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THE PRINCE OF WALES  
INTERNATIONAL BUSINESS  
LEADERS FORUM

**As many as eight out of ten people think that companies should be at least partially responsible for reducing human rights abuses<sup>1</sup>. This is but one example of a rising tide of expectations faced by business from a range of stakeholders on the issue of business and human rights.**

This paper summarises these expectations and, in the context of greater public and media scrutiny of the impact of business on society, describes evolving good practice on how the corporate response can be managed effectively and efficiently.

The debate on boundaries of corporate responsibility continues to evolve and in a time of increasing global competitive pressure it is particularly timely to revisit the business case for companies to take the issue of human rights seriously.

By acting on human rights, companies can:

- 1 Safeguard reputation and brand image.
- 2 Gain competitive advantage.
- 3 Improve recruitment, retention and staff loyalty.
- 4 Foster greater productivity.
- 5 Secure and maintain a licence to operate.
- 6 Reduce cost burdens.
- 7 Ensure active stakeholder engagement.
- 8 Meet investor expectations.

Companies for whom this is a relatively new area may also find it instructive to look at the "Framework for Action" (page 10-11) which provides guidance on how to manage business and human rights dilemmas.

# HUMAN RIGHTS: IT IS YOUR BUSINESS

The case for corporate engagement

Lucy Amis, Peter Brew and Caroline Ersmarker

More and more companies recognise that respect for human rights – as enshrined in the Universal Declaration of Human Rights – is a fundamental and unavoidable part of being a responsible business.

An increasing number of firms have begun to integrate human rights considerations into their mainstream business decision making. Although some have been driven by public scandals, activist campaigns, consumer boycotts or lawsuits over alleged corporate complicity<sup>2</sup> in human rights abuses, others have acted without an external stimulus for other commercial reasons or because they believe it is the right thing to do.

Across diverse industry sectors, leading companies are now putting mechanisms in place to address their human rights impacts by striving to:

- Improve workplace conditions
- End racial, religious and gender discrimination
- Eliminate the worst forms of child labour<sup>3</sup>
- Avoid forced or compulsory labour
- Guarantee freedom of association
- Increase access and availability to essential products and services for those living in poverty
- Ensure responsible marketing and product testing
- Build human rights criteria into security arrangements
- Minimise population displacement for heavy footprint projects
- Engage with stakeholders and governments to promote human rights.

Momentum for corporate action has built rapidly over the last five years. Since the launch of the UN Global Compact in 2000, over two thousand companies have endorsed its Principles, including those on human rights and labour standards. A range of rights-related standards geared towards business has also gained currency. These include the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, which focuses on labour rights, and the OECD Guidelines for Multinational Enterprises. Meanwhile, a process to develop a series of norms on the human rights responsibilities of business has given rise to the appointment by the UN Secretary-General of a Special Representative on the subject of business and human rights<sup>4</sup>.

The International Business Leaders Forum (IBLF) has been active in human rights since it first brought together leaders in business and human rights non-governmental organisations (NGOs) in 1997 to address human rights concerns. Since that time, through interaction with corporate supporters and other companies, as well as civil society and the public sector, IBLF has sought to monitor the different business approaches to human rights. It has also endeavoured to alert members and others in business to critical trends that may demand a corporate response. This paper aims to:

- Reflect on the nature and impact of the corporate response to date
- Articulate the human rights business case and the commercial impetus for action
- Offer practice-based recommendations on how a company can start to reduce its human rights risk exposure, and demonstrate a willingness to behave responsibly.

Companies addressing their human rights challenges and responsibilities for the first time can learn and draw from a valuable body of corporate experience that now exists. In the face of increasing risk exposure and public calls for greater social responsibility and transparency, little is to be gained from delay.

## COMPANY ACHIEVEMENTS TO DATE

A growing number of companies no longer dispute that, while governments rightly have the primary responsibility for safeguarding human rights, companies also have an obligation to conduct their business in accordance with universal human rights principles. These businesses accept that they have obligations not only in the workplace, but also throughout supply and distribution chains and in the vicinity of company operations.

According to the Business and Human Rights Resource Centre<sup>5</sup>, nearly 100 major global companies across a range of industries have adopted explicit human rights policies. Many reference or endorse the aspirations of the Universal Declaration of Human Rights (1948). Effective human rights policies and internal guidelines are more than just public statements of good intent. They signify senior management buy-in and an investment of staff time to develop the policies and procedures for implementation, as well as a heightened awareness of human rights across all management functions, operations and locations.

*"A human rights policy gives a framework within which you can face problems as they come along, which they inevitably do when you are working internationally."*

**Lesley Roberts, Pentland**

Some multinational companies are going further and acting collectively to increase the impact of their human rights commitments. They support sector initiatives such as the:

- Voluntary Principles on Security and Human Rights for the Extractive Sector (oil, gas and mining)
- Ethical Trading Initiative (ETI) (retail)
- Fair Labor Association (apparel/ footwear)
- Kimberley Process Diamond Certification Scheme (diamonds)
- Equator Principles (financial services)<sup>6</sup>.

