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Business and Sustainable Development: Why Business Must Say Yes to Human Rights

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Summary: Earlier this year, the UN Commission on Human Rights took note of the *draft* UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. In doing so, the Commission confirmed the importance of the issue, and, in order to identify options for strengthening standards and means of implementation, requested the Office of the High Commissioner for Human Rights to further study the matter and to submit a report in 2005.¹ Human rights matter if companies are sincere about their responsibility for contributing to sustainable development and reaching international development goals. The present paper recommends incorporating human rights more broadly in the debate on business and development, thereby shifting the discussion further away from needs and welfare or charity towards rights and obligation. But which human rights matter? What degree of obligation do companies have? And vis-à-vis whom?

Drawing Human Rights Closer to Sustainable Development

Enhancing access to human rights is an internationally recognized goal per se and not just a bothersome legal matter. There is also a growing convergence of the development and human rights agendas owing to inequalities and absolute poverty being the worst violation of human rights that you can possibly think of. Human rights are both a means for achieving sustainable development as well as an indicator for measuring progress. By applying a human-rights perspective to sustainable development, charitable acts make way for genuine responsibility and obligation, and individuals, communities and societies become rights-holders rather than passive recipients.

A company's commitment therefore to the spirit of law, corporate responsibility and sustainable development will be complemented and its efforts strengthened when it embeds human rights standards in all its areas of operation and along the supply chain.

¹ Decision 2004/16 of the UN Commission on Human Rights, April 2004.

But which human rights does this involve? To what degree is business actually obliged? And towards whom is business responsible?

Setting the Context

The Millennium Development Goals (MDGs) - today's proxy for sustainable development and poverty eradication - cover eight areas, calling in most cases for specified improvements by 2015 measured from 1990: eradicate extreme poverty and hunger by half; achieve universal primary education; promote gender equality and empower women; reduce child mortality by two-thirds; reduce maternal mortality by three-quarters; combat HIV/AIDS, malaria and other diseases; achieve environmental sustainability; and develop a global partnership for development. These goals do not constitute rights in themselves, but by basing sustainability initiatives on core human rights norms and values, we are more likely to reach them.

The focus at hand in the context of sustainable development and the MDGs is human rights that predominantly correspond to capabilities and freedoms that are considered basic for living in dignity, including - but not limited to - the command over economic resources. Such core human rights standards are defined in the most important universal human rights instruments (box).

Universal Declaration of Human Rights (1948);
Convention on the Elimination of All Forms of Racial Discrimination (1965);
International Covenant on Civil and Political Rights (1966);
International Covenant on Economic, Social, and Cultural Rights (1966);
Convention on the Elimination of All Forms of Discrimination against Women (1979);
UN Convention against Sexual Discrimination (1979);
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984);
Convention on the Rights of the Child (1989); and
Various ILO conventions and declarations which contain comprehensive provisions concerning working conditions and workers' rights.

Human rights are categorized into two groups: So-called *civil and political rights* protect the individual and certain collective activities, such as the right to freedom from discrimination, right to privacy, and the right to freedom from forced labour, and can be applied directly². So-called *economic, social and cultural rights*, such as the right to work and to just and favourable conditions at work (also, for example, for the disabled), the

² In other words, they are claimable by concerned individuals before the courts.

right to adequate health, or the right to education, are more in the nature of guidelines and are intended to be realized progressively (over a period of time) and are subject to the availability of resources. All human rights give rise to four complementary duties: Governments are not only burdened with a “negative” duty to *respect* the different human rights (i.e. to avoid violating) in society at large, but also with the “positive” duties to *protect, promote* and *fulfil* human rights.

Business and Human Rights

The realization of human rights is not only a governmental issue, but requires a multi-stakeholder approach. What then is the role of business? How can the responsibility to uphold human rights be modified to fit the business context? The question open for debate is not whether the private sector has responsibilities or not, but where to draw the line between “to be *required* to behave in a particular way” (*must*) and “to be *expected* to behave in a particular way” (*should* as a responsible societal actor).

Spheres of activity and influence: The spectrum of human rights responsibilities of companies varies between large and small enterprises, the nature of their products or services, the situation in the country where the company operates and other things. It relates directly to their own employees and along the supply chain to workers in factories (such as in the case of the sportswear industry which has in the past provided for a bad example). The private sector’s responsibility also extends to the communities affected by a company’s operations and indirectly to the society in which it runs its business.

Do no harm: Above all, companies are at a minimum *required to respect* (i.e. not violate) core human rights³ within their spheres of activity and influence, whether these be civil, political, economic, social or cultural, such as the right to freedom of opinion and expression, the right to freedom of peaceful assembly and association, and the right to freedom of movement. In addition, and according to the Danish Human Rights & Business Project⁴, there are four significant areas where companies a priori do have fuller

³ Where national legislation maintains a higher standard than international legislation for the protection of human rights, companies should follow the national laws.

⁴ The Human Rights & Business Project was jointly initiated in 1999 by three Danish organizations: The Confederation of Danish Industries, the Danish Institute for Human Rights, and the Industrialization Fund for Developing Countries. It is designed to provide guidance to businesses faced with human rights issues when operating abroad, and has recently launched a Human Rights Compliance Assessment tool.

duties where they must take appropriate measures towards the realization of human rights: in relation to the health and safety of their workers, with regard to their products not being used in the violation of human rights, in relation to anyone residing on their land (e.g. mining companies and indigenous peoples), and when they de facto and locally replace the government.

Source of positive influence: As responsible societal actors, companies will further be *expected* to use their influence to gradually fully address, i.e. *protect, promote and fulfil*, human rights issues they face in their specific line of business and operations, and depending on their respective capabilities, resources, and priorities, such as the right to an adequate standard of living, the right to adequate food, and the right to adequate housing. In this latter regard, companies will ultimately have greater freedom to decide whether or not positive action is deemed necessary.

Say Yes

Business and development and *business and human rights* are not two separate paths, but two mutually reinforcing ones. Particularly when talking about corporate responsibility and sustainable development, companies do well to let international and domestic human rights standards guide their activities as well as influence processes and objectives. By saying yes to human rights, and following words up with deeds, companies will be better equipped to contribute more effectively to economic, social and environmental development.

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Weblinks

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