



# the inside track #25

Highlighting CSR Issues of the moment

## Human rights - The growing importance

Some may query this title, especially if they believe human rights is a cornerstone of corporate responsibility and has always been of importance. However, to date, corporate adoption has largely been voluntary.

There are however several recent developments that mean human rights are under greater scrutiny.

The most influential initiative in this field is the work undertaken by the UN's Special Representative of the Secretary-General on Business and Human Rights, Professor John Ruggie<sup>1</sup>, between 2005 and 2011. He was given the task of clarifying the roles and responsibilities of states, companies and other actors in this contested sphere. In 2008, after three years of extensive research and consultations with governments, business and civil society, he presented his 'Protect, Respect, Remedy' Framework, which rests on three pillars:

1. the state duty to **protect** against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication;
2. the corporate responsibility to **respect** human rights, which means to act with due diligence to avoid infringing on the rights of others; and
3. to address adverse impacts that occur; and greater access by victims to effective **remedy**, both judicial and non-judicial.

Last year, Professor Ruggie published a set of 'Guiding Principles' which aim to provide concrete, practical guidance on implementing operationally the 'Protect, Respect, Remedy' framework. These are leading governments and observers to increase their focus on the management of human rights by corporations.

The EU's Corporate Social Responsibility (CSR) strategy for 2011-14<sup>2</sup> notes that human rights have "become a significantly more prominent aspect of CSR" and it aims to improve the coherence of EU policies in this area. The strategy promotes the use of the UN Guiding Principles by European companies and sets out its intentions to work with enterprises and stakeholders in 2012 in order to develop human rights guidance for a number of industrial sectors, as well as guidance for small and medium enterprises, based on the Principles. The Commission also invites EU member states to develop national plans for implementation of the Principles.

Meanwhile, even closer to home, consultation on a new reporting framework for UK companies conducted by the Department for Business, Innovation and Skills<sup>3</sup> in late 2011, sought input on the issue of human rights disclosure requirements. This was in response to the position taken by the EU. It posed the question "Should quoted companies be explicitly required to include information about human rights (to the extent necessary for an understanding of the development, performance or position of the company's business) in the Strategic Report?" This would require quoted companies to consider human rights alongside the company's strategy and risks in an integrated manner. However, the new reporting framework is expected to be delayed beyond its original implementation date of 1st October 2012. Nevertheless because of its UN commitments, the UK government needs to be active in its promotion of the consideration of human rights by UK companies.

Those companies that are active participants in the Dow Jones Sustainability Indices will have seen the proposed framework for assessing supply chain management for the 2012 submission. The questions increase from 2 to 7, and the nature of the questions include a greater emphasis on risks associated with supply chains. Included within these risks are social aspects such as fundamental human rights, as well as working conditions and occupational health and safety. It is clear human rights are rising up the agenda here also.

These initiatives will combine over time to increase the pressure on companies to have adequate procedures in place to manage human rights within their operations.

<sup>1</sup> The on-line portal for this work can be found at: <http://www.business-humanrights.org/SpecialRepPortal/Home>.

<sup>2</sup> [http://ec.europa.eu/enterprise/newsroom/ct/\\_getdocument.cfm?doc\\_id=7010](http://ec.europa.eu/enterprise/newsroom/ct/_getdocument.cfm?doc_id=7010)

<sup>3</sup> <http://www.bis.gov.uk/assets/biscore/business-law/docs/f/11-945-future-of-narrative-reporting-consulting-new-framework.pdf>

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## So, what does this interest in human rights and specifically the UN Guiding Principles mean for your company?

It is easy to imagine that active respect for human rights is only necessary for large multinational companies, such as those operating in the natural resources sector in the developing world. But in addition, those companies that depend on the developing world for key elements of their supply chain also should consider their position on human rights.

Whilst some may consider that some of the worst human rights' abuses occur in specific sectors, such as the extractive sector, the UN Guiding Principles clearly state they apply to all companies, regardless of size, sector, location or structure. Whilst the way in which the Principles are implemented and realised varies markedly because of the nature of a company's operational activities or supply chain management, all companies should assume that they apply as a form of corporate self-regulation.

Tackling human rights within companies that operate in less controversial industries can be challenging because:

- There is confusion regarding identifying a company's sphere of influence in the area of human rights.
- The language surrounding human rights is complex and often difficult to translate internally.
- The company operates only in the developed world and considers human rights to be the responsibility of its government rather than the company.

In this last instance, it is worth remembering that one of the first human rights cases was brought by residents living around Heathrow Airport, who complained that night flying infringed their human rights, depriving them of a peaceful night's sleep – the residents won their case!

For companies, practically speaking, there are three key means, outlined by the Principles, by which they can ensure they make proactive efforts to respect human rights. These are:

1. A **policy commitment** that stipulates the company's responsibility to respect human rights and sets out human rights expectations of personnel, business partners and other parties directly linked to operations, products or services. This policy should be drawn up using relevant expertise, approved at the highest managerial level,

and publicly available. Most crucially of all, the policy should be reflected in operational policies and procedures in order to embed it throughout the organisation.

2. A **human rights due-diligence process** to identify, prevent, mitigate and account for how the company addresses impacts on human rights. The process should include assessing actual and potential human rights' impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. This should be an on-going process that covers adverse human rights' impacts that the business enterprise may cause or contribute to, through its activities, or which may directly link to operations, products or services by its business relationships.

3. **Processes to enable the remediation** of any adverse human rights impacts that a company causes or to which they contribute. Operational-level grievance mechanisms for those potentially impacted by the business enterprise's activities can be one effective means of enabling remediation.

Whilst it is essential companies have flexibility to develop an approach relevant to their industry, and to their corporate culture; the existence of such UN Principles is valuable in provision of guidance and benchmarking.

Whereas some would say that upholding human rights does not need a business case, one undoubtedly exists – human rights can be good for business and addressing them can help guard a company's reputation, reduce risk, allow a company to stand out from competitors and boost social legitimacy or its licence to operate.

If you would like to know more about human rights, especially with regard to policies, procedures and reporting, and would like an objective and impartial view, contact **Tony Hoskins or Rosie Sjogren** via [thoskins@thevirtuouscircle.co.uk](mailto:thoskins@thevirtuouscircle.co.uk)