Others participate in endeavours such as the Business Leaders Initiative on Human Rights, a cross-sector collaboration that is road-testing the practical value of the much debated draft UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises.

On the ground in their operations in developing countries and transition economies, some companies are working in partnership with local authorities, civil society groups, donors and competitors to minimise the negative human rights impacts of their activities.

For example, supply chain management<sup>7</sup> - a central part of the human rights debate - is growing more sophisticated. Rather than abolishing child labour without considering the economic consequences for families, some firms now sponsor schooling for underage workers and offer skills training for unemployed adult family members.

Few of the companies already committed to responsible human rights practices would claim to have found a panacea for all the challenges they face, but many deserve credit for trying, and for being sufficiently transparent to admit mistakes and work with their detractors to find solutions.

## AREAS FOR IMPROVEMENT

Despite advances in the management of human rights across a number of industry sectors, the majority of companies do not appear to be taking appropriate action and adopting current good practice.

The reasons for this are manifold and undoubtedly include competing managerial priorities and a lack of familiarity with the language of human rights or its legitimacy in a business context. Others may have anxieties over where the boundaries now lie between government and private sector responsibility, and worry that if they concede any ground to NGOs on human rights they will be confronted with an ever-increasing list of demands; a list that draws them into territory outside either their spheres of direct control and influence, or fields of expertise.

While IBLF acknowledges that such concerns exist and welcomes the appointment of a UN Special Representative – whose mandate creates a valuable space in which to voice and debate these genuine areas of doubt – the fact remains that in the immediate term far more could be done. It will make business sense and help companies answer their critics and stem the erosion of public trust in ‘big business’.

- Companies worldwide, large and small, are still being found guilty of exploiting or mistreating workers and communities in low-wage markets and areas lacking legal protection.
- Newspapers, websites and activist literature continue to report corporate complicity in the sometimes-violent displacement of private citizens from ancestral farmlands, fisheries and urban dwellings to make way for mineral exploration, oil pipelines or the construction of resorts and leisure facilities.

- There are those outside business who perceive that companies are still largely unaware of the potentially damaging human rights impacts of their activities or those of their business partners, suppliers, franchisees or loan recipients, or of the risk that third parties might misuse their products or services.

Experience shows that companies can be a force for good and play a positive role in the protection of human rights. Yet, of the more than 2,000 companies that have joined the UN Global Compact, fewer than 100 have published a human rights policy or appear able to clearly identify their human rights risks. The apparent disconnect between the commitments of companies to international initiatives – like the UN Global Compact – and their actual performance in implementing those commitments, risks undermining confidence in the business sector. Until more companies acknowledge they have responsibilities in the area of human rights, subscribing to even well-regarded voluntary initiatives may be perceived as self-serving or hypocritical, while failure to go that far may suggest an institutional disregard for human rights.

In today's world, stakeholders demand an increasingly high standard of behaviour. Generous philanthropic programmes and benefit packages for employees in a company's home country are no longer enough to demonstrate corporate responsibility. To be credible, they need to be backed up by responsible business practices and rights protection for the most vulnerable company stakeholders, not just those at home.

It has come to IBLF's attention that frustration exists in some NGO circles over the pace of the business response on human rights. Rightly or wrongly, some firms are thought to be complacent or to have concluded that the odds of becoming the target of consumer boycotts or lawsuits are so remote that inaction on human rights is justified. Whether or not these perceptions are fair, they often carry weight with the wider public,

and it is in a company's interest to avoid unnecessarily alienating the growing pool of stakeholders for whom human rights are a priority, especially when there are a number of practical steps companies can take to manage the issue proactively and positively.

Such frustrations can be re-enforced when companies resisting the development of internationally recognised guidelines on human rights protection have themselves yet to address the human rights challenges that confront them daily in business. A company with a track record of engagement on human rights can reasonably expect a voice at the policy table, whereas the opinions of companies without a human rights strategy in place lack the same authority. Any expectations to the contrary not only play into the hands of business sceptics, but can create fertile ground for calls for further human rights regulation. The surest way for companies to answer their critics is to lead by example.

In IBLF's experience, companies usually offer two reasons for not engaging on human rights. Either they are unconvinced of the business case, or they are unsure of how and where to begin. Without minimising the complexities that human rights entail, this paper attempts to address both misgivings.

# THE BUSINESS CASE

The emergence of the internet and global 24-hour news coverage has revolutionised the environment within which companies do business. Firms are obliged to conduct their operations under constant public scrutiny and to come to terms with levels of risk exposure and demands for degrees of transparency that simply did not exist a generation ago.

While this new climate entails greater commercial perils in cases where companies are found to be on the wrong side of the law, it also offers previously unforeseen opportunities for those that are prepared to take the initiative and prove themselves champions of good practice on human rights.

