



Human Rights Dilemmas for Multi-National Corporations

Themes and dilemmas

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Working document for comment

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Access to adequate housing

Introduction

Adequate housing is one of the most basic human needs. The right to adequate housing encompasses the provision of basic shelter and the right to live in security, dignity and peace. As a result, housing or shelter should include: security of tenure; availability of utilities and other services such as access to safe water and sanitation; affordability; habitability; accessibility; and cultural appropriateness. Governments should take progressive steps towards the achievement of all aspects of the right. ILO

Recommendation No. 115 on worker's housing states that: "it should be an objective of national housing policy to . . . [ensure] that adequate and decent housing accommodation and a suitable living environment are made available to all workers and their families." UN-HABITAT estimates that throughout the world over one billion people live in inadequate housing, with in excess of 100 million people living in conditions classified as homelessness.

Implications for business

Companies that provide housing for their workforce or the local community can impact directly, positively or negatively, on the enjoyment of the right to adequate housing. However, the most frequent association with the right to adequate housing arises in the context of land transactions that require relocation or forced evictions, often in relation to development projects or natural resource exploration. Business risk complicity if they engage in forced evictions without due diligence and procedural safeguards. Such safeguards may include comprehensive impact assessments, prior consultation and notification, provision of legal remedies, fair and just compensation, and adequate relocation.

The following examples were identified through background research:

- In August 2008, Nike announced it was taking steps against a supplier factory in Malaysia for several breaches of its supplier code of conduct, including housing workers in substandard accommodation. Nike has undertaken to ensure workers will be moved to Nike-approved housing.
- The National Human Rights Commission of India reports that around 400,000 persons were forcibly evicted from their homes in Delhi between 2000 and 2006, the majority without any resettlement plans. In one instance, 7,000 households were demolished in order to clear the land for a power plant for the Commonwealth Games that will take place in Delhi in 2010.

Identifying the dilemma

How does a company respect the right to an adequate standard of living for its employees when creating jobs in areas where a lack of infrastructural development has left a shortage of adequate housing, access to water, sanitation and public amenities?

The following have been identified as possible components of this dilemma:

- Housing for workers
- Community partnerships and investment
- Business and government responsibility
- Poverty
- Forced evictions
- Due diligence

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Access to an effective remedy

Introduction

Judicial independence is crucial in providing an effective judicial remedy for those whose rights have been violated, either as individuals or groups (such as members of an indigenous community). Judicial independence can be compromised by outside influence, including by the government and other actors, as well as through bribery and corruption and intimidation by armed groups. A lack of judicial effectiveness may also compromise the ability of judicial mechanisms to remedy human rights violations. Examples include insufficient personnel and financial resources, limited or

restricted funding and training of officials, backlogs of cases and administrative mismanagement. Government failure to enforce court judgements, or the ignoring of court orders altogether, further slows down or prevents access to remedy by victims and restricts the ability of the judiciary to enforce the law. Lack of protection for victims, witnesses, lawyers and the police etc. has a huge impact on the effectiveness of the legal system and may act as a strong deterrent for those wanting to report crimes.

Implications for business

An independent judiciary is a precondition in providing an effective judicial remedy for victims of human rights violations. However, when this independence is brought in to question, for example through the disproportionate or unjustified use of emergency legislation or the use of military and emergency courts, victims' access to remedies is restricted. This impacts business when individuals or groups have concerns about company activities or operations but cannot adequately voice their concerns due to investigations and trials not being independent, or the harassment of those raising concerns. Companies may be perceived to be complicit in denying access to judicial remedies and should identify and address grievances early, before they escalate, particularly where access to adequate state-based grievance mechanisms is restricted. An effective grievance mechanism is part of the corporate responsibility to respect human rights.

The following examples were identified through background research:

- In March 2008, the Asian Human Rights Commission issued a statement commemorating the dismissal of the Pakistani Chief Justice by General Musharraf, which it describes as illegal and unconstitutional. The AHRC reports that the lawyers' movement, which resulted from the dismissal, continues "to fight for the rule of law, the reinstatement of the Chief Justice, the supremacy of the judiciary and the restoration of the constitution." In 2007 and 2008, many lawyers were beaten, murdered, killed, tortured and arrested.
- In March 2009, Amnesty International (AI) praised the conviction of ten members of the illegal para-policing groups (milícias) from Rio de Janeiro, Brazil, as an "emblematic victory in the fight for human rights in the state." AI reports that a number of judges, prosecutors, police officers and state deputies faced death threats and intimidation over the case.
- In December 2008, the Indonesian National Commission for Human Rights stated that the decision to acquit retired Indonesian intelligence chief and Major General Muchdi Purwoprandjono of charges of murder and abuse of power in the case of the death in 2004 of one of Indonesia's leading human rights activists, "shows that our judicial system has failed to fully uphold its independence".

Identifying the dilemma

How does a company ensure that human rights related grievances and concerns by local communities can be voiced when access to adequate judicial remedies are limited?

The following have been identified as possible components of this dilemma:

- Company-level grievance mechanisms
- Restricted access to judicial remedies
- Lack of or incompetent state-based non-judicial grievance mechanisms

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Access to water

Introduction

The right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. Water does not have to be provided for free, but at a rate affordable to the most disadvantaged members of society. The water provided has to be of good quality, free from elements that might harm a person's health, and a minimum quantity of approximately 50–100 litres per person per day. The right to water is a prerequisite for the realisation of other human rights, including the right to the

highest attainable standard of health and the rights to adequate housing and food. Currently, of the world population of 6.6 billion, 1.1 billion do not have access to drinking water from improved sources and 2.6 billion lack access to basic sanitation. The lowest access rates are in sub-Saharan Africa (36%) and South Asia (37%). In some countries, such as Afghanistan and Ethiopia, less than 10% of the population has access to adequate sanitation facilities.

Implications for business

Business has an interest in safeguarding and utilising water efficiently and equitably in its own operations, and a responsibility to ensure its activities do not compromise the quality and quantity of water available for local communities and other stakeholders as a result of water pollution or over-use of local resources. Business also has an opportunity as an innovator to explore new territories and markets and as a corporate citizen to act as an educator and provider or supporter of initiatives that improve accessibility and quality of water resources in partnership with governments and civil society.

The following examples were identified through background research:

- In October 2008, Wal-Mart introduced new environmental and social performance standards for its Chinese stores and suppliers, including a requirement for stores to reduce water usage 50% by 2010.
- In 2007, Coca-Cola announced a partnership with WWF which aims to "conserve and protect freshwater resources throughout the world," including through increasing efficiencies in its own operations.
- In November 2008, General Electric Water and Process Technologies donated two advanced water treatment systems to Dongguang County in China. The treatment systems provide clean drinking water for more than 60,000 residents of Dongguang City and neighbouring villages.
- In October 2008, one person was killed and many injured during a protest near a bauxite mine 80km from Conakry in Guinea. The mine is owned by Russia's RUSAL. Local residents had been protesting about the lack of access to running water and electricity in the town of Mambia, near the mine.
- Water Aid estimates that in India around 37.7 million people are affected by waterborne diseases and 1.5 million children die of diarrhoea annually. As a result, 73 million working days are lost each year at an estimated cost of US\$600.

Identifying the dilemma

How does a company respect the right to water of local communities who depend on subsistence farming when operating high water consumption production methods in drought-prone areas?

The following have been identified as possible components of this dilemma:

- Water conservation
- Consumption
- Water pollution
- Community partnerships and investment
- Recycling and replenishment
- Provision of privatised water services

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Arbitrary arrest and detention

Introduction

Arbitrary arrest and detention is the imprisonment or detainment of a person without charge or trial. Persons arrested arbitrarily face increased risk of torture whilst in detention. Detention is seen as 'arbitrary' when there is no legal basis for detention or there are grave violations of the right to a fair trial. Further, detention and imprisonment which is lawful under national standards may be

considered arbitrary under international legal standards. Non-state actors can also unlawfully arrest and/or arbitrarily detain people, particularly where a parallel justice system and/or control of territory exists (Afghanistan for example). This is distinct from kidnapping (where a demand is set) and relates to instances where people are held illegally or without access to formal judicial proceedings

Implications for business

Businesses are at risk of allegations of complicity in arbitrary arrest and detention, especially if the violation is used to protect business interests or if the business in some way helps facilitate the act. This is the case, for example, if a government arbitrarily arrests and detains individuals, including trade unionists and human rights defenders, protesting against a business venture or company practice. Companies may also be complicit in arbitrary arrest and detention if they provide products or services to a government which are used to facilitate unlawful arrests or arbitrary detention. For example, supplying CCTV cameras for alleged lawful security surveillance, which are then misused to identify or track the movements of particular persons such as human rights defenders. Business is also at risk of allegations of complicity if its own employees are arbitrarily arrested and there is a public campaign for their release.

