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Business Ethics & Human Rights

This Briefing explores the link between business ethics and human rights and provides an overview of the current business and human rights landscape. It also looks pressures and drivers for respecting human rights and how business is responding to these.

What do human rights mean for business?

There is a spectrum of ways that an organisation engages with human rights. At one end is to actively work or campaign for human rights to be upheld or even improved (or financially supporting others to do so).

This upholds a 'positive duty' to respect human rights i.e. taking positive steps to promote and fulfil human rights (1).

Non-governmental organisations like Amnesty International and Verité will sit at this end of the spectrum. Some companies also take this approach. Box 1 provides some examples of the positive duty approach to human rights.

Towards the other end of the spectrum the focus is largely on avoiding human rights violations, i.e. a 'negative duty' not to deprive people of their rights(3). IBE research in 2012 reviewing the FTSE100 codes of ethics suggests that most companies are in this space.

This Briefing looks at how businesses engage with human rights; namely, the ways in which companies attempt to avoid human rights violations in their business operations and relationships.

Human rights as defined by the 1948 Universal Declaration of Human Rights (UDHR) involve
“...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family...the dignity and worth of the human person”(2).

Box 1: Examples of a proactive approaches to respecting human rights

Workers rights in Guatemala

In June 2012 a group of multinational companies including Nike, Gap and Adidas, and NGOs signed an open letter to the newly-elected Guatemalan government. The companies behind the proposal have strong supply chain links to Guatemala. The letter pledges to support the government to respect workers' rights and help protect their right to freedom of association. It also requests the government's support in providing a fair and safe working environment for employees.

Business Leaders Initiative on Human Rights (BLIHR) www.blihr.org/randa.html (legacy site)

Sixteen major companies from a range of sectors formed the Business Leaders Initiative on Human Rights in 2003. The Initiative sought to find practical ways for businesses to implement the human rights principles outlined in the UDHR. The BLIHR was in operation for six years and in this period produced a number of tools and resources to help companies proactively address human rights considerations.

International Business Leaders Forum (IBLF) www.iblf.org

The IBLF is an independent, global member's organisation of over 150 leading multinational companies. The IBLF works with companies to raise awareness of human rights and empower them to deal with the human rights challenges they face. This includes producing guidance in 2010 on Human Rights Impact Assessment for companies, in conjunction with the International Finance Corporation and UN Global Compact.

Business & Freedom of Association Portal, Business and Human Rights Resource Center

<http://www.business-humanrights.org/FreedomOfAssociationPortal/Home>

Launched in June 2012 this portal seeks to provide organisations with practical guidance and advice for improving labour conditions and protecting worker's rights. At the portal's launch, Mauricio Lazala, the Centre's Deputy Director stated “Too often labour rights and human rights are treated as two separate issues”.

(1) Kolstad, I. (April 2012) 'Human Rights & Positive Corporate Duties: the importance of corporate-state interaction', *Business Ethics: A European Review*

(2) See: <http://www.un.org/en/documents/udhr/>. More recently this understanding has been supported by the [UN Global Compact](#) and the [UN Guiding Principles \(2011\)](#)

(3) Kolstad (2012) op. cit.

What is the relationship between business ethics and human rights?

Attention to human rights has been shown to have a positive impact on business performance through improved stakeholder relations, positive corporate reputation and brand image, and employee motivation and retention. This has been explored elsewhere (4).

What of the link with business ethics? The IBE defines business ethics as “the application of ethical values to business behaviour” i.e. the way business is done. A commitment to both business ethics and human rights will be driven by values such as: dignity, justice, fairness, equality, respect, and responsibility.

‘Doing business ethically’ necessarily involves respecting human rights in the course of business operations. A company that is wishing to be considered as ethical will need to be mindful of human

rights. This may be limited to avoiding human rights violations or take the wider approach of protecting and promoting human rights in business operations.

In spite of this, IBE research (2012) found that only half of FTSE100 companies (52%) explicitly consider human rights in their code of ethics in some way. Most corporate codes of ethics address issues like anti-discrimination, harassment and bullying, equal opportunities, and respecting diversity, to name a few; all of which are addressed in the Universal Declaration of Human Rights. A number of core issues considered core to business ethics, particularly those that are labour and employment related, sit within a human rights agenda. The latter may be viewed as one particular framework for approaching such business ethics issues.