*“Business is essential to the development and protection of human rights for the six billion people on this globe. Responsible companies see human rights issues as part of their business environment.”*

**Peter Sutherland,**  
Chairman of BP<sup>8</sup>

## 1 SAFEGUARD REPUTATION AND BRAND IMAGE

In today’s international markets, a company’s reputation and the quality of its human capital have overtaken plant, equipment and property as its most valuable assets<sup>9</sup>. There appears to be a direct correlation between reputation and share price, making firms acutely vulnerable to scandal and accusations of wrongdoing. Companies such as Shell, Nestlé and Nike have all experienced this impact. Regardless of their veracity, it takes time for claims to be investigated and reported on. Campaigners are slow to forgive and allegations of complicity in human rights violations can often be hard to fully refute. Even if an allegation is found to be untrue, it can take years to repair the damage caused by the original claim.

A company’s reputation is a magnet to attract consumers, investors, employees, suppliers and other business partners. Being hit by a human rights scandal places hard-won customer loyalty in jeopardy and undermines a company’s licence to operate. A recent study suggests that customer boycotts of demonised companies cost around GBP 2.6 billion a year<sup>10</sup>.

Surveys<sup>11</sup> show that while consumers may not go out of their way to find out if products are produced in accordance with ethical standards, they will be influenced by reports that a company is complicit in human rights abuse. When given the choice, they will choose the product or service of a competitor seen to have a cleaner reputation and track record.

*“Not having a stand on human rights is not an option – it is necessary for risk management as well as reputational purposes”*

**Rolf Magne Larsen, Statoil**

Business-to-business relationships are also affected by concerns surrounding

reputation. Companies and governments alike are under growing pressure from the media and activists to screen the human rights records of their suppliers, subcontractors and business partners. As a result, many government and commercial contracts now stipulate strict human rights criteria. If a company is unable to meet these criteria, it will lose out on potentially lucrative business opportunities.

Understanding the business risks of company complicity in human rights abuses and acting to eliminate or minimise them before they occur is an important aspect of brand protection and is increasingly viewed by key stakeholders – ranging from customers, employees, suppliers, distributors, investors, government agencies and local communities – as the mark of a forward-thinking and well-managed business.

## 2 GAIN COMPETITIVE ADVANTAGE

Given the attention now paid to corporate social and environmental performance, companies that have taken a responsible approach to human rights related issues can increasingly expect to gain a competitive advantage in the marketplace.

Human rights are an integral part of the social and environmental agenda. Companies that take human rights seriously and build a body of practical knowledge and experience around the subject, will be better equipped to enter new markets where similar human rights dilemmas are prevalent, than those companies confronting human rights issues for the first time. Their experience of dealing with human rights issues makes them attractive partners for customers, suppliers, distributors, potential employees and governments.

There is also evidence that consumers are being influenced by niche marketing aimed at responsible business practice. In 2004, British consumers spent GBP140 million on products bearing the Fairtrade<sup>12</sup>

logo, a year-on-year rise of 53 percent. Even mainstream goods produced by companies with an ethical track record are proving to be desirable; the so-called ‘ethical consumption’ market in the UK is now worth an estimated GBP20 billion a year<sup>13</sup>. Websites advising consumers on ethical decision making are also on the rise.

*“The benefits of our human rights programme have so far been about reputation and the assurance process. But they are going to become more and more about the business growth agenda and commercial opportunity as well, giving us access to new markets, new suppliers and in particular, new consumers.”*

Neil Makin, Cadbury Schweppes<sup>14</sup>

### **3 IMPROVE RECRUITMENT AND STAFF LOYALTY**

Competition for high calibre employees is a challenge in today’s business world. Companies need to deploy all strategies at their disposal to recruit and retain the talents on which future performance will depend. Responsible business practices, including transparency and appropriate policies on human rights, are persuasive means of encouraging employees and potential employees to choose a company over its rivals.

Companies that are reputed to have superior work practices and are committed to human rights have been shown to receive over 45 percent<sup>15</sup> more unsolicited employment applications than companies that do not. On the other hand, negative reputations are likely to deter applicants. In the immediate aftermath of governance and human rights scandals, companies often report an upsurge in probing questions on human rights during job interviews and falling numbers of candidates applying for jobs with the company.

The issues of the role of business in sustainable development and the business response to social, ethical, environmental and community challenges, including human rights, have become part of the curriculum at a growing number of business schools. Today’s students are being given the opportunity to study these issues as never before, and there is reason to believe that more and more take these new management priorities into account when they come to seek employment. Even when the employment market is depressed, graduates are reported to think twice before joining a company with a bad human rights reputation<sup>16</sup>.

Adopting and implementing explicit human rights policies reinforces a company’s value proposition and sends a strong and tangible signal internally and externally about what the company stands for. It can be a proxy for good overall management. For those employees working in unstable and challenging environments, clear policies and practices on human rights provide a valuable framework of support on which to build mutual confidence and enhance morale.