The following examples were identified through background research:

- In March 2009, a UN Human Rights Council resolution condemned Myanmar's human rights record, calling for an end to arbitrary arrests as well as the release of approximately 2,100 political prisoners. The resolution reinforces the continuation of trade and investment sanctions by the European Union, US and other countries against Myanmar.
- In August 2008, Beijing police refused to accept an application by Zhan Wei to protest over the demolition of her home for development related to the Olympic Games in China. She was sentenced to a month in prison for "disturbing social order."
- In July 2007, 92 persons in India were arbitrarily detained during protests against forced displacement caused by the Narmada dam project.
- In May 2007, Sarta bin Sarim, chairman of a local union in Tangerang, West Java, Indonesia, joined a labour march as it passed his workplace. The demonstration was reportedly peaceful and without incident, but later that night, police arrested Sarta, along with 10 non-union marchers from another workplace. Sarta served three months in prison in Tangerang for committing "unpleasant acts" and was released on 31 July 2007.

Identifying the dilemma

How does a company avoid complicity in violations of the right to liberty and security of person when supplying surveillance or other equipment to a government that has a history of regularly engaging in acts of arbitrary arrest and detention?

The following have been identified as possible components of this dilemma:

- Product misuse
- Alleged complicity in violations by private or public security forces
- Protestors against company activities
- Employees, including union members

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Business integrity and corruption

Introduction

Corruption is commonly defined as the misuse of entrusted power for private benefit. While corruption can exist within and between private businesses and civil society organisations, most definitions also acknowledge the decisive role of the state. In legal terms, corruption is an act of bribery involving a public servant and a transfer of

tangible resources. Corruption compromises the integrity of the legal enforcement framework and judicial system, making human rights violations less likely to be identified, investigated, or effectively remedied i.e. it facilitates impunity (see judicial independence).

Implications for business

Business can be complicit in corruption through the giving or taking of bribes or other corrupt practices, including facilitation payments. A useful framework for understanding most forms of corruption is that of supply and demand, in which the public sector represents the demand side and companies the supply side. Bribery and corruption are considered to exacerbate the frequency and potential for human rights violations. Corruption prevents the benefits of investment, taxes and revenue transfer to governments being shared fairly with the wider population. It also means that workers are less likely to have protection in terms of social welfare benefits including unemployment, sickness, maternity or disability insurances and pension rights.

The following examples were identified through background research:

- In September 2008, NGO Rights and Democracy reported on four cases where state owned enterprises in China undergoing restructuring or bankruptcy have paid retrenched workers compensation that is well below standard. There are also reports of corruption where officials are bribed to stop complaints from proceeding. Workers often end up with no compensation or work.
- In July 2008, Transparency International and Greenpeace called on the government to investigate allegations made in Papua New Guinea's daily newspaper that a government minister has received more than US\$50 million in corrupt payments from Asian logging companies. The money is believed to represent a 2% cut from every log exported from Papua New Guinea between 2002 and 2007.
- A March 2009 report by Global Witness alleges that many of the EU's largest banks, including HSBC, Barclays, Deutsche Bank, Santander, Credit Lyonnais and BNP Paribas, are complicit in facilitating the movement of illegally acquired funds by corrupt regimes. The report also names two US banks, Citibank and Riggs, and the Bank of East Asia. The report says that such practices are "facilitating corruption and state looting, which deny these countries the chance to lift themselves out of poverty and leave them dependent on aid."
- In March 2009, prosecutors in the United Arab Emirates indicted five businessmen and two Dubai Islamic Bank (DIB) executives on charges of bribery and fraud. It is alleged that these seven were complicit in embezzling US\$501 million from DIB using forged invoices and fictitious deals. DIB is the third largest bank in the UAE.

Identifying the dilemma

How does a company mitigate against the risk of corruption when investing or operating in a country where corruption is widespread and encouraged to facilitate efficiency?

The following have been identified as possible components of this dilemma:

- Investment decisions
- Operating in a corrupt environment
- Local encouragement of bribery to facilitate efficiency
- Management of community investment funds

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Introduction

Child labour is work done by children under the age of 15 that limits or damages their physical, mental, social or psychological development. In some countries an exception is made on grounds of poverty or a lack of educational resources and the minimum age for work is lowered to 14 years. Hazardous work is prohibited until 18 years. Children are also prohibited from working the same number of hours as adults. Many child labourers are deprived of an adequate education, good health and basic freedoms. Evidence points to a strong link between household poverty and child labour. Child labour

perpetuates poverty across generations by keeping the children of the poor out of school and limiting their prospects for upward social mobility. According to the ILO, there are over 200 million children working throughout the world, many full-time. Of these, 126 million (one in every 12 children worldwide) are exposed to hazardous forms of child labour. In 2008, UNESCO reported that 75 million children worldwide do not have access to basic primary education (compared to 103 million in 1999).

Implications for business

Children who do not complete their basic education are likely to remain illiterate and never acquire the skills needed to get a job and contribute to the development of a modern economy. This lowering of human capital has been linked to slow economic growth and social development. The most frequent accusations of business complicity involve child labour in the value chain, where adequate policies and monitoring systems are lacking or poorly enforced. Companies operating in countries with formidable economic, cultural or other challenges to the elimination of child labour, may aid in the elimination of the worst forms of child labour through continuous improvement. While recognising a child's right to childhood and education, it is pertinent to note that children may play an essential role in contributing towards a family's income. Responsible work practices may, therefore, be preferable to eliminating children from the workplace in ways that increase their vulnerability to exploitation. Although economic exploitation is in general more linked to business activities, companies may eventually be accused of complicity in sexual exploitation of minors, for example, if it does not act to prevent these activities in the surroundings of their business.

The following examples were identified through background research:

- According to UNICEF, private companies in Andhra Pradesh, India, reportedly employ around 200,000 children in the hybrid seed industry.
- A 2008 ILO report states that 7.3% (2.55 million) of Bangladeshi children aged 5-14 work without attending school. A further 6.1% (2.14 million) combine economic activity with school. UNICEF notes that only 36% of boys and 41% of girls attend secondary school in Bangladesh.
- In the Democratic Republic of Congo (DRC), an estimated 30% of informal miners are children, many performing dangerous work. UNICEF reports that 32% of 5-14 year olds work in DRC.

Identifying the dilemma

How does a company act when child labour is discovered in its value chain when there is credible evidence that removing income generating opportunities from the child will push them and their families into deeper poverty and possibly into prostitution or other forms of sexual exploitation?

The following have been identified as possible components of this dilemma:

- Labour laws inadequately enforced
- Legal minimum age contrary to international standards and company policies
- Inadequate age verification mechanisms
- Government action plan on child labour lacking
- High poverty levels
- Failure of re-integration programmes for previous child labourers
- Cultural acceptance of child labour
- Poor access to adequate education

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Disappearances

Introduction

Disappearances occur when individuals are arrested, detained or abducted by agents of the state, their location and fate concealed and their freedom denied. This places those individuals outside of the protection of the law. Very often, people who are victims of enforced disappearance are never released and their fate remains unknown. This violation affects a range of human rights, including:

the right to security and dignity of person; right not to be subjected to torture or other cruel, inhuman or degrading punishment; the right to a fair trial and, where the person is killed; the right to life. Abductions are the same as disappearances but carried out by non-state actors. Abductions are differentiated from kidnappings, which involve a demand being made by the kidnappers.

Implications for business

Businesses may be at risk of being accused of tacit complicity if they remain silent or inactive in the face of such disappearances whether affecting employees or members of local communities. Accusations of complicity may intensify if violations appear to facilitate certain business activities, for example the disappearance of trade union activists or anti-business protesters. Businesses can also be accused of complicity when investing in countries or state-run enterprises where the government is known to carry out such acts. Businesses associated with armed groups (as direct service providers or through their supply chains) that carry out abductions face significant operational as well reputational risks, including a heightened risk of employee abductions.

The following example was identified through background research:

- In September 2008, a Polish engineer working in Pakistan for Polish oil company Geofizyka, was reportedly abducted and his three companions killed about 40 miles west of Islamabad.

Identifying the dilemma

How does a company ensure it is not associated with enforced disappearances and other human rights violations when investing in a country where the government is known to carry out such acts and the company's due diligence suggests that complicity in disappearances is a risk in its sector?

