

# “Eyes wide open”: human rights and justifying business engagement

*Reflections on the importance of the Khartoum meeting of 17 May 2006, hosted by UNDP and Ahfad University*

*by John Morrison<sup>1</sup>, Programme Director for the Business Leaders Initiative on Human Rights<sup>2</sup>*

## **Introduction**

The aim of this short article is to offer some initial reflections on the importance of the 17 May meeting in Khartoum and the related work of some businesses, the United Nations and other stakeholders in Sudan. It also looks at the wider implications for the role of business in any context where human rights and human security represent significant concerns. In particular, the article hopes to shed some light on what a business should do when allegations of complicity in the abuse of human rights are made by some stakeholders, even if these allegations are more moral than legal in nature<sup>3</sup>.

What represents a responsible course of action for any company which wishes to better understand its relationship with internationally voiced human rights concerns and what resulting action should it take? What represents ‘positive engagement’ under these circumstances? These are profound and contested questions which relate to many countries around the world in different orders of degree. This paper only hopes to signal some of the areas for ongoing analysis and discussion and to indicate why the Khartoum meeting was a modest but valuable step along this path.

## **Event**

The meeting entitled “Public-Private Partnerships: A Post-Conflict Framework of Shared Opportunities and Responsibilities” was convened by UNDP and the Ahfad University for Women and held at the Hilton Hotel in Khartoum on 17 May 2006. The months of planning had also included significant involvement by two international companies (ABB and Shell) as well as the United Nations Global Compact office in New York. Critical to the meeting was the involvement of key Sudanese figures involved in the post-conflict development of the country, such as Dr Taj. Elsir Mahgoub of the Joint National Transition Team, Professor Gasim Badri of Ahfad University and Dr Anis G. Hajjar, Chairman of the Hajjar Group of Companies. The meeting of around 35 mainly local business, NGO and government representatives focused on the practical initiatives that could be undertaken by international and local business within the context of contemporary Sudan. The conclusion of the day was that the UN Global Compact provided the best umbrella for

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<sup>1</sup> John Morrison is also a Director of TwentyFifty Limited ([www.twentyfifty.co.uk](http://www.twentyfifty.co.uk))

<sup>2</sup> The Business Leaders Initiative on Human Rights [www.blihr.org](http://www.blihr.org) was initiated in 2003 and is a business-led association chaired by Mary Robinson.

<sup>3</sup> With reference to, for example, the first two Principles of the UN Global Compact ([www.unglobalcompact.org](http://www.unglobalcompact.org)).

such an initiative and that UNDP should convene an ongoing network of interested parties with the aim of establishing a Sudanese network in six months' time.

### **Business and Human Rights in Sudan – the international context**

Human rights abuses in Sudan are well documented and have been an issue of international concern.<sup>4</sup> Some foreign governments have taken a range of different positions in expressing such concern, one of the most outspoken being that of the US Government which observes a total trade embargo on the country. Over the past year, several US-based investors (in particular the State pension funds) have started to divest from European and Asian companies which are trading in Sudan. For example, letters from the California Public Employees' Retirement System (CalPERS) sent to a number of companies in 2005 asked them to clarify their human rights activities in Sudan. CalPERS has since announced its intention to divest from some companies but not those actively engaged in the process outlined in this paper whose activities are the subject of constructive engagement.

At the Khartoum meeting, Ron Popper and Anders Nordstrom from ABB Ltd characterised their company's business activities in Sudan as beneficial for the local population; they also noted the competing human rights priorities, between the role of electrification (one of ABB's core business activities) in helping to realise many economic, social and cultural rights in northern parts of the country against wider concerns about specific civil and political rights in Sudan, albeit none which relate directly to ABB's business activity. Some international stakeholders continue to pressurise ABB to cease trading in Sudan altogether, but how should the company assess the best (or least bad) course of action to follow when faced with competing human rights-based arguments? The following aspects can be seen as characterising the scenario for an international company such as ABB in a country such as Sudan:

- The net commercial value of business in the country is relatively small both from the perspective of the international company and the host government;
- The day-to-day business of the company adds to the economic development of the country and is also meeting the basic needs of the general population;
- Allegations of 'complicity in the abuse of human rights' are unlikely to be legally based but instead relate to mainly 'moral' opinion about what might be deemed as 'beneficial' or 'silent' complicity (i.e. the responsibility a company has in a specific country just by being there).
- What then are the tangible steps an international company should take when some stakeholders wish them to divest based on human rights arguments, whilst others want them to remain based also on human rights considerations?
- How to achieve a more level 'playing field' if the moral or political pressures placed on international companies vary according to where they are headquartered or where their investors are based?

