Business and Human Rights

Introduction

Globalization has taken off like a rocket over the past several decades, sparking near total integration of communication, economics, trade, and finances. Increased free trade has allowed countries and corporations to buy and sell the world’s resources, goods, and services with minimal government interference. As a result, globalization has increased the reach and power of businesses worldwide. While this may seem like a win/win scenario for those involved, increases in global demand have almost always been tied to increases in human rights violations in developing and underdeveloped countries.

The round-the-clock flow of news and information has made the prevalence of corporate human rights violations increasingly apparent. One recent example of human rights abuses and their impact on the international business environment can be seen in a 2013 report titled “Hear No Evil: Forced Labor and Corporate Responsibility in Eritrea’s Mining Sector,” published by the Human Rights Watch organization. This report highlights some of the ethical issues that mining companies may face due to the Eritrean government’s exploitation of forced labor in its state-run mining industry. Companies are urged to report and investigate any allegations of labor abuse or exploitation; however, many choose to ignore these warnings and continue to conduct their business in Eritrea. These companies have made the ethical decision to ignore violations and have been rewarded with profitable business opportunities as a result. Their business dealings are clearly not moral or ethical by any means, but are their methods for business sustainable? What happens when these companies are held accountable for their actions in the court of public opinion or by the companies and countries that are further down the supply chain?

Because of international laws, individuals and victims of business related human rights violations have little to no direct recourse. With few exceptions, human rights laws do not apply to companies in the eyes of international bodies, and state sovereignty is protected under numerous international conventions. Therefore, if a company is legally authorized by the state to conduct business within its borders, they become subject to that state’s laws and regulations (or lack thereof). Several recent labor related tragedies (see the 2013 Bangladesh factory collapse here) have encouraged increased action on the part of labor activists, NGOs, and a limited number of developed countries that is aimed at creating greater awareness of this issue and ultimately achieving universal labor rights to protect the health, safety, and emotional wellbeing of workers throughout the globe. Thanks to increased public pressure, several major retailers are starting to ask their production facilities for safety reform. Sadly, many more tragedies are likely to come before significant changes are enforced across the globe.
Corporate Responsibility

The Institute for Human Rights and Business (IHRB) is an organization that focuses on businesses and their relationships to international human rights standards. The IHRB seeks to raise corporate standards and to ensure that companies are behaving in ways that do not result in human rights abuses, injuries, or loss of life for their workers. The IHRB offers an impartial perspective for greater understanding of human rights as they relate to the role of the global business community. This organization works to clarify laws, define accountability and responsibility, enact remedies, and settle worker disputes and rights violations.

The trend towards greater awareness of business and human rights is discussed in an article written by Timothy J. Mohin, author of the book Changing Business from the Inside Out: A Treehugger’s Guide to Working in Corporations. In his article, Mr. Mohin outlines the top ten trends in CSR [Corporate Social Responsibility] for 2012. In Trend #8, he discusses the Ruggie Report, published in 2008. Released annually, the June 2008 report submitted by John Ruggie, the Special Representative of the Secretary-General, was titled Protect, Respect, and Remedy: A Framework for Business and Human Rights. This article summarized the “Guiding Principles on Business and Human Rights; Implementing the United Nations’ Protect, Respect and Remedy Framework.” In his report, Mr. Ruggie highlighted several key human rights issues related to labor, defined global expectations, and reported violations that were catalogued during the preceding year. He also included detailed advice and recommendations for businesses, labor unions, and governments meant to help reduce global labor abuses.

The first principle in the Ruggie Report covers several general concepts pertaining to labor rights.

- States do in fact have obligations to respect, protect, and encourage human rights and fundamental freedoms.
- Business enterprises are an extension of society that perform specialized functions, therefore they are required to obey all applicable laws and to respect human rights.
- There is a dire need to establish set consequences when rights and promises to the international community are breached.

The US Supreme Court

Human rights violations occur worldwide. Countries continue to commit acts of violence against their citizens with little to no fear of international repercussions. According to Amnesty International, “Companies cause harm by directly abusing human rights, or by colluding with others who violate human rights. Despite this potential to cause significant harm, there are few effective mechanisms at the national or international
level to prevent corporate human rights abuses or to hold companies to account.” (Amnesty International 2013) The failure of the international community to institute legal protections to safeguard the rights of workers is a tragedy in and of itself, yet there is some hope on the horizon. Local courts throughout the developing world are starting to reexamine their mechanisms for punishing international abuses of labor. For example, the Hershey Company has for years been accused by rights groups for exploiting workers in South Africa. The US Department of Labor has noted that corporate run cocoa farms in Africa employ children as young as 12–14 years old, offering little to no incentives and at times coercing them through threats of violence. In October 2012, the US Supreme Court began the new term by examining when and how torture victims and those who have experienced other crimes against humanity might be able to litigate against corporations in federal courts. The result of these deliberations will have a tremendous impact on the trade and import laws of one of the world’s largest consumer economies, and may lead to a trickledown effect which will encourage similar legal protections in other parts of the world.