The following have been identified as possible components of this dilemma:

- Investment in countries where enforced disappearance is widespread
- Alleged complicity in violations by private or public security forces
- Sourcing or supply of materials in the value chain
- Product misuse
- Complicity
- Employee/ trade union member/ local business partner safety

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Forced labour

Introduction

Forced labour is work or service that is exacted involuntarily and under the menace of penalty, with employees being prevented from terminating employment at their discretion. Forced labour can take a number of forms and the provision of wages or other compensation does not necessarily indicate that labour is not forced or compulsory. Bonded labour may include work done to pay off a debt, including that incurred by another person, rather than for compensation. Indentured labour, where an employer forbids workers from

terminating employment, may involve the use of security forces to prevent freedom of movement or the retention of identity documents, particularly where migrant or illegal workers are involved. Other forms of forced labour include situations in which labour contracts or workplace practices create unreasonable legal or practical limitations on a worker's ability to leave employment. The ILO estimates 12.3 million people are victims of forced labour worldwide.

Implications for business

Forced labour is generally rooted in poverty, inequality and discrimination. Businesses risk allegations of complicity in the use of forced labour in their value chains. Allegations of direct responsibility can occur if the company itself uses forced or bonded labourers. However, most allegations arise in the context of companies benefitting from the use of such labour by suppliers, subcontractors and other business partners. The most frequent accusations involve violations relating to indebtedness as a result of the high burden of recruitment fees or wage deductions for board and lodgings, where no adequate policies and monitoring systems exist. As a result, all managers should be aware of the forms and causes of forced labour, as well as how it might occur in different industries.

The following examples were identified through background research:

- In 2009, the ILO estimated that the total income lost as a result of forced labour (excluding victims of commercial sexual exploitation) is approximately US\$19.6 billion.
- In May 2009, Guy Ryder, General Secretary of the International Trade Union Confederation, claimed: "The fact that forced labour still exists, and especially on such a huge scale, is an absolute scandal which the international community simply should not tolerate. Governments must work together, especially to combat the scourge of human trafficking, through effective laws and proper enforcement."
- In 2008, the Brazilian government's anti-slavery taskforce freed 4,634 workers from slave-like conditions. Most workers were found in the sugarcane sector. Around 26,000 forced labourers have been freed since 1995.
- NGOs estimate there are between 20 and 65 million bonded labourers in India, including a large number of children. The UN Special Rapporteur on food reports that around 85% of bonded labourers belong to the 'scheduled castes.'

Identifying the dilemma

How does a company minimise the risk of the use of forced or compulsory labour in its value chain when business partners or suppliers are based in a country where forced labour is a serious problem that is inadequately dealt with due to the poor enforcement of labour laws?

The following have been identified as possible components of this dilemma:

- Supply-chain management
- Root causes and embedded practices
- Economic and social consequences
- Recruitment practices
- Labour laws inadequately enforced
- Workforce productivity
- Migrant workers

Rank the significance to your business



Share a dilemma faced by your business



Freedom of association and collective bargaining

Introduction

All workers and employers have the right to establish and to join organisations of their choice, without prior authorisation, to promote and defend their respective interests, and to negotiate collectively with other parties. They should be able to do this freely, without interference by other parties or the state, and should not be discriminated as a result of union membership. Freedom of association is a fundamental human right and, together with collective bargaining rights, a core ILO value. The freedom to

associate involves employers, unions and workers representatives freely discussing issues at work in order to reach agreements that are jointly acceptable. The right of association includes the right of workers (usually those outside of 'essential services') to strike. The rights to organise and to bargain collectively are enabling rights that make it possible to promote democracy and sound labour market governance. Through organisation workers are able to lobby for just and decent terms and conditions of work.

Implications for business

Businesses may be directly or indirectly associated with anti-union discrimination and restrictions on freedom of association. Such accusations often involve factories in export processing zones. Companies may also be associated with repression of union activities, which can include threats, harassment and even killings of trade union members and leaders. In some countries, freedom of association is not protected by law and trade unions are prohibited. Where this is the case, companies should, where possible, facilitate effective communication and develop a proper grievance system to ensure that freedom of association and collective bargaining is respected within the supply chain. In countries where trade unions are banned, companies may support their employees through facilitating alternative worker association arrangements. Processes of dialogue and negotiation can achieve competitive outcomes.

The following examples were identified through background research:

- In a 2008 report the ILO notes that, on a global scale, allegations of anti-union discrimination have increased, from 23% in 1995–2000 to 26% in 2000–07. Allegations of employer interference in trade union activities increased from 6% in 2000–03 to 8% in 2004–07. Allegations of government interference in trade union activities increased from 9% in 2000–03 to 11% in 2004–07.
- In Vietnam there is only one trade union. Workers are not permitted to join unions that are not affiliated with it. Those associated with independent trade union activities have been arrested, imprisoned, harassed, intimidated and even subject to enforced disappearance in recent years.
- In February 2009, the International Metal Workers' Federation (IMF) lodged a complaint with the ILO against the so-called "protection contracts" in Mexico which, the IMF claim constitute that "vast majority" of collective agreements in the country. The IMF claims that, in practice, "only unions that have the support of companies and government can operate in Mexico."

Identifying the dilemma

How does a company respect freedom of association and collective bargaining in its value chain when its business partners or suppliers are based in a country where independent trade unions are restricted?

The following have been identified as possible components of this dilemma:

- Labour laws inadequately enforced
- Domestic legislation contrary to international standards and company policies
- Lack of domestic legislation
- Role of export-processing zones
- Harassment and intimidation
- Government interference
- Company interference
- Product misuse

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Freedom of opinion, speech and expression

Introduction

Everyone has the right to seek, receive and impart information and ideas without fear or interference. The right to hold independent opinions is also ensured by international conventions. Violations of freedom of expression include restrictions on the ability to freely express one's thoughts and seek and receive information via any

outlet, including the media. Some governments have historically used 'national security' as an excuse to stifle political opposition and criticism. In recent years, fears over terrorism and other security issues have been invoked to justify increased repression of individuals and groups exercising their right to free expression.

Implications for business

Business can be deemed to be complicit, either beneficially or silently, in violations of freedom of speech, for example, if journalists are arrested or harassed for reporting on corruption or company activities. Companies may also be perceived to be complicit when investing in companies with extensive state involvement, in countries where freedom of expression is restricted or repressed, particularly if the company or its activities are considered to facilitate the repression. Companies can also face allegations of direct responsibility if they limit the freedom of expression of their employees beyond what is required to protect confidential commercial information. The communications sectors, including internet service providers, are at particular risk of direct complicity in violations of freedom of speech. Several prominent internet search engines, for example, have been implicated in censoring information.

The following examples were identified through background research:

- In 2006, internet search engine Google faced accusations of complicity in alleged infringements of freedom of expression when it launched a Chinese domain version of its search engine which, in-line with Chinese law, censored access to certain information and websites.
- In June 2008, Amnesty International highlighted Vietnam's continued intimidation of political dissidents. In the previous 18 months, at least 26 peaceful activists were been arrested, the majority charged with offences under national security legislation which "is used to criminalise peaceful dissent." Restrictions continue on internet use that is deemed "undesirable" by the authorities as activists use cyberspace to voice their dissent.
- In July 2008, a school teacher in China was sentenced to one year of re-education through labour after taking photos of buildings that had collapsed in the May 2008 earthquake and posting them on the internet.
- According to Reporters Without Borders's 2008 Annual Report on press freedom, media exposure of corruption and embezzlement in Kazakhstan brings reprisals against journalists, particularly with respect to the oil and gas sector, whose proceeds benefit only a small part of the population.

Identifying the dilemma

How does a company avoid being complicit in violations of the right to freedom of expression when an individual is threatened by the security forces for exercising this right in voicing opposition to the operations or activities of the company?

The following have been identified as possible components of this dilemma:

- Arbitrary arrest and detention
- Harassment and attack of company opponents by the authorities
- Forced closure of media institutions
- NGO campaigns supporting company employees
- Investment in countries where restrictions are widespread
- Product misuse
- Alleged complicity in violations by private or public security forces

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Freedom of thought, conscience and religion

Introduction

Restrictions on the ability to hold, seek, and receive opinions and beliefs, including those regarding religion, amount to a violation. Individuals should be able to choose, practice and observe their religion or belief and participate in society without discrimination. People should be able to manifest their beliefs through worshiping,

as well as through teaching and observing rituals, including wearing of specific apparel. Nevertheless, these activities may be restricted under certain circumstances where, for example, they present a risk to public order or other people's rights.

Implications for business

Businesses that prohibit legitimate expression, or discriminate in hiring practices on the grounds of religious faith, violate the right to freedom of conscience. Businesses operating in countries that discriminate on the grounds of religious belief, or even prohibit the practice of certain religions or religious activities, are at risk of being accused of complicity. Businesses may also need to accommodate the religious practices of workers from different religious groups in the workplace, and find a balance between the freedom to manifest one's religion and the protection of legitimate company interests, such as health and safety standards. Business may also be at risk of complicity if they do not take actions to prevent employees from being targets of attack by those opposing their religious beliefs, or by sending their employees to countries or areas where members of their employees' religion are vulnerable to attack.

