Business for the Rule of Law

CONSULTATION WORKSHOP REPORT

LOCATION:
China, Hong Kong

DATE:
23 March 2015

HOST/FACILITATOR:
Global Compact Network China and LexisNexis
Workshop Report

1. UN Global Compact and Business for the Rule of Law Overview

The participants understand the B4ROL 10 principles. But they raise that companies might not see any differences between CSR and those B4ROL 10 principles.

They raised examples in Child Labour, discrimination against women, women’s lack of access to resources. These are the B4ROL issues.

They are concerned about the actual implementation of a corporate’s vision in the head office — ie, it’s one thing to have a policy, and another to go beyond that. We discussed the differences between “support” and “respect” for the rule of law, noting that many “respect” but too few Corporates are actively adopting the “support”. This extended to a discussion on what “IS” and what “IS NOT” — the business world is constantly changing, as is the CSR/Sustainability world; as scope and focus keeps changing, it’s hard to see tangibly how far to go beyond simply legal compliance (“respect”).

They questioned whether there is a clear concept of ROL at all, because it has to be understood in the context of the company’s current status. e.g. country needs more laws, some needs less, some needs more enforcement, some needs clearer enforcement. What is the cultural meaning of ROL within that region/country? What is practiced vs enforced vs believed all varies.

In some area need more laws, in some places with law are very hard to interpret, inaccessible, want clearer legal framework.

The role of the legal department becomes critical — if they are working on releasing a commercial project, it has clear numbers and visibility on risk and impact is clear. However with community/sustainability projects, both predicting and reporting that impact is much harder, so may take additional precaution. Real world examples of
this in action can assist — believe it will take time to build up confidence of what they know vs where they're going. Noted that only a top down approach doesn’t work because often get stuck in middle management level/grey area.

Recommendation is to have a clearer distinction of ROL and CSR.

2. Business Support for the Rule of Law in Practice [Explained]

- Won’t use child labour
- Discrimination is not allowed in most businesses

3. Business Case for Supporting the Rule of Law

- **Certainty**: Don’t know what the law is would be difficult for business. (e.g. From a business sense, it is difficult to access the market if there is no clear law. HK is so transparent, you know where the tax office, business registration office is, but in other countries, it is very difficult, it's the perspective of the ROL. Supply chain uncertainty — most MNC’s face the problem not associated with the legislation, but the layers of legislation — e.g international trade.

- **Clarity of Enforcement**: Clarity of who is administrating the law

- **Transparency**: Procedural and business transparency to ascertain the business position, otherwise, cannot do businesses.

- **Efficiency**: Current state, multilayer takes time (e.g. each state has different interpretations of land, you need to acquire a piece of land, each state process differently which makes the cost of doing business there to increase)

4. Business Actions and Business Examples in Support of the Rule of Law

- **The Her project**, via NGO, we provide training to factory workers, some countries, female or not, don’t have financial account and it prevents the empowerment of women. Objective of this project is to provide them the ability to pay with their mobile phone that helps to raise the financial independence of women. Factory paid for the women’s phone and they got their financial independency.

- **The Phone Lady Project**, the project is to develop a new system in remote area, to reduce the cost of telecommunications, so that people can have more opportunities to tap on the phone in remote area.

- Use mobile technology to do job matching for workers
  - Businesses assist government in developing the laws and bylaws. It's the industries that are far more advanced than government and law-making processes, so use them
to speed it up. More flexible definition of laws, encourage more information and ways to improve the laws will mean that when legal departments have the law presented in front of them and they develop the laws instead of saying “well, we already do this/we comply”

- Going beyond the current snapshot of where ROL is at in a particular country and not taking advantage. Help encourage those countries where their ROL is more weak, to develop over time. Otherwise no incentive for the developing countries to improve. They will say “we already do this”.
- Ascertaining the country’s current legislative status — globally it’s so varied. In countries where it’s developed, it’s about enforcing, but in others need to focus on developing to modify/improve.
- Global supply management is weakened as international subcontracting has a limitation to the law — one country and subcontractor to the next to the next etc. However, the entire supply chain needs to comply with ROL. Problems with people shifting papers and finding legal loopholes.

5. **Call to Action (to Business and by Business) to Support the Rule of Law**
   - Create an international protocol and industry standard.
   - Support Education: Change how people perceive the rule of law in that particular country, so that the culture in the environment would change, and so that foreign investment can come into the country, to help develop the country.
   - Business can use technology and education to empower the inherent disadvantaged to get equal opportunities, raising the standard. Try to empower the population without the access to the legal system or resources.
   - Encourage business for closer partnership and collaboration. Can benefit to reduce cost — share the improvement. As simple as an eg, a few years ago the car industry didn’t recognize safety. Now, everyone has safety elements in a car, mandatory.
   - Use industry to get ground up change — reputation costs too much. If government not doing it, then it becomes even more important for business to lead the way. UN provide framework to encourage gov’t to provide incentives for those doing that. Eg of industry-led was response on supply-chain review following Bangladesh factory fires.

6. **Mobilizing Business to Support the Rule of Law**
   - The obstacles, stigmatize of brand for stealing marketing share
   - Head office’s agreement to comply with the principle doesn’t mean that it can be implemented on the ground level.
• Education needed on the ground level. Bottom up approach. To encourage closer cooperation, and increase the efficiency, to improve the system. Example: A few years back, the car industry does not recognize safety bag in car, now all with it. The legal justice system takes time to educate the industry to move to the ways.

• How can business help?
  o Promotion of Human Rights Principle — still see it as the core pillar to everything
  o The use of technology (mobile phone, webinar)
  o Industry Collaboration — competitors work together to solve industry problems. UN framework can establish horizontal standard beyond competition to initiate — without clear direction business can’t comply.
  o Utilizing the data from UN, examples, references
  o Sharing between the use of the data from UN

7. Any other comments or questions (including “quotable quotes” that may be included in the Framework)

• Encourage industry to apply international economic standard to build industry standard. UN can push customers, the industry and the Government to support.

• Departments talk to each other.

• Educate customer to make industry to react to their request, UN should encourage the government to create framework to incentivize companies to follow.

“Having the government institute the framework for business to work accordingly.”

“If the law itself hurts the bottom line of business, the firm will go away.”

“To advocate to support the industry standard, provides clarity and certainty “

“Which principles is the most easy to achieve: Human rights would be the closest one.”

“If business is to support the ROL concept, it should be restricted to your area that you can impact”

• To focus the area they have control over (e.g. the supply chain)

• Legal system has its loophole, e.g. the limitation of the law in the sub-contracting the electronic waste, which is also the reverse supply chain, is due to the lack of international protocol. EU can play a role there.
  o supply chain cascading of the human rights to respect the rule of law
  o UN should encourage horizontal cooperation to support the rule of law

• Lobby the government to:
- Encourage education
- Raise standard & awareness (less opportunity to not support the law) Research and academics can help. Not every country in the same pace, Africa is still very low in receiving the education. India women do not access to universities. Government actions to encourage this to help people access to justice.