Pressures and drivers on business to respect human rights

The ‘positive’ and ‘negative’ duties to protect human rights are still firmly with national governments(5). However, trends such as globalisation and the increasing presence of multinational corporations(6), pressures from NGOs, and reputation risk management, has meant there are increasing expectations of business.

An IBE survey (2010) found that for 58% of FTSE100 and 39% of FTSE250 respondents, human rights was a significant issue to the company(7). Similarly, in a 2011 survey by the Institute for Human Rights and Business (IHRB) of 97 individuals in international companies, 97% believed businesses need to “respect the human rights of those whose lives they touch”(8). In the same survey, ‘maintaining a good reputation’ was considered to be the most important driver for engaging with human rights by the largest proportion of companies (63%).

1. Exposure to risk

Four factors influencing a tendency to engage with human rights are explored here.

Human rights risks can be faced by companies of any size and in any sector but some sectors are ‘higher risk’ than others – resource extraction, utilities and infrastructure, and the manufacturing and garment sector to name a few(9). Factors that can increase companies’ risk include:

- International operations – the wider the scope of operations the harder it can be to monitor operating units and uphold consistent standards of business practice.
- Operating in ‘difficult’ markets – e.g. countries with undemocratic or repressive governments or that are politically unstable, countries with current social/civil unrest, or countries with a poorly developed infrastructure. Doing business in such markets can constitute complicity with human

(4) For more information on the business case for human rights see: *A Guide for Integrating Human Rights into Business Management* by the BLIHR, UN Global Compact, and the Office for the UN High Commissioner on Human Rights; *Human Rights: Is it any of your business?* (2000) by Amnesty International & the Prince of Wales Business Leaders Forum; and *Human Rights Translated: A business reference guide* (2008) by Monash University Castan Centre for Human Rights Law & the IBLF.

(5) Kolstad (2012) op. cit.

(6) See for example: Nils Roseman (2005) *The UN Norms on Corporate Human Rights Responsibilities*, Dialogue on Globalization Occasional Paper No.20. Available at: <http://library.fes.de/pdf-files/iez/global/04669.pdf>

(7) IBE (2010) *Corporate Ethics Policies & Programmes: UK and Continental Europe Survey*. Available for free download from www.ibe.org.uk

(8) http://www.echoresearch.com/data/File/IHRB/IHRB_Full_Research_Results.pdf

(9) <http://www.humanrightsimpact.org/themes/business-centre/sector-information/>

rights abuses by the government⁽¹⁰⁾. Complicity occurs where a company indirectly violates human rights e.g. by providing financial support or supplying goods to an organisation that is known to be committing human rights abuses.

- Extraction of natural resources – this can involve environmental degradation and hazardous work in terms of health and safety.
- Complex supply chains and other business relationships.

However, IBE research (2012) on how FTSE100 companies consider human rights in their codes of ethics found little difference between high and low risk sectors. Of those companies in high risk sectors that did consider human rights in their code, a number did not go beyond a very basic commitment to 'respect' human rights.

2. Campaigns

In the IHRB survey cited earlier, 73% of corporate respondents felt that high profile claims of human rights abuses have made businesses keener to consider the human rights impacts of their operations⁽¹¹⁾.

Common ways that businesses have been accused of violating human rights are:

- Environmental damage from air pollution, waste disposal, contamination of water and/or land or resource exploitation which negatively impacts surrounding communities, particularly where they are heavily reliant on local natural resources for their livelihoods.
- Maltreatment of communities and indigenous populations local to an operating site, such as forcible relocation and the use of (sometimes armed) security forces, which can result in violence and social conflict. Lack of corporate transparency or poor stakeholder engagement processes often exacerbate these situations.
- Violation of workers' rights through poor labour conditions, constraints on employees' right to freedom of association and collective bargaining, discrimination or use of forced/child labour.
- More recently, breaches in freedom of expression, personal privacy and data protection due to developments in technology.

Some examples of campaigns against human rights abuses involving business are provided in Box 2.