*“The most important benefit of the human rights policy has been internal – there have been no major incidents of human rights violations connected to the company and its operations. Employees are clear about what the company wants them to do and not to do. The community is also more aware of our relationship with them.”*

David B. Lowry, Freeport-McMoRan Copper & Gold<sup>17</sup>

Many companies now report pressure from employees and their representatives to be good corporate citizens. Staff who believe their workplace has high ethical

credentials on issues such as human rights are given the confidence to display their loyalty and act as enthusiastic ambassadors for the business – a valuable asset in the drive for recruitment.

### **4 FOSTER GREATER PRODUCTIVITY**

Human rights strategies that seek to eliminate racial, religious and gender discrimination, prevent harassment, guarantee a decent wage and make provision for airing grievances have been found to yield business benefits, particularly in terms of raising levels of productivity.

A study by the Philippine Department of Labour and Employment (sponsored by the United Nations Development Programme with technical support from the International Labour Organisation) tested a Work Improvement in Small Enterprises (WISE) programme. In the external evaluation, it found that the introduction of measures to improve working conditions led to a rise in production capacity of 23 percent in quantity and two percent in quality, while absenteeism declined by 4.73 percent<sup>18</sup>. These figures support a mounting body of anecdotal evidence shared by companies from diverse business sectors.

Skilled and unskilled workers who feel valued and are well treated in the workplace are more likely to develop their career potential, maximise their contribution to the company’s knowledge and skill base, and work harder to support the company’s objectives, targets and profitability.

By applying human rights guidelines to operations globally – and specifically measures on workplace health and safety – companies can prevent accidents, reduce stress-related illness and protect the business from unnecessary costs and disruption to productivity. Days lost to sick leave, production bottlenecks caused by staff shortages and product quality problems resulting from employee

# HUMAN RIGHTS: it is

## 1 SAFEGUARD REPUTATION AND BRAND IMAGE

Human rights scandals can tarnish reputations and jeopardise hard-won customer, investor and employee loyalty.

- Consumers and shareholders favour companies with a clean reputation and track record.
- Government and commercial contracts often stipulate strict human rights criteria.
- Suppliers, sub-contractors and business partners are screened on human rights performance.
- Companies can protect their brands if they understand the risks of complicity in human rights abuses, and seek to eliminate or minimise them.

## 3 IMPROVE RECRUITMENT AND STAFF LOYALTY

Clear policies and management practices on human rights can:

- Provide a framework of support for employees working in challenging locations.
- Build staff confidence and enhance morale.
- Attract high volumes of unsolicited job applications.
- Appeal to business students who view good practice in sustainable development as a proxy for good overall management.
- Make staff more loyal and eager to serve as ambassadors for the business.

## 2 GAIN COMPETITIVE ADVANTAGE

Companies that have built a body of practical human rights knowledge and experience:

- Will be better equipped to enter new markets where human rights challenges exist.
- Can make attractive partners for customers, suppliers, distributors, potential employees and governments.
- Stand to win potentially lucrative business contracts.
- Can take advantage of emerging niche markets for firms that adopt human rights sensitive business practices.

## 4 FOSTER GREATER PRODUCTIVITY

Human rights strategies that consistently eliminate discrimination, prevent harassment, guarantee a decent wage, improve workplace health and safety and provide a mechanism for airing grievances can:

- Increase production capacity
- Cut absenteeism
- Prevent accidents
- Reduce stress and sickness-related production bottlenecks.

Skilled and unskilled workers who feel valued and well-treated are more likely to work harder, develop their career potential, and maximise their contribution to the company's knowledge and skill base.

# s your business



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## **5 SECURE AND MAINTAIN A LICENCE TO OPERATE**

A strong human rights record and zero tolerance towards bribery and corruption:

- Builds confidence among vital stakeholders upon whom a company's licence to operate and future performance may depend.
- Appeals to governments who view responsible business practice as a measure of suitability to operate in their territory.

Support for corrupt or oppressive governments can:

- Negatively impact on a company's international reputation and global licence to operate.
- Complicate local relations in the event of a change of regime and democratic reforms.

## **7 ENSURE ACTIVE STAKEHOLDER ENGAGEMENT**

Clear human rights commitments, inclusive local recruitment and practices beneficial to vulnerable groups can help earn the trust of local people, community groups, and local and international NGOs, and thereby:

- Set a solid foundation for long-term operational security.
- Open doors to valuable commercial intelligence from local stakeholders.
- Increase sensitivity to local needs and concerns.
- Limit the risks of spurious allegations against the company being believed and circulated.
- Minimise the chances that a company's presence will exacerbate existing tensions and destabilise the operating environment.

## **6 REDUCE COST BURDENS**

Embedding human rights into core business practices can:

- Lead to savings on staff recruitment, sickness benefits, insurance premiums and staff time lost to crisis management.
- Lessen the incidence of sabotage and kidnappings and enable some companies to scale back security costs.
- Mitigate the chances of costly litigation being brought against the company, e.g. under the US Alien Tort Claims Act.
- Reduce the risk of having to invest in haste on costly community projects to win back the trust of communities affected by alleged company complicity in human rights abuses.

