights dialogue with local stakeholders.

- Establish mechanisms of internal and external independent monitoring to assess compliance with human rights policies.

- Raise human rights concerns with government authorities in host countries.

The draft UN Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights (referred to as the Norms) (UN, 2003) call on transnational corporations and other business enterprises to undertake the following implementation activities:

- Adopt appropriate internal human rights rules backed by adequate training;

- Report periodically on human rights implementation;

- Apply and incorporate human rights rules in contracts etc.

- Allow periodic external auditing by independent bodies.
All of these approaches have been tailored to the needs of transnational corporations operating in developing countries, but they could easily be applied to the domestic operations of such enterprises. Such an approach could be reflected in specific human rights reporting within company reports. An explicit human rights focus could also complement current corporate social responsibility initiatives, providing a clear basis for community engagement. Similarly, these could apply to government departments, local government, semi-government organizations and statutory authorities and to civil society organizations in terms of chains of supply/distribution and organisational practices relating to public-private partnership operation, contracting and outsourcing.

The Danish Institute for Human Rights Danish Human Rights and Business Project has undertaken an educational project on company codes of conduct aimed at developing models for business in the pharmaceutical, steel, agricultural, lodging, lumber, paper and cardboard and apparel and textile industries, assessing company codes against international human rights standards. They argue business has positive responsibilities in 4 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 company takes over an area and de facto ‘replaces government’. Their Human Rights Compliance Assessment tool assists companies to detect their human rights risks and areas of compliance and non-compliance with human rights. A quick-check tool concentrates on employment practices, community impact and supply chain management (The Human Rights and Business Project 2006).

Conclusion
While human rights are recognised as a core business concern internationally, the relevance of domestic human rights reporting has received less attention. In this new millennium, all social partners – government, business and civil society have a role to play in reinforcing human rights and instilling 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 as a core part of its CSR activities. 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 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, 2006, p. 34).

Key Questions for Forum Participants
- How have business and civil society groups engaged with human rights in their international activities?
- Given the re-location of many business operations off shore, are there new ways that Australian businesses can or should work to promote and protect human rights trans-nationally?
- How do or should business and civil society groups draw on human rights frameworks in their domestic operations?
- How can human rights be embraced as part of corporate social responsibility (CSR)?
- How could a Victorian Charter of Human Rights and Responsibilities be positively
embraced by business and civil society activities domestically?

• Will a Victorian Charter of Human Rights and Responsibilities reinforce human rights activities in your domestic and international operations?

• What role can business, local government and civil society play in initiating stakeholder dialogue and communication about human rights?

Footnotes
1http://www.oecd/department; http://www.voluntaryprinciples.org
2The Human Rights Committee also expressed its concern at the lack of a Constitutional entrenchment of covenant rights under ICCPR, including the right to racial equality, at paragraph 13 of its Concluding Observation in relation to Australia in July 2000’ http://www.hrec.gov.au/Social_Justice/nt_issues/constitutional.html
3http://www.humanrights.dk

References


Ruggie, J. (2006), 'The UN Special Representative Commenting on his Mandate’ in Shinn, M.,
Appendix

The Global Compact Human Rights Principles

Principle 1: Business should support and respect the protection of internationally proclaimed human rights; and
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; and
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; and
Principle 9: Encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption

Principle 10: Business should work against all forms of corruption, including extortion and bribery