Box 2: Examples of high profile campaigns against human rights abuse

Amnesty International campaign against the treatment of indigenous people by Vedanta Resources (2010 – present)

The mining company has been heavily criticised both for its treatment of the Dongria Kondh tribe in Orissa, India and the negative environmental impacts of its operations. In the former case, Vedanta wished to mine bauxite on a piece of land considered sacred to the Dongria Kondh tribe. Permission was refused by the Indian government in 2010.

<http://www.amnesty.org.uk/content.asp?CategoryID=11775>

Global Exchange campaign against sweatshop labour conditions in Nike factories (1990s – present)

The retailer has experienced extensive pressure to address poor labour conditions or 'sweatshop labour' in its supplier factories. Nike has since responded to campaigners' demands and implemented forward thinking processes and initiatives, though continues to face criticism.

<http://www.globalexchange.org/fairtrade/sweatfree/nike>

'Raise the Bar' campaign against forced/child labour in Hershey's supply chain (2012)

This campaign is calling for America's most popular chocolate brand to use Fair Trade certified cocoa to reduce human rights abuses such as forced/child labour in Hershey's supply chains.

(10) See: *Doing Business in High Risk Human Rights Environments* (2010) Danish Institute for Human Rights. Available at: http://www.humanrightsbusiness.org/files/Publications/doing_business_in_highrisk_human_rights_environments_180210.pdf and <http://www.humanrightsimpact.org/themes/business-centre/sector-information/>

(11) http://www.echoresearch.com/data/File/IHRB/IHRB_Full_Research_Results.pdf

3. Indices & standards

While companies often claim to operate 'responsibly' or 'ethically', indices, standards and certification help provide some form of assurance for stakeholders as to whether a company is doing what it says – if it's living up to its commitments. They also act as an incentive for companies.

Respecting human rights is a criterion in a number of indices and standards, such as the UN Global Compact, the ISO 26000 standard for social responsibility and the Dow Jones Sustainability Index. The FTSE4Good Index requirements vary depending on whether companies operate in high or low human rights impact sectors and countries. To qualify for inclusion, high impact companies need to have in place (amongst other things):

- A human rights policy
- Human rights training
- Board level responsibility and accountability for human rights
- Stakeholder engagement with local communities
- Regular monitoring and reporting on activities and progress.

In March 2012, seven companies were deleted for violating the FTSE4Good Index's human rights criterion.

4. Recent multinational guidance

In June 2011, the UN endorsed its *Guiding Principles on Business and Human Rights: Implementing the United*

Nations 'Protect, Respect and Remedy' Framework⁽¹²⁾. The Framework comprises of three 'pillars':

- i. The state duty to protect against human rights abuses
- ii. The corporate responsibility to respect human rights
- iii. Access to remedy for victims of human rights abuses (judicial and non-judicial).

The second pillar asserts that companies "*should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*" To comply with this, the Framework advises companies to develop policy commitments; conduct human rights due diligence; and provide some form of remediation.

The Framework has been largely welcomed by the business community and there are 'pockets' of implementation activity⁽¹³⁾ but as yet there is little evidence of it being put into practice⁽¹⁴⁾. However it has brought human rights issues to companies' attention and set expectations of business behaviour in this area. The Guiding Principles Framework has also prompted developments elsewhere. The European Commission has appointed the Institute for Human Rights and Business, and Shift, a non profit centre for business and human rights practice⁽¹⁵⁾, to develop human rights guidance for the recruitment, information communications & technology (ICT) and oil and gas sectors which are all considered as high risk⁽¹⁶⁾.

How are companies responding to such pressures and drivers?

1. Expression of commitment

The Business and Human Rights Resource Centre identifies 296 companies globally with an explicit human rights policy statement, the majority of which reference the UDHR⁽¹⁷⁾. Some of these statements are stand alone, whereas others are incorporated into the company's code of ethics (or equivalent document). However human rights policies are not yet the 'norm' amongst companies engaging with human rights - the IHRB survey found 33% of company respondents did not have a formal policy.

The 52 FTSE100 companies found by the IBE to address human rights in some way in their code of ethics, most commonly did so through a statement of support, a commitment to uphold or a declaration of signature to one or more internationally recognised human rights standards. The most frequently cited were the Universal Declaration of Human Rights; the UN Global Compact; the ILO Core Conventions; the Voluntary Principles on Security and Human Rights; and the OECD Guidelines for Multinational Enterprises.