## **8 MEET INVESTOR EXPECTATIONS**

Responsible business practices, particularly on human rights, help improve access to finance, and enable firms to:

- Meet new investment conditions set by international financial institutions.
- Comply with project financing requirements set by banks party to the Equator Principles.
- Build confidence in the minds of the investors that view steps to mitigate risk as an indicator of quality management.
- Attract investment from the growing socially responsible investment (SRI) market.
- Secure inclusion in sustainable development stock market indices.

# THE BUSINESS CASE *continued*

error can all be significantly reduced. Investing in the protection of staff and the conditions in which they work frees employees from concerns about personal safety and creates an environment that allows them to be both more focused and efficient in their work.

*“Many companies have recognised a clear business case for responsible behaviour. To them, responsible business codes and practices are not a short-term cost, but a long-term investment.”*

Thomas Östross, Minister of Industry and Trade, Sweden<sup>19</sup>

## **5 SECURE AND MAINTAIN A LICENCE TO OPERATE**

An increasing number of companies recognise the concept of ‘licence to operate’ to mean a company’s acceptability within the communities in which it does business. It is both formal, in terms of official government sanction, and informal in terms of the satisfactory nature of its goods services and behaviour within society. Business needs the continuing support of its stakeholders to enable it to prosper, and the withdrawal of this licence to operate by any key stakeholder group can have serious consequences for performance. Governments are increasingly looking to responsible business practice as a measure of suitability to operate in their territory.

To attain and protect its social licence to operate, a company needs to maintain the confidence of government, non-governmental organisations (NGOs), local communities and the general public. Companies that have been implicated in human rights wrongdoing anywhere in the world find it harder to win the trust and support of these vital constituents, whereas a strong record on human rights and a zero tolerance position on bribery

and corruption help build confidence. Where a possible human rights violation by a company is being investigated, the existence of clear human rights policies and procedures will enhance that company’s opportunity to mount a credible defence.

The long-term risks incurred from any short-term business benefits that may be derived from supporting or condoning a corrupt or oppressive government need to be evaluated carefully. Longer-term damage to the company’s international licence to operate and reputation will almost certainly outweigh any short-term gains. While a local licence to operate built on such foundations can be swiftly revoked in the event of a change of regime.

Sustainable business benefits flow from securing a strong social licence to operate. In the course of building rapport with stakeholders, most companies will increase their knowledge of the operating environment, as well as their ability to identify and prevent potential risks.

## **6 REDUCE COST BURDENS**

By embedding human rights considerations into the company’s core business activities, savings can be made on recruitment, costs associated with absenteeism and interruptions to production. To this list can be added reduced security costs, lower insurance premiums and less staff time lost to crisis management, as well as the avoidance of litigation costs to fight allegations of human rights wrongdoing.

For many companies human rights litigation is becoming a reality too costly to ignore. To date, most human rights cases against companies have been prosecuted under the US Alien Tort Claims Act (ATCA) and several cases are currently pending across America. Although the US Supreme Court has yet to resolve definitively the legality of the claims, the legal costs in the interim are

substantial and the price of out-of-court settlements - such as that agreed with Unocal over alleged involvement in abuses in Burma - are high.

Suits for extraterritorial<sup>20</sup> human rights violations are not restricted to the USA. Cases have been brought in the UK - e.g. Cape Plc was forced to settle over claims for asbestosis compensation among black South African workers - and others have been pursued in Belgium, Canada, and Australia<sup>21</sup>. Meanwhile, the issue of corporate complicity in wider human rights violations - referred to in the UN Global Compact second principle on human rights<sup>22</sup> - promises to command the attention of corporate lawyers for years to come. As the rules and conventions on foreign liability and complicity are being played out, there are already financial imperatives for paying heed to rights-related issues. Home Depot Inc. and Texaco<sup>23</sup> are just two of the companies that have had to pay in excess of US\$100 million to settle sexual and racial discrimination claims in domestic courts<sup>24</sup>.

Legal expense aside, the security costs to protect staff and facilities for companies active in conflict zones or areas at risk of instability can be enormous, and at times prohibitive. While corporate strategies on human rights policies do not remove the need for security precautions, establishing good practice on human rights and adhering to international guidelines governing security arrangements have been shown to lessen the incidence of sabotage and kidnappings. This has enabled some companies to scale back their security provisions.

Winning back trust following litigation or high profile human rights exposés involves heavy costs, and companies whose reputations have been tarnished often find they need to invest in social projects if they are to rebuild local confidence. There are examples of companies that spend tens of million of dollars to build the trust of reportedly affected communities<sup>25</sup>. Companies can avoid these costs if they have the policies and practices in place

to recognise human rights challenges and manage them proactively.

## 7 ENSURE ACTIVE STAKEHOLDER ENGAGEMENT

There is now a growing consensus among companies on the invaluable commercial intelligence that active engagement with stakeholders can bring.