### **Business and human rights – the local context**

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<sup>4</sup> [www.ohchr.org](http://www.ohchr.org)

There is nothing new about corporate responsibility in a Sudanese context as one of the keynote speakers on 17 May reminded the audience:

“Establishing clinics, schools and community programmes was not so much a charitable undertaking, but much more a necessity. Corporate Social Responsibility had not been invented 75 years ago, but it was being practised.”<sup>5</sup>

There was a general agreement at the meeting that all ten principles of the UN Global Compact, including those relating directly to human rights and labour rights, did apply within a Sudanese context, given that the Sudanese Government has ratified most of the international agreements upon which the principles are based. The more pertinent questions were about how these principles might be applied within a Sudanese context, sensitive both to the dominating priorities of a country where many are still in poverty and also respectful of Sudanese culture and history. The ‘Sudanification’ of international standards was not seen as diluting or changing the standards themselves but finding a tangible way of rooting human rights within the Sudanese business community that is both appropriate and sustainable. It was abundantly clear from the discussions that such an approach cannot be imposed from outside the country but its benefits must be argued and understood within mainstream Sudanese business.

Within the context of Sudan, as in many other countries, the development of business and human rights needs to grow from a wider commitment to ‘capacity building’ in its widest sense. Local participants at the 17 May meeting commented that decision-making processes at the national and local level need to be inclusive of the private sector and that public-private partnerships can create an ‘enabling space’ for the development of the rule of law, good governance and good environmental and social management. Some also commented that international organisations and international business can be misguided in their actions if they do not understand the local context. There was consensus at the meeting that a Sudanese network of the UN Global Compact, facilitated locally by UNDP, might be a useful way for international agencies to work with both international business and Sudanese business together and a foundation for public-private partnerships within the arena of human rights and the other principles of the Global Compact.

### **Some early conclusions about human rights and business engagement**

There seems to be much that international business can do in countries such as Sudan as an alternative to divesting, although divestment must always remain an option should the promotion of human rights in business activity become impossible or a business become directly complicit in abuses. Human Rights present a set of international norms against which a business can benchmark its own performance and remain accountable for its actions. There are also minimum standards below which no business should go. Some of these steps might be:

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<sup>5</sup> Dr Anis G. Haggag ‘Corporate Social Responsibility: A Perspective’, paper presented at the 17 May meeting.

- In depth meetings with investors to understand the nature of their concerns and then an ongoing dialogue to follow;
- Ongoing exchanges with human rights specialists both inside and outside the country in question;
- A thorough understanding of the legal position of the company to ensure it is not legally complicit in any breach of international criminal law or international human rights law;
- A detailed understanding of all the human rights considerations within the sphere of influence of the company within the country, including the company's role in helping to realise some economic, social and cultural rights;
- A series of meetings with local stakeholders, including open meetings such as that on 17 May in Khartoum, to explore the collective action that might be taken in the development of an 'enabling environment' for business and human rights.
- A public statement by the international company as to its commitment and actions relating to respecting, protecting and promoting human rights.

Similarly, local business should also join the dialogue around these issues and understand the constraints under which international companies increasingly operate. Likewise, the international community needs to recognise the tradition of corporate responsibility held by local business and its existing relationship to human rights and labour rights (as well as the other principles of the Global Compact) should be researched and understood. The UN Global Compact in itself seems to provide a useful umbrella for these activities to take place, drawing on the expertise and resources of local business, NGOs, academia and the government. It was clear from the 17 May meeting, that within Sudan there is significant intellectual resource (with 26 universities in Khartoum alone) to undertake such research. The respect, protection and promotion of human rights can then be an intrinsic part of public-private partnerships developed to address the wider needs of the country and its people.