The following examples were identified through background research:

- Migrant workers in Saudi Arabia, and in particular domestic workers, many of whom are recruited from Asian countries, are often arrested for illegal religious practices.
- In Iran, members of some religious minorities suffer discrimination, harassment and arbitrary detention. Adherents to the Baha'i faith are denied access to higher education and some sites considered sacred to them were destroyed in 2008.
- In December 2007, the Chinese authorities detained 21 Christian leaders for belonging to an "evil cult". They were then sentenced to re-education through labour with prison terms ranging from one to three years.
- In Pakistan, religious minorities face targeted violence, including death sentences by the state for blasphemy. Blasphemy laws are sometimes used in business or personal disputes to harass religious minorities or other Muslims.

Identifying the dilemma

How does a company balance its duty to respect its employees' right to freedom of religion with employee safety, liberty and non-discrimination when operating in a country where the activities of religious groups are restricted in law?

The following have been identified as possible components of this dilemma:

- Discriminatory laws
- Absence of laws that protect members of religious groups
- Societal discrimination
- Discrimination by the authorities
- Cultural acceptance of discrimination
- Harassment and violence against members of religious groups
- Human rights defenders' public campaigns supporting members of religious groups
- Product misuse
- Alleged complicity in violations by private or public security forces

Rank the significance to your business



Share a dilemma faced by your business



Submit

Health and safety in the workplace

Introduction

The right to a safe work environment, enshrined in Article 7 of the International Covenant on Economic, Social and Cultural Rights, links with numerous human rights, including the right to physical and mental health and well-being and the right to life. The ILO has also adopted over 40 standards specific to occupational health and safety, as well as more than 40 Codes of Practice. Governments are required to adopt, in consultation with appropriate employer and employee organisations, a national occupational health and

safety policy aimed at reducing accidents and work-related fatalities and diseases. Workers must be able to remove themselves from dangerous work situations. The ILO estimates that around 160 million people suffer from work-related diseases, and that an estimated 270 million fatal and non-fatal accidents occur in the workplace each year at an economic cost of approximately 4% of the world's GDP.

Implications for business

Employers have to respect the right to health of their employees by preventing and controlling diseases and accidents and by eliminating occupational factors and conditions hazardous to health and safety at work. This includes: limiting exposure to hazardous substances; providing proper protective equipment where necessary; ensuring that equipment is safe to use, and; ensuring that operatives are adequately trained to prevent injury. Moreover, business is at risk of complicity if it places certain vulnerable groups like children, women and disabled employees in positions where they are at particular risk of safety failings. Although governments are required to adopt a national OHS policy to ensure the right to health and safety in the workplace, in some countries this policy may be incipient or poorly enforced. Where that occurs business, especially those in high risk sectors, may need to go beyond compliance with local laws, and align practice with international standards. Special attention should also be granted to health and safety issues in places where diseases such as HIV/AIDS and malaria are prevalent. Companies that present higher pollution risk may face higher scrutiny in regards to its management measures to control pollution and avoid harming the health of people in surrounding areas.

The following examples were identified through background research:

- In February 2009, the South African Department of Minerals and Energy released its mine safety audit report, based on health and safety audits at 355 mines. It indicated that industry-wide compliance with occupational health and safety, health risk management and public health and safety provisions in the Mine Health and Safety Act was 59%, 56% and 65%, respectively.
- The Centre for Social and Labour Rights estimates that approximately 33% of employees in Russia work in unsafe conditions, mainly due to poor enforcement of OHS standards. The ILO recorded 1,345 occupational fatalities in the first eleven months of 2008, more than twice the average rate in the EU. Around 15% of accidents occur in the construction sector.
- In India, the enforcement of health and safety standards is poor, especially in the informal sector. The ILO reports that there were 40,133 fatalities in work-related accidents in India in 2007. There were 30,627,865 accidents that resulted in more than three days absence from work, and 325,350 deaths from work-related disease. Industrial accidents occurred frequently. Chemical industries had the most accidents.

Identifying the dilemma

How can a company ensure respect for the right to a safe work environment for employees in its supply chain when most small and medium sized enterprises in a country from which it sources do not meet minimal safety requirements?

The following have been identified as possible components of this dilemma:

- Supply-chain management
- Enforcement of labour standards
- National legislation not in-line with international standards
- Training
- Excessive demands on suppliers

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Human rights defenders

Introduction

Human rights defenders (HRDs) are people who act to promote or protect any human right on behalf of individuals or groups. HRDs address any human rights concerns from summary executions, torture, arbitrary arrest and detention, to discrimination, employment issues, forced evictions, and access to health care. HRDs may be subject to violations of their human rights and can become the target

of executions, torture, beatings, arbitrary arrest and detention, death threats, harassment and defamation, as well as restrictions on their freedoms of movement, expression, association and assembly. In the worst cases, they can be killed for their activism.

Implications for business

Businesses principally risk allegations of complicity in violations against HRDs campaigning against some element of their business ventures or with respect to the rights of local communities affected by business activities. Indigenous rights campaigners and environmental activists who campaign against extraction or infrastructure activities, for example, are sometimes targets for harassment.

The following examples were identified through background research:

- In June 2008, the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) reported that human rights defenders, community leaders and ecologists in Ecuador continue to be the targets of violence, threats and acts of intimidation by the army and police. They note that such acts are tacitly encouraged by President Correa who, in December 2007, said that “communities that protest are no more than terrorists.” FIDH/OMCT report that peaceful protests often arise due to a lack of prior community consultation.

- In November 2007, local authorities arbitrarily arrested and detained the president of the civil society association in Punia, Democratic Republic of Congo, and a local human rights activist. Both were allegedly subjected to cruel, inhuman and degrading treatment after submitting a memorandum to the interior minister denouncing territorial officials for involvement in many cases of arbitrary arrest, illegal detention and killings.
- In February 2007, Amnesty International reported that a death threat addressed to SINALTRAINAL (food workers union) members was delivered to trade union offices in Santander Department, Colombia. The letter named several SINALTRAINAL activists and accused them of being “terrorist trade unionists”, as well as warning them that they would become targets of the Águilas Negras paramilitary group if they didn’t put an end to “trouble” in the company where they worked.

Identifying the dilemma

How does a company ensure that grievances and concerns relating to its activities by the local community can be voiced when human rights defenders and trade unionists in the country face intimidation and prosecution?

The following have been identified as possible components of this dilemma:

- Alleged complicity in violations by private or public security forces
- Arbitrary arrest and detention
- Harassment and attack
- Forced closure of NGOs
- Product misuse

Rank the significance to your business



Share a dilemma faced by your business



Indigenous peoples

Introduction

Indigenous peoples are defined by the UN as “having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them”. Indigenous peoples’ social, cultural, political and economic structures distinguish them from other groups in society. They need the recognition of specific collective rights for their survival as groups with distinct institutions, cultures and traditions. These rights include indigenous peoples’ rights to their lands, territories and resources, to maintain their cultures, to recognition of their distinct identities, to self-government and self-determination, and to be asked for their free, prior and informed consent in decisions that may affect them. Such rights are considered the

minimum standards for the protection of their survival as distinct peoples. Article 33 of the United Nations Declaration on the Rights of Indigenous Peoples also refers to the right to decide their own identities and procedures of belonging. However, indigenous peoples are often not afforded the same rights as other groups, including property rights, cultural rights and the right to dispose of their land’s wealth and resources. This can be largely due to discrimination by the authorities. Other obstacles faced by indigenous groups include a lack of access to basic services, as well as to legal assistance and remedies for human rights violations. Indigenous peoples and activists are also vulnerable to attack by those who oppose their interests.

Implications for business

Indigenous peoples have legal and customary rights to use and manage their lands, territories and resources. The preservation of indigenous culture, language and means of subsistence are enshrined in international human rights standards. However, some governments promote economic opportunity or development over indigenous rights. When operating in such countries, investors are at risk of association with violations of indigenous rights. Allegations of direct or indirect corporate responsibility for human rights abuses often arise when indigenous communities are displaced from their traditional lands without their free, prior and informed consent or due process protections.

Extractive, construction and agri-business companies operating in areas with indigenous populations are at particular risk due to their large land use. Issues associated with appropriation of indigenous land include cultural and religious freedoms, such as denial of access to or decimation of religious sites, as well as restrictions on their ability to worship through ceremonial and traditional means that may be directly linked to their land. Business activities may also impose restrictions on the movement of indigenous peoples on or around their land, thus hindering their ability to ensure their livelihood through traditional activities such as hunting and fishing. Pollution and environmental destruction of indigenous habitats are other risks posed by company operations.