For example, by engaging with local community leaders in the planning, siting and development of facilities or operations, companies are better placed to identify and respond to local needs and interests. Building trust and confidence among local stakeholders sets a solid foundation for the long-term security and effectiveness of an operation. A clear commitment to responsible human rights policies and practices enhances this relationship and can give a company a greater margin for error in the event of being linked to human rights abuses. It may allow time to meet with injured parties and take remedial action before matters spiral out of control.

*“In Australia, National Grid is constructing the world’s longest undersea power cable between Tasmania and the mainland. We took the decision very early in the project to bring in representatives from the aboriginal communities to help us to supervise the construction. ... The costs of employing the representatives are far outweighed by the benefits to the project now and in the future.”*

Gareth Llewellyn, National Grid

Poor relations with local stakeholders or a failure to engage with them can foster resentment and suspicion. Surveys show that NGOs often have more credibility with consumers and communities than companies do<sup>26</sup>. Unless companies take steps to earn the trust of community groups, local NGOs and local chapters of international NGOs, there is greater likelihood that even spurious allegations will be believed and circulated. Considering the speed and global reach of modern NGO networks, there are clear advantages to be gained from ensuring good stakeholder relations.

In unstable regions in which certain ethnic or religious groups are marginalised or fail to benefit from foreign direct investment, there is a danger that companies may be made scapegoats for longstanding injustices. Several firms have incurred large bills to cover vandalism, kidnappings and violent attacks as a result. Diversity is a vital part of the human rights agenda. Where companies recruit from disenfranchised local stakeholders and seek ways to benefit vulnerable groups, they can minimise the chances that their presence will exacerbate existing tensions that further destabilise the operating environment.

## 8 MEET INVESTOR EXPECTATIONS

Access to finance, by way of investment capital and loans, is highly competitive and those providing finance are under pressure to understand and assess the business risks - including human rights exposures - of the businesses they support. International agencies such as the World Bank, the International Finance Corporation, the Asian Development Bank and the European Bank for Reconstruction and Development include reference to these issues in their governance requirements, thereby heightening the awareness of their local partner organisations in setting conditions for financial support.

An increasing number of institutional investors and the managers responsible for their funds are taking a close interest in the responsible business practices of the companies in which they invest. The rationale behind this interest is to understand better both the risks to which the businesses are exposed and the potential impact of those risks on performance. Evidence that management is aware of and taking steps to mitigate risks is an indicator of management quality. Reflecting this, over thirty major global banks and financial institutions adopted the Equator Principles launched in 2003, which require them to put in place internal policies and processes for project financing based on the IFC safeguard policies on environmental and social performance. Investors will be concerned by the implications of investing in companies operating in unstable environments, especially those prone to conflict or human rights abuses. Having a human rights policy in place, as well as risk assessment and management procedures, not only minimises the risks, but also builds confidence in the minds of the investors.

Responsible business practices also attract the growing socially responsible investment (SRI) market. According to the Social Investment Forum, in the USA alone some US\$2.16 trillion worth of professionally managed portfolios are now invested in accordance with at least one socially responsible investment strategy<sup>27</sup>. The human rights agenda is central to the selection of appropriate stocks; for example, the FTSE4Good and Dow Jones Sustainability indices demand strict human rights criteria of companies prior to including them in their indices.

# FRAMEWORK FOR ACTION

## *addressing the human rights agenda*

### GETTING STARTED

Companies addressing the human rights agenda for the first time have the advantage of being able to draw on several years' experience from those companies who have led on the subject. Lessons have been learned, often as a result of inadequate responses to human rights challenges, and new approaches are being continuously formulated and tested. There is already an emerging consensus on the basic ingredients of effective policies and practices.

Drawn from research and insights gained from working closely with companies, industry bodies, expert NGOs, government agencies and donors at both headquarters and in-country levels, IBLF offers an eight-point framework for action.

The framework provides no guarantee of success because managing human rights issues is not an exact science. As yet, there is no single internationally accepted compliance standard to guide corporate behaviour, although there are a number of conventions and guidelines such as those referenced in the introduction (see page 1).

Local contexts within which human rights challenges arise also vary widely. For example, the rights of one set of stakeholders may have to be balanced against the rights of another. Nevertheless, the suggested framework does provide a roadmap through which to navigate this complex issue.

### I. Understand the concerns and expectations of key stakeholders

- Identify the company's key stakeholders, especially those for whom the human rights aspects of the company's activities are likely to be of prime concern.
- Consult with key stakeholders to understand their concerns and expectations.
- Engage with even the staunchest of critics. Listen and take note of points of complaint.
- Distil an overall understanding of the human rights expectations of stakeholders.
- Be transparent and put in place ongoing stakeholder consultations, to share evolving knowledge and experience.

### VIII. Be transparent

Recognise that modern communication makes it virtually impossible to keep events secret, and make a virtue of open communication.

