

Sustainable development: human rights responsibilities of non-state actors CSR and climate change

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What is sustainable development?

- A landmark definition from the Brundtland report on Sustainable Development, 1987
- ***"Development that meets the needs of the present without compromising the ability of future generations to meet their own needs"***
- The World Commission on Environment and Development's (the Brundtland Commission) report *Our Common Future* (Oxford: Oxford University Press, 1987)

Extended use of the concept

- Original use: Environment and climate change
- **Social** sustainability – anti-corruption and governance
 - Human rights principles
 - Including labor rights
- When applied to the business sector: Corporate Social Responsibility (CSR)

Human rights accountability of non-state actors

- **Counter arguments:**
 - The non-ratification argument
 - The stay away, trickle down-argument
 - The “impossibility” argument (attribution of responsibility)

Human rights accountability of non-state actors

- **Pro-arguments:**
 - ***Knowledge and common sense:*** Not linking Corporate Practice and obligations to human rights has become dysfunctional CP have human rights effects!
 - ***Corporate practice:*** MNCs are adopting codes of conduct that make at least some human rights an explicit corporate objective
 - ***Normative and legal development:*** The international human rights movement in a process of transforming normative standards and corporate behavior

Human rights accountability of non-state actors

- Multi National Corporations and CSR
- Motives for CSR
- Institutional mechanisms for CSR
 - Global Compact (and national compacts)
 - OECD
 - ILO
 - Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, E/CN.4/Sub.2/2003/12 (2003)
 - From David Weisbrodt to John Ruggie

Human rights accountability of non-state actors

- The scope of businesses
- Indirect obligations of non-state actors: the state has a responsibility to ensure that non-state actors do not harm or violate human rights. State should protect people from “any organ of society” (UDHR, Preamble)
 - Or a duality or complementarity of obligations: state as primary duty-holder; other “organs of society” should hold “due recognition and respect for the rights and freedoms of others” (UDHR, art 29)
 - Extra-territorial obligations by “home” state
- Direct obligations of non-state actors: human rights law applies directly to non-state actors (“individual responsibility” in cases of grave human rights violations)
 - Nuremberg
 - Geneva Conventions of 1977, Art 3
 - UDHR, preamble (organs of society)
- An evolving trend?

The Draft Norms of the Sub-Commission

- Written in consultation with businesses, non-governmental organizations and unions
- The draft norms were adopted by the Sub-Commission on the Promotion and Protection of Human Rights in August 2003
- Did not have legal standing, but stated that clearly the possible human rights responsibilities of companies
- Sub-Commission critiqued by the Human Rights Commission for overstating its mandate

Ruggie's framework in Final Report, 2011

- On April 20, 2005, appointment of Professor John Ruggie (drafter of the Global Compact) as UN Special Rapporteur of the General Secretary – las report 2011
- Three principles of human rights responsibility in business:
 - Responsibility to protect – the state
 - Responsibility to respect – businesses
 - Responsibility to remedy – the state
- Business responsibility for *due diligence*: making “human rights risk analysis
- Issue: Voluntariness versus a regulatory framework
- Ruggie's – between law (up to the state, an increasing trend) and voluntariness

The Global Compact (UN)

- The UN Global Compact (launched in July 2000)
- Invites companies to embrace, support and enact, “within their sphere of influence”, a set of core values in the areas of
 - human rights
 - labour standards
 - the environment
 - anti-corruption

- The United Nations Global Compact is a strategic policy initiative for businesses **that are committed to aligning their operations and strategies** with ten universally accepted principles in the areas of human rights, labor, environment and anti-corruption
 - Voluntariness
 - Willingness

UN Global compact – ten basic principles of CSR

- On 24 June 2004, the first Global Compact Leaders' Summit - announced 10th Principle against corruption
- “Businesses should work against corruption in all its forms, including extortion (blackmailing etc.) and bribery”

Human Rights

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights
- Principle 2: make sure that they are not complicit in human rights abuses

Labour Standards

- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining
- Principle 4: the elimination of all forms of forced and compulsory labour
- Principle 5: the effective abolition of child labour
- Principle 6: the elimination of discrimination in respect of employment and occupation.

Web: <http://www.unglobalcompact.org/AboutTheGC/index.html>

Anti-Corruption

- Principle 10: Businesses should work against corruption in all its forms, including extortion and briber

Anti-Corruption Reporting

- A task force of the Global Compact Working Group on Anti-Corruption
- Guidance document on Anti-Corruption Reporting

Collaboration between Transparency International and UN Global Compact:

http://www.unglobalcompact.org/docs/issues_doc/Anti-Corruption/UNGC_AntiCorruptionReporting.pdf

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Guidance document on Anti-Corruption Reporting

- Provides practical guidance on a broad set of reporting elements and is rooted in existing reporting practice
- It provides examples of indicators of initiatives such as PACI, FTSE4Good, Transparency International, the Global Reporting Initiative and the International Corporate Governance Network
- Recognizing that companies, large and small, implement the tenth principle at different speeds, the matrix provides guidance for reporters on a basic and a desired level

Environment

- Principle 7: Businesses should support a precautionary approach to environmental challenges;
- Principle 8: undertake initiatives to promote greater environmental responsibility;
- Principle 9: encourage the development and diffusion of environmentally friendly technologies

Global compact – other mechanisms

- The Global Compact is a purely voluntary initiative with two objectives:
 - Mainstream the ten principles in business activities around the world
 - Catalyse actions in support of UN goals
- To achieve these objectives, the Global Compact offers facilitation and engagement through several mechanisms:
 - Policy Dialogues, Learning, Country/Regional Networks, and Partnership Projects.

- The Global Compact is not a regulatory instrument – it does not “ police”, enforce or measure the behaviour or actions of companies
 - Relies on public accountability, transparency and the enlightened self-interest of companies, labour and civil society to initiate and share substantive action in pursuing the principles upon which the Global Compact is based.

- The Global Compact is a network. At its core are the Global Compact Office and six UN agencies:
 - Office of the High Commissioner for Human Rights
 - United Nations Environment Programme
 - International Labour Organization
 - United Nations Development Programme
 - United Nations Industrial Development Organization
 - United Nations Office on Drugs and Crime
- The Global Compact involves stakeholders (relevant social actors):
 - governments, companies, labour, civil society organization, the UN