The following examples were identified through background research:

- In May 2008, Amnesty International (AI) warned that around 50 Guajajara indigenous families in Brazil were at risk of attack from local gunmen allegedly contracted by illegal loggers and the local population who oppose the presence of indigenous peoples. AI stated that since the beginning of the 1980s, the region has been subject to repeated incursions from illegal loggers, creating violent conflict with indigenous peoples and widespread environmental damage. Around 90% of Guajajara land is affected by logging, hunting and land invasions, threatening indigenous livelihoods.
- In August 2008, the UN Special Rapporteur on indigenous people expressed ‘serious concern’ about violations suffered by the Charco la Pava community in Panama, including arbitrary displacement from their lands and the excessive use of force against, as well as detention of, members of the community that have opposed the construction of the Hydroelectric Project (CHAN 75 in Bocas del Toro Province).” He claims AES Changuinola Company initiated construction of the project in 2007, which could result in the complete flooding of their lands, without having obtained the consent of affected communities.

Identifying the dilemma

How does a company respect the rights of indigenous peoples when it has been legally authorised by the government to operate on or near indigenous lands but indigenous peoples are opposed to the proposed development?

The following have been identified as possible components of this dilemma:

- Absence of laws that protect indigenous groups
- Discrimination by the authorities
- Impact assessments not consultative
- Pollution and environmental destruction
- Harassment and violence against indigenous activists

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Internal displacement

Introduction

International law defines internally displaced persons as persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally

recognised State border. Internal displacement can also be understood to encompass persons that have fled their homes in order to avoid human rights abuses, including those forced to flee as a result of forced evictions as a result of natural resource extraction or development projects.

Implications for business

Businesses are at particular risk of complicity in the forced internal displacement of people for commercial projects. Business can be complicit in land expropriation if governments authorise them to use land that has been obtained through the forcible displacement of landowners and residents without due process. The issue is particularly relevant for extractive, construction and agri-business companies because of their large land use.

The following examples were identified through background research:

- In its 2008 Annual report Amnesty International (AI) noted that the government of Myanmar is continuing negotiations on the large-scale Shwe gas pipeline in western Rakhine State. AI claims that preparations for the pipeline have included forced displacement and forced labour of ethnic minorities.
- As of June 2008, 1.24 million residents of the Three Gorges reservoir in China had reportedly been relocated to make way for the construction of the Three Gorges Dam.

- In its 2008 annual report, Minority Rights Group International (MRG) claims that the spread of palm oil plantations for biofuel through historically Afro-Colombian Pacific coast lowlands sometimes prompts violent dispossession and dislocation. MRG reports that forced dispossession is largely perpetrated by paramilitaries and the national army who "routinely ignore the rule of law and the rights of indigenous and minority populations".
- In November 2007, Oxfam released a report warning that the livelihoods of the world's poorest people are at risk as a result for demand for biofuels in the EU. The report documents risks in countries where biofuels are produced, including the expropriation and displacement of people from land allocated for biofuels production. The UN estimates that this could affect up to 60 million indigenous people worldwide.

Identifying the dilemma

How does a company ensure that it is not complicit in human rights violations against members of the local community when it has been legally authorised by the government to conduct an infrastructure project on land cleared through forced evictions of local residents and businesses?

The following have been identified as possible components of this dilemma:

- Alleged complicity in violations by private or public security forces
- Forced evictions
- Due diligence
- Negative publicity by NGOs and activists
- Prior and informed consent and compensation
- Harassment of and violence against activists

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Kidnapping and employee safety

Introduction

Kidnapping involves taking people captive and holding them as hostages to force a third party to meet certain demands. Kidnappings take place most frequently where there are problems with terrorism

and/or conflict, where the local population is opposed to commercial projects, and in areas where there is significant income disparity.

Implications for business

When operating in a country where kidnapping is a problem, business faces significant risk exposure because employees are often singled out as high value targets. This may be due to their perceived material wealth or for their political symbolism. Kidnappings pose a risk to company employees, sub contractors, family or community members, particularly where state authorities are implicated in carrying them out. There is an added risk of indirect complicity for business when public or private security forces are implicated in kidnappings, particularly if they are protecting business operations and employees. This may also be the case if they are investing in companies with extensive state involvement.

The following examples were identified through background research:

- In March 2008, Human Rights Watch (HRW) reported that the government's failure to hold to account politicians and gang leaders responsible for post-election violence in the oil-rich Niger Delta, Nigeria, threatens to bring further bloodshed. HRW claimed that gangs have long been accorded impunity by political leaders and law enforcement agencies for the kidnapping of scores of expatriate oil workers and wealthy Nigerians for ransom.
- In February 2009, employees of Total went on strike in protest against a lack of security in the Niger Delta, following a series of kidnappings of oil workers and their families by militants.
- In April 2007, two Japanese nationals were kidnapped near the city of Caaguazu, Paraguay. One of the victims was the president of a land management company, and a ransom of US\$150,000 was made in exchange for his release.

Identifying the dilemma

How does a company ensure the security and safety of its employees and assets when operating in a country with a high number of kidnappings and where public and private security forces have a history of committing human rights violations when protecting business operations and employees?

The following have been identified as possible components of this dilemma:

- Alleged complicity in violations by private or public security forces
- Employee safety
- Investment in countries where kidnapping is widespread
- Product misuse

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Maintaining privacy

Introduction

Article 17 of the International Covenant on Civil and Political Rights states that: 'No one shall be subjected to arbitrary or unlawful interference with his privacy, family, or correspondence, or to unlawful attacks on his honour and reputation.' Governments have duties to protect against interferences with privacy by State agents or private bodies such as employers and the media. The government can however authorise restrictions on privacy that are necessary to protect legitimate public interest, for example law and

order or national security. Interpretations of the notion of privacy by different institutions may also have implications for business. For example, the European Court of Human Rights has added "freedom from unreasonable interference in the enjoyment of one's private space" to its definition of privacy. A company's fume emissions to a residential zone may, under this understanding, be interpreted as a violation of privacy.

Implications for business

Business can impact on the right to privacy in a number of ways, for example, through the provision of technology that may be used to aid the invasion of privacy, through the requesting of confidential and private information during employee recruitment and selection processes, or by providing private information to authorities that is later used to support violations such as arbitrary arrest and detention. The communications sectors, including internet service providers, are at particular risk of direct complicity in violations of privacy and freedom of speech. Several prominent internet search engines, for example, have been implicated in providing governments with details about internet users. Companies are also frequently involved in collecting large amounts of personal data on employees and customers, which requires assurances of confidentiality of such information.

The following example was identified through background research:

- According to the South Korean National Human Rights Commission, 51.3% of 204 workers surveyed said they have been monitored by some kind of camera or electronic gadget at their companies. However, only 24.2% said they had been consulted before such systems were installed.

Identifying the dilemma

How does a company avoid complicity in violation of the right to privacy when supplying a government with equipment or technology that may be misused to restrict this freedom?

The following have been identified as possible components of this dilemma:

- Alleged complicity in violations by private or public security forces
- Laws restricting freedom of speech and the press
- Monitoring of media institutions
- Monitoring of private correspondence
- Product misuse

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Maintaining privacy and ensuring non-discrimination in the context of HIV/AIDS

Introduction

In 2007, there were an estimated 33 million people living with HIV. The promotion and protection of human rights are a fundamental part of any response to HIV/AIDS. This includes the need to protect individuals with HIV from discrimination, stigma and violence and to promote sustainable and inclusive health care solutions. The incidence and spread of HIV/AIDS is disproportionately high among groups who already experience discrimination. This includes groups that have been marginalised socially, culturally and economically.

Examples include injecting drug users, sex workers and men who have sex with men. HIV can also disproportionately affect women. In sub-Saharan Africa about 60% of all people living with HIV are women. Women are more likely to act as caregivers to HIV-infected people and risk being ostracised when widowed as a result of HIV. One third of countries currently lack laws to protect people living with HIV from discrimination. Weaknesses in healthcare systems are also slowing the roll-out of HIV treatment programmes.

Implications for business

People living and affected by HIV/AIDS are less likely to seek counselling, testing and treatment if confronted by stigma, discrimination, lack of privacy or other negative consequences e.g. reduced access to jobs and career development opportunities. When these human rights are protected, governments, business and civil society organisations working to address HIV/AIDS are able to respond to the pandemic more effectively, fewer people become infected, and people living with HIV and AIDS and their communities can better cope with the disease.