- Be prepared to explain to both internal and external stakeholders how the company met – or attempted to meet – its key human rights policy objectives.
- Report annually on progress against human rights policy pledges.
- Acknowledge openly events where the company has run into difficulty or could have dealt with a problem more effectively.
- Use open communication as a vehicle to gain active support from stakeholders in resolving problems.

### II. Identify the company's key human rights risks

Having identified stakeholder concerns and expectations and researched the latest tools available to businesses on human rights:

- Conduct a review with operational colleagues to determine how human rights issues impact on the company's activities and its risk exposure.
- Compare current performance against known industry standards and regional good practice, and benchmark the company's record against that of competitors and other industry sectors that share similar challenges.
- Prioritise the key human rights objectives for the company, set clear parameters for action in meeting those objectives and publish them internally and externally.
- Recognise past experiences of human rights challenges within the company and create a corporate memory to influence future corporate behaviour.

### VII. Establish monitoring mechanisms

- Evolve procedures to capture and evaluate the company's performance against its key policy objectives.
- Consider using third parties to assess the company's performance and to benchmark it against other relevant companies.
- Publish the results of the evaluation.
- Use the monitoring and evaluation process as a tool for raising the awareness of local managers on the business case for acting responsibly and for training to achieve improved performance.
- Provide mechanisms to protect employees who report malpractice within the company and by business partners.

### III. Recognise the company's spheres of influence

Distinguish between those human rights issues that:

- lie within the company's core business
- apply between the company and its business partners, for example along supply and distribution chains
- arise between the company and the communities within which it is located
- arise between the company and any national and government agencies with which it is engaged.

Stakeholder expectations demand that companies look beyond their core operations and examine the wider impact of their activities. Where a company's local economic weight and impact is significant – as an employer, as a taxpayer and as a consumer of local natural resources – the imperative of recognising and assessing human rights risks is even greater. There is in these circumstances additional external pressure to be an influence for good across the community.

### IV. Define and publish clear policies on human rights

- Define specific policies for the company, guided by existing information and resources on good practice.
- Publish policies internally and externally.
- Make explicit use of the term 'human rights' within policy statements and refer to internationally recognised instruments, codes and guidelines, especially the Universal Declaration of Human Rights and the core conventions of the International Labour Organisation.
- Avoid reliance on internal human resource or personnel guidelines as the sole policy on human rights.
- Apply policies globally and across all operations of the company.

### V. Assign management responsibility and devise implementation procedures

- Signal the seriousness of the company's intent by assigning senior management or board level responsibility for the implementation of the human rights policy throughout the company.
- Put in place clear procedures for the implementation, monitoring and reporting of human rights issues and policies across the company.
- Communicate the procedures to all employees and business partners, including suppliers, subcontractors, distributors and joint venture associates, making them available in local languages and accessible to those unable to read.
- Provide training to employees and first tier sub-contractors – including security providers – on the implementation of the procedures.
- Apply continuous monitoring of practice to ensure that policies are being applied.
- Make clear the sanctions that will apply in the case of breach of the policies and procedures and provide rewards for good performance.

### VI. Conduct human rights impact assessments

Companies are increasingly expected to assess the impact of their activities on human rights issues.

- Companies considering an operation with a heavy physical footprint should ensure that the required environmental and social impact assessment also covers issues relating to human rights.
- Other companies are advised to regularly consider the impact of their activities. Tools to assist in this process exist, and there are organisations and consultants that can provide specialist advice. Of particular importance is the Human Rights Compliance Assessment tool developed by the Danish Institute on Human Rights<sup>28</sup>. IBLF, together with the International Finance Corporation and a number of global companies, is publishing a guide to human rights impact assessment.

## CONCLUSION

With the appointment of a UN Special Representative of the Secretary-General in 2005, the discussion concerning the human rights role of business moved beyond the point where companies can sensibly regard human rights as discretionary. Human rights now constitutes a distinct business issue in its own right, one that is closely linked to risk management, but with enormous opportunities both for business growth and to benefit individuals and communities in countries where companies are active.

To be credible on human rights and engage meaningfully in policy level discussions and dialogue with stakeholders, companies need to demonstrate that they both understand and, more importantly, are acting on their areas responsibility, including spheres of direct control and influence.

Enough good practice now exists to give companies confidence on human rights, and working within the framework IBLF offers in this paper companies should be able to get started.



