BUSINESS AND HUMAN RIGHTS: INTENSIFYING EXPECTATIONS FOR COMPANIES

Bennett Freeman

Oxford Saïd Business School
The Nature of the Corporation
Professor Colin Mayer CBE
28 May, 2018
Old Issues, New Drivers: From Imperialism to Globalization
Two Triggers: From Swamps to Sweatshops

“The oil came down and destroyed everything.”

Inagbaa Christina, farmer from the Niger Delta

#MakeTheFuture
Barbarians at the Gates: From Company After Company to Industry After Industry

NGO campaigns and media exposure damaged brand reputations and risked companies’ social license to operate...

- ExxonMobil
- Chevron
- bp
- RioTinto
- Extractives (oil/gas/mining)
- Nike
- Footwear/apparel/textiles
- De Beers
- Diamonds and jewelry
- GlaxoSmithKline
- Pfizer
- Pharmaceuticals
From the Early Business Case...

- Safeguarding against brand/reputation damage
- Managing stakeholder relations
- Diminishing potential legal liability
- Averting burdensome regulation
- Demonstrating social responsibility
- Maintaining the consensus for globalization
…to “the Hell with the Business Case”

Sir Geoffrey Chandler
Former Shell executive and founder of the Amnesty International UK Business and Human Rights Group

Setting Standards: From Strange Bedfellows to Multi-Stakeholder Initiatives

These early initiatives convened strangers not accustomed to being in the same room together.

Ethicaltrade.org
Kimberleyprocess.com
Fairlabor.org
Voluntaryprinciples.org
Conflict to Consensus: From the UN Norms to the UN Guiding Principles

Professor
John Ruggie

UN Special Representative for Business and Human Rights

2005-2011
1. State duty to protect human rights

2. Company responsibility to respect human rights

3. Both must provide remedy for victims
A Floor Not a Ceiling: From the Guiding Principles to a Binding Treaty
Sectors and Issues in the Spotlight: From the Big Four to Six More (1)

**Agriculture**
- Child labor
- Forced labor
- Freedom of association and collective bargaining
- Health and safety
- Land rights
- Water and sanitation
- Women’s rights

**Apparel**
- Child labor
- Forced labor
- Freedom of association and collective bargaining
- Health and safety
- Women’s rights
- Working hours

**Extractives**
- Freedom of association and collective bargaining
- Health and safety
- Indigenous peoples rights and FPIC
- Land rights
- Security
- Water and sanitation

**Technology**
- Freedom of expression
- Privacy and data protection
- Conflict minerals/cobalt
- Freedom of association and collective bargaining
- Health and safety
- Human trafficking
- Working hours
Sectors and Issues in the Spotlight: From the Big Four to Six More (2)

- Pharma/Biotech
- Banking/Financial services
- Hospitality/Tourism
- Engineering/Construction
- Autos/Transportation
- Retail Conglomerates
Cross-Cutting Issue in the Spotlight: Human Trafficking and Modern Slavery (1)

ILO estimated more than 40 million victims of modern slavery in 2016

Trafficking of women and girls

Forced labor in Thai seafood industry

Forced child labor in Uzbek cotton fields
Cross-Cutting Issue in the Spotlight: Human Trafficking and Modern Slavery (2)

Both Acts (California 2010 and UK 2015) require companies to disclose steps to identify and eliminate trafficking/slavery from supply chains.
Cross-Cutting Issue in the Spotlight: Human Trafficking and Modern Slavery (3)

Know the Chain sector reports focusing on:
1. Information and communication technology
2. Food and Beverage
3. Footwear and Apparel

Key findings:
• Progress apparent with first-tier suppliers but abuses overlooked in lower tiers
• More effort required to develop grievance/remedy mechanisms
Cross-Cutting Issue in the Spotlight: Human Trafficking and Modern Slavery (4)

Initiatives in two key industries:

- **Hotel industry** is a common venue for trafficking/recruitment
  - Hilton code of conduct/compliance training and initiatives to support NGOs

- **Airline industry** used as a global transport network for trafficking
  - Delta Airlines Blue Lightning training

Plus Coca-Cola, HP, IKEA, Unilever launched the Leadership Group for Responsible Recruitment focused on exploitation of migrant workers in global supply chains across industries.
Cross-Cutting Issue in the Spotlight: Human Trafficking and Modern Slavery (5)

Progress in ending massive systemic forced labor in Uzbekistan:

- Cotton Campaign includes NGOs, trade unions plus responsible investors and apparel brands (with leverage from company pledges not to source)
- Combination of international pressure and engagement – and a new Uzbek President – is making progress toward reform
Human rights is a focus for management and innovation for the most committed companies in the most exposed sectors.

businessrespechumanrights.org
Management Practices and Tools: From Policy and Process to Performance and Impact (2)

The business case for managing human rights is reflected in key company functions that engage:

- Human resources/recruitment
- Supply chain management/procurement
- Workplace/product safety
- Government/public/community relations
- Investor relations
- Legal/compliance
- Risk management
- Communications/media
- Country/project management
- Security operations

➢ But more executive leadership and board oversight necessary
Positive progress... and tragic setbacks

Rana Plaza April 2013: 1,137 people killed in Bangladesh factory collapse
Five Factors and Forces Driving the Agenda (1): Investment Materiality

Focus on materiality of human rights risks, with potential to widen investor engagement beyond socially responsible investors to large institutional asset owners/managers.
Five Factors and Forces Driving the Agenda (2): Catalytic Impact of Rankings

Catalytic impact of benchmarking/rankings initiatives is compelling companies/industries to strengthen and disclose policy frameworks/due diligence processes—and improving performance.
Five Factors and Forces Driving the Agenda (3): Pressure to Defend Civil Society

There is pressure but also opportunity for companies to support NGOs/human rights defenders under attack as civil society space closes around the world.

We have forgotten how to rescue each other. Human empathy key to our survival. en.prothom-alo.com/bangladesh/new ... @AllRohingyaNow weareallrohingyanow

Business, Civic Freedoms and Human Rights Defenders

June 2017 - Welcome to our first e-bulletin on Business, Civic Freedoms and Human Rights Defenders (HRDs). In this bulletin you will find information tailored for business, civil society, governments and others. There are curated selections of news, stories, and research materials, as well as information on the actions taken to protect and support HRDs working on business & human rights. We welcome your comments and suggestions here.
Impact of technological innovation and disruption includes risks related to privacy, dilemmas posed by AI, and new worker voice/representation channels enabled by mobile communications.
Five Factors and Forces Driving the Agenda (5): Geopolitical Disruption

The rise of populism and nationalism in major western democracies has disrupted the consensus for economic and political integration (with Brexit and the US exits from TPP, Paris climate and Iran agreements) with implications for corporate roles and responsibilities.

• Major multinationals have come under intense political cross-pressure that are compelling some CEOs to oppose the Trump Administration (climate, immigration and to rebuke Trump per Charlottesville).

• At risk in the US is support for human rights-related institutions (UN/ILO), foreign assistance (USAID), democracy promotion (NED), and regulations (Dodd-Frank 1502 per conflict minerals) that may pressure companies.

• At stake is the nature of the corporation: mutuality and shared responsibility for societal benefit?