HIV/AIDS is having significant negative effects on certain industries in high-prevalence countries, especially in the mining and agricultural sectors. HIV is also likely to reduce economic growth in high-prevalence countries by 0.5% to 1.5% over the next 10–20 years. Business may act in a discriminatory manner against those living with HIV/AIDS, including in 'hiring and firing' patterns. HIV testing should be confidential and no discrimination should follow from the results. Companies with operations and supply chains in countries, regions and cities that have high HIV/AIDS prevalence rates face significant business continuity risks. The exposure of employees to the risk of contracting HIV/AIDS is a threat to their own health, to their families and to wider national economic and development goals. This is especially the case in Sub-Saharan Africa, which currently accounts for about 67% of those living with HIV and 72% of AIDS deaths.

According to UNAIDS, nearly three million people were receiving antiretroviral treatment in low- and middle-income countries at the

end of 2007. This represents 31% of estimated global need and a 45% improvement over 2006. Inequities in the health care systems and infrastructures of many high prevalence developing countries have resulted in proactive companies providing Voluntary Counselling and Testing, Anti-Retroviral Treatment, support and other disease management activities. HIV/AIDS management for companies in these countries is often well-embedded into the organisation and business risk management process.

The following examples were identified through background research:

- In April 2009, pharmaceuticals GlaxoSmithKline and Pfizer announced an agreement to pool resources and create a new "world-leading specialist company dedicated to the research, development and commercialisation of HIV medicines."
- In May 2009, the UN Population Fund (UNFPA) and the international fashion retailer H&M announced a partnership to call attention to the issue of HIV among young people. H&M chose UNFPA as one of the recipients of its 2009 Fashion Against AIDS (FAA2) campaign. As a result, the retailer will give the agency 25% of donations to the campaign to support UNFPA's HIV prevention projects in Bahrain, Egypt, Oman and Turkey. H&M has launched the FAA2 campaign with the organization Designers Against AIDS, which aims to raise AIDS awareness using elements from pop culture.

Identifying the dilemma

How does a company implement effective disease management programmes, but at the same time ensure it respects the right to privacy and non-discrimination of employees in personal and career development?

The following have been identified as possible components of this dilemma:

- Overlap with government responsibility
- Maintaining participant adherence rates
- Alignment with social investment activities
- Where to "draw the line" i.e. what is the scope
- Education to eliminate stigma
- Harassment and violence against those with HIV/AIDS

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Minimum wage

Introduction

The right to enjoy just and favourable working conditions recognises that the State must protect the right to fair remuneration that must also be enough to provide workers and their families with a decent standard of living. The minimum wage should be enough to provide

a worker and their family with adequate food, clothing and housing. The ILO states that minimum wages should, for example, take into account issues such as the cost of living and the needs of workers and their families.

Implications for business

Companies can have a significant impact on the right to enjoy just and favourable working conditions, including the right to fair remuneration. Companies should at the very least comply with government minimum wage legislation. Companies could move to developing a system whereby it and its sub-contractors pay a living wage.

The following examples were identified through background research:

- Novartis is one of a handful of companies that has committed to paying a living wage to all of its direct employees around the world. Since 2004, Novartis has adjusted the salaries of employees in various countries in line with the living wage.
- In Brazil, the minimum wage has risen around 46% since President Luiz Inacio Lula da Silva came to power in 2003. An increase in January 2009 is thought to directly benefit 42.1 million Brazilians.
- NGO MakeITfair reported in March 2009 that workers in electronics factories that produce games consoles in China are increasingly finding that the payment of minimum wages is standard. However, they note that, as this wage is low, workers are often forced to work up to 11 hours a day for six days a week to earn enough to live.
- In Russia, approximately 14% of the population have income levels below the official subsistence minimum.
- In the Philippines, violations of minimum wage standards are common, as is the practice of using contract employees to avoid payment of required benefits, including in the Export Processing Zones. During 2007 the Department of Labour and Employment established that 18% of the 23,313 commercial establishments assessed by them were not in compliance with the minimum wage laws.

Identifying the dilemma

How does a company respect the right to an adequate standard of living for employees when operating in a country where the legally mandated minimum wage fails to do so and low wages and rising food prices are impacting on the purchasing power of the urban workforce?

The following have been identified as possible components of this dilemma:

- Minimum wage vs. living wage
- No legally mandated minimum wage
- National minimum wage not enforced
- Increased living costs
- Business competitiveness
- Variation in cost of living within a country e.g. capital cities
- Contract labour

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Non-discrimination and gender

Introduction

Violations of women's rights include discrimination in the right to enjoy equal economic, social and cultural opportunities on account of gender. Violations of women's rights are a prevalent global problem and take a variety of forms, including trafficking for sexual exploitation, sexual and other violence, harassment, and gender-based discrimination both in and outside of the workplace. Government-sponsored discrimination may render women unequal

before the law and unable to equally participate in public life. Government-sponsored discrimination also makes it increasingly difficult for women to access remedies for violations and decreases their ability to access justice. Violence against women can be enacted by family members, other members of society, and in some cases, state officials.

Implications for business

Women experience discrimination in many forms, some of which are as a direct result of a lack of, or lack of implementation of, policies and practices in their workplace. In some countries women are frequently discriminated against and excluded from employment due to their reproductive status, as well as by discriminatory employment laws or discriminatory enforcement of the law. Business can discriminate against women in terms of remuneration and employment opportunities, as well as failing to prevent harassment in the workplace. Discrimination may take the form of lower wages for equal work, discriminatory policies relating to women's rights to benefits such as maternity leave and pay, and unequal opportunities in recruitment practices. Women also experience sexual harassment and even physical attack in the workplace. Female employees may also experience threat or attack outside the workplace and turn to their employer for help when there are limited alternatives.

The following examples were identified through background research:

- In June 2007, Human Rights Watch accused the Guinean government of breaching the Convention on the Rights of the Child and all major international and regional treaties on child labour, gender discrimination, and trafficking by neglecting the thousands of girls that work as domestic workers. There were reports that these children work up to 18 hours a day; the majority are not paid; they are not treated when sick and often go hungry; there are also reports of abuse including sexual abuse. There are no rights of redress and these children would not know how to seek assistance in any event.
- In February 2009, two Pakistani women were killed in the suburbs of Peshawar. A letter was found nearby stating that anyone who spreads "immoralities" will "face the same fate". A few days previously the Taliban had issued a warning to those involved in "immoralities".
- A report released in February 2009 by the Egyptian Centre for Women's Rights finds that harassment of women in Cairo and surrounding areas is widespread. The report says that 83% of Egyptian women and 98% of foreign women surveyed said that they had been sexually harassed. The report also notes that 62.4% of men surveyed said they had harassed women

Identifying the dilemma

How does a company respect the right to non-discrimination of women when operating in a country where widespread discrimination and violence against women is culturally and legally entrenched?

The following have been identified as possible components of this dilemma:

- Discriminatory laws
- Absence of laws that protect women
- Societal discrimination
- Discrimination by authorities
- Cultural acceptance of discrimination
- Many women and girls fail to complete an education
- Harassment and violence against women
- Lack of equal opportunities for women and men

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Non-discrimination and migrant workers

Introduction

The situation of migrants and their human rights can be seen as a spectrum, from integration and equality to marginalisation and exclusion. The special vulnerability of migrants stems, in the case of expatriate immigrants, from their alien status, the fact that they are not citizens of the country in which they live. They may be unfamiliar with the national language, laws and practice, and so less able than others to know and assert their rights. They may also face

discrimination, racism and xenophobia, as well as being subject to unequal treatment at work and in their daily lives. Irregular migrants often face difficulties in accessing judicial procedures to protect their rights, particularly in relation to deportation/expulsion, detention and employment. Irregular migrants may also find themselves excluded from the protections of national employment law.

Implications for business

The exploitation of migrant workers, especially if they are illegal or kept in work under duress, poses potentially serious risks to businesses for being directly or indirectly responsible for human rights abuses, particularly if they occur within supply chains. ILO Recommendation No. 151 on Migrant Workers states that migrants should enjoy effective equality of opportunity and treatment with nationals, including in access to vocational training, security of employment, remuneration, conditions of work and housing, and union membership.

Migrants who experience discrimination at work are denied opportunities and have their basic human rights infringed. This affects the individual concerned and negatively influences the greater contribution that they might make to society. Discriminatory practices in employment and occupation restricts the available pool of workers and skills and therefore the opportunities for the development of skills and infrastructure to strengthen competitiveness in the global economy. Discriminatory practices on the part of an employer can damage a company's reputation, as well as place them at risk of legal action. Businesses are at risk of complicity either if they actively discriminate against certain groups or if they do not take steps to address prevalent societal discrimination that translates into disadvantages in hiring patterns, compensation, training and promotions.