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## FOOTNOTES

- 1 According to GlobeScan's 2005 CSR Monitor, an annual 20-country public opinion survey on the changing expectations of companies, over 8 out of 10 of the 21,000 people surveyed hold large companies at least partially responsible for reducing human rights abuses. Chris Coulter, Vice President of GlobeScan, comments that "societal expectations for companies in this area are significant. For example, public expectations for reducing human rights abuses is greater than for corporate philanthropy."
- 2 Complicity is a hotly contested term in legal circles, but can broadly be defined as knowingly participating in and/or contributing to an act, often an unlawful act, with foreseeable harmful effects.
- 3 See ILO Worst Forms of Child Labour Convention, 1999 (No. 182).
- 4 On 28 July 2005, UN Secretary General Kofi Annan appointed Professor John Ruggie as Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. The creation of this post was requested by the UN Commission on Human Rights in its resolution 2005/69 and was subsequently approved by the Economic and Social Council in spring 2005. The post's two-year mandate includes identifying and clarifying standards of corporate responsibility and accountability with regard to human rights.
- 5 [www.business-humanrights.org](http://www.business-humanrights.org)
- 6 Each initiative has its own discussion networks and set of criteria to which participants are expected to adhere.
- 7 Labour rights, many of which are articulated in the Universal Declaration of Human Rights, often lie at the heart of supply chain management as companies are called to account for the rights of workers and affected communities in their supply network.
- 8 Press Release: The 2005 Business & Human Rights Seminar. [www.bhrseminar.org](http://www.bhrseminar.org)
- 9 According to findings published in Business Week, 2 August 2004, Coca-Cola is the world's most valuable brand, estimated at US\$67,394 million for 2004. Interbrand Corp., the force behind the findings, assert that Coca-Cola's brand represents as much as 60% of the value of the business ([www.zfu.ch/service/fartikel/fartikel\\_99\\_cbr.htm](http://www.zfu.ch/service/fartikel/fartikel_99_cbr.htm)).
- 10 The Independent, 21 May 2005.
- 11 The surveys referred to include GlobeScan's "Corporate Social Responsibility Monitor 2004", page 31; GlobeScan's "Corporate Social Responsibility Monitor 2003", page 29; SustainAbility and UNEP's "Buried Treasure: Uncovering the business case for corporate sustainability", page 22; Cone, Inc. "2002 Cone Corporate Citizenship Study"; CSR Europe "The First Ever European Survey of Consumers' Attitudes towards Corporate Social Responsibility".
- 12 Fairtrade aims to secure better prices, decent working conditions, local sustainability and fair terms of trade for farmers and workers in developing countries. Internationally recognised Fairtrade standards for product labelling operate in over 20 countries worldwide.
- 13 The Independent, 21 May 2005.
- 14 In an interview for this publication Dr Makin stated "Action on human rights is hard work and it doesn't just fall into place. You have to keep working at it and change the corporate culture, but there has not been any alternative as far as I am concerned. It is a business imperative".
- 15 Hewitt Associates, Press Release, January 3, 2005
- 16 GlobeScan's "Global Campus Monitor 2003-1", page 18.
- 17 In a submission for this publication David B Lowry, now retired, stated "Although we know that by making a public commitment to human rights we may be held to a higher standard, it has been worth it".
- 18 [www.ilo.org/public/english/dialogue/ifpdial/la/gp/philippines.htm](http://www.ilo.org/public/english/dialogue/ifpdial/la/gp/philippines.htm).
- 19 Letters to the Editor: Responsibility is not a cost but an investment. Financial Times, 3 May 2005.
- 20 Lawsuits for alleged violations taking place outside the jurisdiction of the company's home government.
- 21 Helena Ward, "Legal Issues in Corporate Citizenship", Swedish Partnership for Global Responsibility, 2003. See also, David Kinley & Junko Tadaki, "From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law", (2003-04) Vol.44(4) Virginia Journal of International Law, pp.931-1024.
- 22 UN Global Compact Principle 2 calls on companies to make sure they are not complicit in human rights abuses.
- 23 Texaco was taken over by Chevron in October 2000.
- 24 <http://www.cbsnews.com/stories/2000/11/16/national/main250144.shtml>. See also <http://www.washingtonpost.com/ac2/wp-dyn/A62004-2004Jun22?language=printer>
- 25 "The Case for Social Responsibility", speech by Lord Browne at BSR Annual Conference, 1998 ([www.bp.com](http://www.bp.com)). See also [http://www.africare.org/news/news\\_release/nigeria.html](http://www.africare.org/news/news_release/nigeria.html).
- 26 2004 Edelman Fifth Annual Trust Barometer.
- 27 These figures were published in the 2003 Report on Socially Responsible Investing Trends in the United States. According to the Ethical Investment Research Service ([www.eiris.org](http://www.eiris.org)) the equivalent figure for the UK at the end of 2003 stood at GBP 4.3 billion.
- 28 International Alert have also produced a conflict risk and impact assessment tool specific to the extractive sector: "Conflict Sensitive Business Practice: Guidance for Extractive Industries".

**The International Business Leaders Forum (IBLF) is a non-profit organisation that promotes responsible business practices internationally that benefit business and society, and which help to achieve socially, economically and environmentally sustainable development, particularly in new and emerging market economies.**

The IBLF's Business and Human Rights Programme provides advice to corporate executives with responsibility for managing human rights related issues. The programme facilitates constructive dialogue between corporations, the public sector and human rights campaigners to air associated dilemmas and find appropriate solutions.

Lessons learned from the programme are available in two publications, produced with Amnesty International: "Human rights – is it any of your business?" and "Business & Human Rights: A Geography of Corporate Risk" (both available from [www.iblf.org](http://www.iblf.org)).



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