(12) *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework* (2011) by Special Representative of the Secretary General John Ruggie. Available at: <http://www.business-humanrights.org/SpecialRepPortal/Home/Protect-Respect-Remedy-Framework/GuidingPrinciples>

(13) See for example <http://www.ipieca.org/focus-area/human-rights>

(14) <http://www.ethicalcorp.com/business-strategy/business-and-human-rights-rolling-out-ruggie-principles>

(15) <http://shiftproject.org/>

(16) <http://www.ihrb.org/project/eu-sector-guidance/index.html>

(17) <http://www.business-humanrights.org/Documents/Policies>

Another common approach is to integrate the company's commitment to respect human rights into various sections of its code addressing commitments to employees and local communities. Some codes make reference to human rights issues only when identifying the kinds of issues employees may want to 'speak up' about.

A few companies make reference to human rights only in regards to their supply chain. This often means a commitment to engage with suppliers on human rights or to only work with suppliers that have themselves committed to respect human rights.

Going further, some company codes do have a dedicated section to human rights⁽¹⁸⁾. This varies from a few short paragraphs to a few pages on the company's position.

Some FTSE100 companies also have a separate human rights policy or mission statement; including those who do not consider human rights in their code. This is usually published as part of a corporate responsibility/sustainability report or on their website.

2. Other mechanisms

As well as expressing commitment, additional mechanisms are being used by business to help avoid human rights violations, such as:

- **Employee training** helps raise awareness of human rights issues, and embed corporate values and commitments into decision making and behaviour. Training on human rights can be stand alone or integrated into general business ethics training.
- **Assessing human rights impacts** is identified in the UN Guiding Principles as part of the human rights due diligence process. Companies need to know where through their operations and business relationships they have actual and potential human rights impacts and the extent of these. It is particularly important for companies to be aware of any indirect impacts or complicit human rights violations. Assessing human rights impacts may be integrated into existing company procedures or be a stand-alone Human Rights Impact Assessment (HIRA). There is no 'one size fits all' approach and the assessment may take account of company size and scale of operations, sector, and national and local context.
- **Stakeholder engagement** is a critical part of assessing human rights impacts, allowing companies to identify the concerns or opportunities of parties potentially affected by their operations and business relationships.
- **Integrating human rights considerations into due diligence** of suppliers and third parties to help avoid against complicity in human rights abuses.

Further resources

- Business and Human Rights Resource Centre
<http://www.business-humanrights.org/>
- Danish Institute for Human Rights
<http://www.humanrights.dk/>
- European Commission Sector Guidance on the Corporate Responsibility to Protect Human Rights (forthcoming)
<http://www.ihrb.org/project/eu-sector-guidance/index.html>
- Global Network Initiative (GNI)
<http://www.globalnetworkinitiative.org/>
- Human Rights Impact Resource Centre
<http://www.humanrightsimpact.org/home/>
- Human Rights Watch
<http://www.hrw.org/home>
- Institute for Human Rights and Business
<http://www.ihrb.org/?gclid=CJT33Lnp8K8CFQ0KtAod-Ba7XQ>
- Maplecroft
<http://maplecroft.com/>
- UN Global Compact
<http://www.unglobalcompact.org/index.html>
- UN Secretary General's Special Representative on Business & Human Rights Portal
<http://www.business-humanrights.org/SpecialRepPortal/Home>

(18) For example: Anglo American *Good Citizenship: Business Principles*, available at: <http://www.angloamerican.com/about/principles>; Centrica *Business Principles*, available at: <http://www.centrica.com/index.asp?pageid=22> and Diageo *Code of Business Conduct*, available at: <http://www.diageo.com/en-row/NewsMedia/Pages/resource.aspx?resourceid=500>



The IBE was established in 1986 to encourage high standards of business behaviour based on ethical values.

Our vision is to lead the dissemination of knowledge and good practice in business ethics.

We raise public awareness of the importance of doing business ethically, and collaborate with other UK and international organisations with interests and expertise in business ethics.

We help organisations to strengthen their ethics culture through effective and relevant ethics programmes.

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At L'ORÉAL, we have been working with the IBE for many years. We have always found their advice pragmatic and practical as well as, in many instances, inspiring. They help us and challenge us at the same time. **Emmanuel Lulin, Group Director of Ethics, L'ORÉAL**

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