The following examples were identified through background research:

- Kazakhstan has a considerable number of migrants and refugees who are either provided a renewable, temporary status, or tolerated but are not granted any legal status. Many are vulnerable to exploitation, including through forced labour, child labour, trafficking and sub-standard working conditions.
- In South Africa, competition for resources and jobs has fuelled resentment among some against economic immigrants and asylum seekers. In May 2008, xenophobic violence resulted in the deaths of 62 people and thousands of injuries.
- In South Korea, migrant workers are required to annually renew their employment contracts and are limited in their ability to change jobs. The UN Special Rapporteur on migrant rights has said that, for fear of the non-extension of their contracts, many migrants fear lodging complaints against employers – many of whom take advantage of the legal situation.
- In May 2009, Human Rights Watch claimed that “unlawful recruiting fees, broken promises of wages, and a sponsorship system that gives an employer virtually complete power over his workers” has, in the United Arab Emirates, led to a “cycle of abuse that leaves migrant workers deeply indebted, badly paid, and unable to stand up for their rights or even quit their jobs.”

Identifying the dilemma

How does a company respect the right to non-discrimination and good working conditions of migrant workers in its value chain when its business partners or suppliers are based in a country where legal requirements create conditions of vulnerability and allow employers to exploit and discriminate against migrant workers?

The following have been identified as possible components of this dilemma:

- Discriminatory laws
- Absence of laws that protect migrants
- Societal discrimination
- Discrimination by authorities
- Cultural acceptance of discrimination
- Harassment and violence against migrants
- Alleged complicity in violations by private or public security forces

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Non-discrimination and minorities

Introduction

Ethnic, religious and linguistic minorities frequently experience discrimination, harassment and even attack. Common issues that affect many minority groups relate to structures or systems that either perpetuate the marginalisation of minority communities from

decision-making or unfairly benefit majority populations or dominant groups in social, economic and political life. Minority rights ensure that minorities can participate fully in society and enjoy their own culture, language and religion without discrimination.

Implications for business

Non-discrimination in employment means that employees are selected on the basis of their ability to do the job and that there is no distinction, exclusion or preference made on other grounds. Employees who experience discrimination at work are denied opportunities and have their basic human rights infringed. This affects the individual concerned and negatively influences the greater contribution that they might make to society. Discriminatory practices in employment and occupation restricts the available pool of workers and skills and therefore the opportunities for the development of skills and infrastructure to strengthen competitiveness in the global economy. Discriminatory practices on the part of an employer can damage a company's reputation, as well as place them at risk of legal action. Businesses are at risk of complicity either if they actively discriminate against certain groups or if they do not take steps to address prevalent societal discrimination that translates into disadvantages in hiring patterns, compensation, training and promotions.

Minority groups experience discrimination both as a result of societal behaviour and in some cases, government action or policy. Both these forms of discrimination can affect minorities in the workplace. Therefore it is important that companies mitigate this risk in their own operations as well as within their value chain. Discrimination in the workplace may take the form of restricted language rights, either through government or company policy, as well as limited employment or promotion opportunities and unequal remuneration patterns. Some

minorities are also subject to harassment and attack in areas where anti-minority sentiment is high, putting those employees at risk inside and outside the workplace. Implications external to the workplace may also exist. Minority groups in a number of countries also claim rights to a share in economic income from natural resources in areas where they live. However, some governments have taken the opportunity to promote economic opportunity over minority rights in such areas. This could render investors at risk of being complicit in violations of minority rights.

The following examples were identified through background research:

- In September 2008, Human Rights Watch (HRW) denounced the "state-sponsored and officially tolerated discrimination against the Ismailis of Najran" in Saudi Arabia. The Ismailis, estimated at between several thousand and 1 million of Saudi Arabia's total population of 28 million, are part of the country's Shia minority. HRW notes a pattern of discrimination against the Ismailis in the areas of government employment, education, religious freedom, and in the justice system.
- Minority Rights Group International reported that in the weeks before the 2008 Olympics, the Chinese government was "quietly cracking down on the minority Mongol population of Inner Mongolia", including through arrest and increased surveillance of dissident as well as restricting their travel to Beijing.

Identifying the dilemma

How does a company respect the right to non-discrimination of minorities in its value chain when it operates or has business partners or suppliers in a country where minorities experience discrimination, harassment and occasional violence?

The following have been identified as possible components of this dilemma:

- Discriminatory laws
- Absence of laws that protect minorities
- Societal discrimination
- Discrimination by authorities
- Cultural acceptance of discrimination
- Many minorities fail to complete an education
- Harassment and violence against minorities
- Lack of equal opportunities for minorities
- Product misuse

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Non-discrimination and sexual orientation

Introduction

The notion that everyone is equal in dignity and worth is one of the most basic of human rights, indeed international human rights law is grounded on the principle of non-discrimination. Discrimination is the systematic denial of certain peoples' or groups' full human rights because of who they are or what they believe. Discrimination

on the grounds of sexual orientation is prohibited in international law. Nevertheless, some governments actively discriminate against homosexuals in law, or through official inaction at violence and discrimination based on prejudice.

Implications for business

Non-discrimination in employment means that employees are selected on the basis of their ability to do the job and that there is no distinction, exclusion or preference made on other grounds. Employees who experience discrimination at work are denied opportunities and have their basic human rights infringed. This affects the individual concerned and negatively influences the greater contribution that they might make to society. Discriminatory practices in employment and occupation restricts the available pool of workers and skills and therefore the opportunities for the development of skills and infrastructure to strengthen competitiveness in the global economy. Discriminatory practices on the part of an employer can damage a company's reputation, as well as place them at risk of legal action. Businesses are at risk of complicity either if they actively discriminate against certain groups or if they do not take steps to address prevalent societal discrimination that translates into disadvantages in hiring patterns, compensation, training and promotions.

The following examples were identified through background research:

- In Indonesia, homosexuals face pervasive discrimination and stigma and have been subject to violence and torture by the security forces. In October 2008 the government enacted the anti-pornography law which criminalises homosexuality.
- In Iran, homosexuality is punishable by death. Gay-rights groups accuse the government of disguising executions for homosexuality with bogus charges for more serious crimes, therefore making it hard to determine the number of death penalties carried out for homosexuality.

Identifying the dilemma

How does a company respect the right to non-discrimination on the basis of sexual orientation, privacy and liberty and security of persons when operating in a country where the national law prohibits homosexuality and homosexuals face pervasive discrimination and occasional violence?

The following have been identified as possible components of this dilemma:

- Discriminatory laws
- Absence of laws that protect homosexuals
- Societal discrimination
- Discrimination by authorities
- Cultural acceptance of discrimination
- Harassment and violence against homosexuals
- Product misuse
- Alleged complicity in violations by private or public security forces

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Security forces and human rights

Introduction

Businesses are at risk of complicity if they employ public or private security elements that perpetrate violations, especially where prior training and monitoring is lacking. The role of the State security forces is to provide effective protection to the civilian population against human rights violations, while acting within the law and

within the control of the civil authority. Governments have the primary responsibility to promote and protect human rights which includes ensuring that its security forces do not themselves commit human rights violations.

Implications for business

Companies operating in emerging economies are often faced with significant security challenges. Such challenges regularly arise in countries where the security forces, paramilitaries, and private security companies have a history of committing human rights violations. This may be because the country is or has been embroiled in armed conflict, the security forces are corrupt and ill-disciplined, or there are significant governance gaps. Companies have a clear interest in protecting its employees and assets while maintaining respect for human rights. However, there is a risk that companies that employ, co-operate with, or benefit from the protection of state security forces may be associated with or benefit from human rights violations. Private security companies are sometimes hired to supplement or fulfil security needs in environments where state resources are lacking or weak, but their actions are often unregulated. In cases where security is supplemented in this way, companies may contribute to or reimburse the cost of such provisions. Whilst this security is expected to be consistent with national laws, international human rights standards and humanitarian law, human rights violations may occur during the protection of company property and personnel. There are numerous examples of companies being held legally accountable for the actions of state or private security forces, whether employed directly by the company or not.

The following examples were identified through background research:

- In May 2009, a federal judge in New York, USA, cleared one of the final obstacles for a trial to proceed against Royal Dutch Shell. The trial will investigate allegations that Shell was complicit in the summary execution, crimes against humanity and arbitrary arrest of activists from the Ogoni people opposing the oil industry in the 1990s. It is alleged that Shell helped to fund and equip the Nigerian security forces who carried out the violations. However, lawyers representing Shell contend that plaintiffs have not been able to prove that individuals within the company had knowledge of the allegations.
- In January 2009, a woman was beaten by private security guards and her house was destroyed, in Lomas del Poleo, northwest of Ciudad Juarez in Mexico. The ownership of land in Lomas del Poleo is disputed by armed private security guards who claim that the land is private property. Threats and harassment have forced many residents to leave the area. The land has recently acquired increased value due to planned development nearby by a group of businessmen.

Identifying the dilemma

How does a company balance its legitimate security needs with its responsibility to respect human rights when it is obliged to use local security forces that have a history of committing widespread human rights violations?