The debate within the courts will surely continue as evidenced by comments made by Justice Alito when referring to a case of several Nigerian activists who have taken asylum in the United States. The Nigerians claimed that foreign oil companies were involved in abuse committed by Nigeria’s military. The lawsuits are decades old and have been prevented from being brought to trial in the United States. Justice Alito stated, “do you disagree [there] are fair [international] judicial systems where a plaintiff can get a fair shake?” His statement reflects general conservative skepticism. He continued, “if that’s so, then why does this case belong in the courts of the United States, when it has nothing to do with the United States other than the fact that a subsidiary of the defendant has a big operation here?” On the other hand, Justice Kagan has stated that US courts have heard similar cases in the past, specifically as they related to piracy on the high seas. Kagan claimed, “we gave a stamp of approval to such lawsuits in a 1980 case, understanding that there were certain categories of offenders who were today’s pirates.” Clearly, there are differing opinions on what steps the US courts can and will take.

**The United Nations Global Compact**

The United Nations Global Compact is an initiative that seeks to establish laws that will enforce the principles protecting human rights, labor, the environment, and anti-corruption efforts. UN Secretary-General Ban Ki-moon describes the Global Compact as follows: “The Global Compact asks companies to embrace universal principles and to partner with the United Nations. It has grown to become a critical platform for the UN to engage effectively with enlightened global business.”

Since the early part of the 21st century, the United Nations has been exploring how global business practices affect basic human rights. Its various commissions have looked for ways in which corporations can take a proactive role in this initiative. The
United Nations’ activities have brought some clarity to the role of governments and businesses on the issue of protection and respect for human rights, but as of yet, have failed to establish mechanisms of enforcement.

Sometimes in order to combat the bad, we must look to promote and reward the good. In 2008, the UN Human Rights Council began to develop a framework for identifying and promoting practices that are good for both business and human rights activities. Rather than focusing on specific corporate actions, the practices that were highlighted included general guidelines for good corporate human rights behavior and activities.

The framework, endorsed by the United Nations in 2011, included the guiding principles to protect, respect, and remedy the human rights practices of businesses involved in international trade, and to focus on areas in need of improvement. The three central principles are outlined below.

**Protect:** Governments have a role in protecting individuals from corporate abuses, both within their borders and in the countries in which they conduct trade.

**Respect:** Companies have an obligation to respect the physical and emotional wellbeing of their workers.

**Remedies:** Government and business communities should mitigate the risks of human rights violations, address the needs of those who have been negatively impacted by corporate abuses, and take action to provide remedies when they occur.

**The 10 Principles**

The UN Global Compact identifies ten principles in the areas of human rights, labor, the environment, and anti-corruption. The Compact asks companies and organizations to adopt these principles, to support them, and to put them into action within their business worlds.

**Human Rights:**

**Principle 1:** Businesses should support and respect the protection of internationally proclaimed human rights.

**Principle 2:** Businesses should make sure that they are not complicit in human rights abuses.

**Labor:**
Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.

Principle 4: Businesses should uphold the elimination of all forms of forced and compulsory labor.

Principle 5: Businesses should uphold the effective abolition of child labor.

Principle 6: Businesses should uphold the elimination of discrimination in respect of employment and occupation.

Environment:

Principle 7: Businesses should support a precautionary approach to environmental challenges.

Principle 8: Businesses should undertake initiatives to promote greater environmental responsibility.

Principle 9: Businesses should encourage the development and diffusion of environmentally friendly technologies.

Anti-Corruption:

Principle 10: Businesses should work against corruption in all of its forms, including extortion and bribery.

www.unglobalcompact.org

Office of the High Commissioner for Human Rights (OHCHR)

According to the OHCHR website, “the Office of the United Nations High Commissioner for Human Rights (OHCHR) represents the world’s commitment to universal ideals of human dignity. We have a unique mandate from the international community to promote and protect all human rights.”

One of the OHCHR’s areas of focus is to take an active role in the United Nations’ Global Compact. As one of the seven United Nations’ agencies working with the Global Compact office, OHCHR has served as the guardian of these principles since their launch. OHCHR continues to encourage corporate participation and guide companies on ways to implement the 10 principles. They do this through education and support as well as by providing tools that incorporate human rights into sound business practices.

www.ohchr.org
Summary

- Corporate globalization has increased the reach and power of businesses worldwide, resulting in an increase in human rights abuses.
- The limitations of international laws have inhibited the ability of human rights victims to obtain any recourse.
- There is a current trend toward ensuring that the global business world takes greater responsibility for its treatment of individuals.
- The Institute for Human Rights and Business raises corporate standards to ensure that companies are not committing human rights abuses.
- The US Supreme Court is deliberating on ways that it might expand the scope of federal laws to enable victims of human rights abuses to seek legal remediation in the global arena.
- The UN Human Rights Council’s framework for protecting human rights in the business environment includes the principles to protect, respect, and remedy.
- The UN Global Compact identifies human rights 10 principles for businesses to adopt. These are in the areas of human rights, labor, the environment, and anti-corruption.
- The Office of the High Commissioner for Human Rights (OHCHR) is one of seven organizations that interact with global businesses to facilitate participation in the UN Global Compact’s 10 principles.

References