The following have been identified as possible components of this dilemma:

- Alleged complicity in violations by private or public security forces
- History of widespread human rights violations that are often unpunished
- Security forces lack adequate training
- Security forces are under-paid
- Security forces engage in corruption
- Private security forces are weakly regulated
- Inadequate risk assessments
- Inadequate communication of company policy
- Inadequate monitoring or consultation

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Introduction

Torture is an act committed intentionally on a person that inflicts severe pain or suffering, whether physical or mental, for the purposes of punishment, intimidation or obtaining information. Torture and other cruel, inhuman or degrading punishment, includes incidents of excessive use of force by security forces, general mistreatment of detainees and the systematic use of violence, including rape, to

gain confessions. In some countries, persons can be sentenced to cruel and inhuman punishment such as flogging or amputation. Prevalence of torture within a country often feeds into overall concerns over the rule of law situation and respect for the dignity of the person.

Implications for business

Business may risk being accused of tacit complicity if they remain silent or inactive in the face of torture. There are cases where there are implications of direct business involvement in torture, for example, businesses that run or partially staff detention facilities where torture or ill-treatment is known to have taken place. Companies may also face allegations of complicity in violating the right to freedom from torture by providing equipment to security forces that they knew or should have known would be used to torture. Companies need to take proactive steps to understand how existing and proposed activities may affect human rights, and refine their plans to address and avoid potential negative human rights impacts on an ongoing basis.

The following examples were identified through background research:

- In an April 2008 briefing to the UN Committee against Torture, Amnesty International (AI) highlighted particular concern over the 'persistent pattern' of secret detention and torture committed by the Algerian government against individuals suspected of having knowledge about terrorism. AI notes that torture is also used against political activists arrested following demonstrations, as well as against detainees.
- In April 2008, in a joint statement with Kenyan human rights organisations Mwatikho and Western Kenya-Human Rights Watch, Human Rights Watch claimed that the rebel group Sabaot Land Defence Force and the Kenyan military were responsible for 'horrific' human rights violations, including killings, torture and rape of civilians, in an armed conflict in the Mt. Elgon area of western Kenya.
- In June 2008, Amnesty International (AI) voiced 'concern' about the persistent use of torture in Mauritania to extract confessions – especially from those accused of links with Islamic groups. AI claims that torture regularly occurs under the provisions of an anti-terrorist law which allows for a detention period without charge or trial of 15 days.

Identifying the dilemma

How does a company ensure it is not complicit in torture and other human rights violations when supplying equipment or security services that may be used to torture to a government that has a history of engaging in torture?

The following have been identified as possible components of this dilemma:

- Alleged complicity in violations by private or public security forces
- Employee safety
- Investment in countries with extensive state involvement
- Operational involvement in detention facilities
- Product misuse

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Trafficking

Introduction

The trafficking of persons involves the recruitment, transportation, transfer or sale of people using threats of violence, deception or other forms of coercion in order to exploit them sexually or economically. Exploitation includes the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, and the removal of organs. Trafficking is commonly associated with forced labour, especially where it involves

illegal economic migrants, although trafficking of women and children for the purposes of sexual exploitation are also serious problems. A 2006 UNDOC report found that human beings were trafficked from 127 countries to be exploited in 137 countries. In 2009, UNDOC noted that only two out of every five countries from a total of 155 had recorded a trafficking conviction.

Implications for business

Companies may be considered complicit in trafficking if they, or organisations in their value chain, employ victims of trafficking. There are also cases of individuals in companies providing hospitality to business partners that involve the provision of sex workers. Companies in the airline, shipping and other transportation industries, as well as those in the tourism sector, are of particular risks of being complicit in trafficking of persons.

The following examples were identified through background research:

- UNDOC reported in 2009 that, of all identified cases of human trafficking, 79% of victims were trafficked for sexual exploitation, 18% for forced labour. The actual figure of trafficking for forced labour is likely to be higher given the hidden nature of forced labour.
- As of November 2008, only 63% of 155 countries had passed laws against the major forms of trafficking. Another 16% had passed anti-trafficking laws that cover only certain elements of the 2003 Protocol to Prevent, Suppress and Punish Trafficking in Persons.
- The ILO estimates that around one million illegal migrant workers may be victims of labour trafficking in Russia.
- In February 2009, Antonio Maria Costa, Director of UNODC, urged governments and the private sector to do more to combat trafficking, claiming that “many governments are still in denial. There is even neglect when it comes to either reporting on, or prosecuting cases of human trafficking.”

Identifying the dilemma

How does a company minimise the risk of being complicit in forced or involuntary labour in its value chain when its business partners or suppliers are based in a country where trafficking for forced labour is a serious problem and the authorities are known to facilitate such violations?

The following have been identified as possible components of this dilemma:

- Lack of anti-trafficking legislation
- Corporate cultures and sexual exploitation
- Supply-chain management
- Root causes and embedded practices
- Economic and social consequences
- Recruitment practices
- Labour laws inadequately enforced
- Migrant workers

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

Working hours

Introduction

Individuals have the right to enjoy just and favourable working conditions, including the right to rest, leisure and holidays. ILO standards generally prescribe that employees should not be required to work more than 48 hours per week or ten hours a day (although there are some exceptions). ILO conventions, for example, specify that there should be at least one day off in every seven and that a

minimum of three weeks' paid holiday (not including public holidays) be available for every year of full-time service. Limits on working hours are designed to ensure high productivity while safeguarding workers' physical and mental health. Long working hours may affect the ability of having a healthy work/life balance and hinder other rights, such as the right to a family life.

Implications for business

Business should develop and promote a healthy and safe work environment to enhance the physical, mental and social well-being of workers and support the development and maintenance of their working capacity, as well as professional and social development at work. A good working environment increases productivity and decreases absenteeism and turnover of labour. Business, suppliers and business partners should not mandate unreasonable working hours and comply with national law and international standards relating to hours of work. Business risks complicity in violations of the right to rest and leisure if they fail to do so.

The following examples were identified through background research:

- In 2009, NGO Clean Clothes Campaign reported that global retailers' increased demands, combined with low pay, means that Bangladeshi are encouraged to work overtime, "yet frequently this time is either not compensated at a premium rate as it should be, or even not paid at all."
- In Mexico, disputes are regularly filed with labour boards and international labour organisations with complaints of non-payment of overtime pay.
- In Pakistan, legislation pertaining to working hours does not apply to agricultural workers, domestic workers, contractors or workers in factories with less than 10 employees.

Identifying the dilemma

How does a supplier (who as any company has a responsibility to respect human rights) respect the right to rest and leisure when it has been asked by a customer to increase production outputs without significant cost increases?

The following have been identified as possible components of this dilemma:

- Labour laws inadequately enforced
- Export Processing Zones
- Exemptions for working hours
- Low wages
- Unpaid overtime
- Excessive demands on suppliers
- Increased living costs
- Business competitiveness

Rank the significance to your business

1 ★ 2 ★ 3 ★ 4 ★ 5 ★
Least significant Most significant

Share a dilemma faced by your business



Submit

About the United Nations Global Compact

The United Nations Global Compact is both a policy platform and a practical framework for companies that are committed to sustainability and responsible business practices. As a multi-stakeholder leadership initiative, it seeks to align business operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption and to catalyze actions in support of broader UN goals. With over 5,000 signatories in more than 130 countries, it is the world's largest voluntary corporate citizenship initiative www.unglobalcompact.org.

About the GE Foundation

The GE Foundation, the philanthropic organization of the General Electric Company, works to solve some of the world's most difficult problems. In coordination with its partners, it supports U.S. and international education, the environment, public policy, human rights, and disaster-relief around the globe. In addition, the GE Foundation supports GE employee and retiree giving and involvement in GE communities around the world. In 2007, the GE family including businesses, employees, retirees and GE Foundation contributed more than US\$210 million to community and educational programs, including US\$93 million from the GE Foundation. For more information, visit www.gefoundation.com.

About Maplecroft

Maplecroft is a specialist research and advisory company established in 2001. It helps both business and humanitarian organisations to manage global risks and responsibilities, build reputation and harness leadership opportunities. Creative design and software engineering are combined with meticulous analysis of the political, economic, social and environmental landscape, to communicate risk and responsibility in visually compelling ways. Maplecroft is a trusted advisor to some of the world's leading businesses. Its employees are among the world's leading non-financial risk analysts and thought leaders. Specialist services include carbon foot-printing, human rights monitoring, ethical value chain management, stakeholder engagement as well as award-winning sustainability reporting. Maplecroft has extensive expertise in the area of business and human rights. This includes the publication of the Human Rights Risk Report since 2004 and the first ever subnational human right risk indices, maps and country scorecards for 2009. For more information, visit www.maplecroft.com.

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