The Role of Business in Protecting Human Rights Defenders

28 September 2016 at 9 am ET
1. Introductory Remarks
   - Shubha Chandra, UN Global Compact

2. Overview of the increasing restrictions encountered by human rights defenders and civil society in the context of business operations
   - Michael Ineichen, International Service for Human Rights

3. Examples and recommendations on good practices and positive steps for companies
   - Ana Zbona, Business and Human Rights Resource Centre

4. Business action in support of fundamental freedoms, and the drivers behind the action
   - Bill Anderson, Adidas

5. Law firm perspective of regulatory/legislative environment
   - Nicolas Patrick, DLA Piper

6. Q&A

7. Closing Remarks
   - Shubha Chandra, UN Global Compact
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Example: Question for John Doe: What are land rights?
UN Global Compact

Mandate from UN General Assembly and launched on 26 July 2000

World’s largest corporate sustainability initiative

Multi-stakeholder platform for collective action

13,000 participants, 9,000 companies and 85+ Local Networks
United Nations Global Compact

Act Responsibly + Find Opportunity

HUMAN RIGHTS

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

LABOUR

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; and

ENVIRONMENT

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

ANTI-CORRUPTION

Principle 10: Businesses should work against corruption in all its forms, including extortion and bribery.
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Protecting human rights defenders and civic space

Engaging business as a partner and ally

Michael Ineichen – ISHR - m.ineichen@ishr.ch
International Service for Human Rights

- Independent, non-governmental organisation
- Our theory of change is founded on a proven formula:
  - Human rights defenders are essential agents
  - International and regional human rights law and systems are powerful levers for change
  - When defenders are empowered, and systems improved, we can achieve concrete national change.
Outline

• Who are human rights defenders?
• Why are they at risk?
• What is the business interest to respond?
Who are human rights defenders

- Any person or group working to promote & protect universal human rights in a peaceful manner
- Locally, regionally, or internationally
- Any gender, any age, any part of the world different backgrounds and interests

They can be:

- Democracy activists
- Anti-corruption campaigners & whistleblowers
- Human rights lawyers
- Independent journalists
- Trade unionists or community leaders

Human rights defenders need civic freedoms and space to operate safely
A global challenge: closing space for defenders & civil society

• Increasing restrictions, threats and attacks in wide range of jurisdictions, ranging from Australia, Spain and Israel to China, Russia and Egypt

• These can be legal in nature, targeting rights to organise, meet, fundraise, express themselves, and move freely

Example: Chinese “Law on the Management of Foreign Non-Governmental Organizations’ Activities” which allows public security officials to vet NGO activities funded by external organisations.

• They can also be physical threats and attacks

Example: Murders of Berta Caceres in March, and Lesbia Yaneth Urquia in July, both human rights activists protesting against the Agua Zarca Dam in Honduras.
Severe and specific risks

- HRDs working on business and human rights are one of the most vulnerable groups of defenders
- In 2014, 116 environmental and land defenders were killed worldwide, with many confronting business interests (Global Witness)
- The most dangerous countries identified were Brazil, Colombia, the Philippines and Honduras.
- Beyond the killings, activists face physical violence, criminalisation, stigmatisation and restrictions on their freedoms
- What is more, they face a range of State and non-State actors, often confronting big economic interests
Who is responding, and how?

- Experts monitoring the UN human rights treaties
- Independent UN experts mandated to track global trends in freedom of association, assembly and expression; the issue of business and human rights; and the situation of human rights defenders
- UN Secretary General Ban Ki-Moon and High Commissioner for Human Rights Zeid Ra’ad Al-Hussein
- Human Rights Council “encourages leaders in all sectors of society to express public support for the important and legitimate role of human rights defenders.”
A good business environment: How can defenders contribute?

- Disseminating information about a government’s human rights obligations
- Calling for transparency and accountability & reducing corruption
- Monitoring projects and implementation of new policies or legislation
- Facilitating community engagement

‘Our collective experience certainly supports the belief that businesses thrive in communities that are rights respecting’.  
- DLA Piper and Microsoft staff
Benefits of taking action for HRDs

**Reputational**
- Avoid negative consumer action
- Position company as a leader

**Operational**
- Minimise remediation costs
- Build trust / social license to operate
- Staff satisfaction & innovation
- Improve operational environment

**Legal**
- Avoid domestic and cross-border lawsuits
- Improve legal certainty
- Compliance with human rights obligations and commitments
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CIVIC FREEDOMS, HUMAN RIGHTS DEFENDERS & BUSINESS

Positive corporate practice and its drivers

Ana Zbona
zbona@business-humanrights.org
BUSINESS & HUMAN RIGHTS RESOURCE CENTRE

- Largest online library on the topic in 8 languages
- We draw global attention to the positive and negative human rights impacts of companies and seek responses from companies when civil society raises concerns
- Over 3000 responses from companies
- Over 16000 weekly update subscribers

We work with everyone to advance human rights in business. We track over 6000 companies, and help the vulnerable eradicate abuse.
OUTLINE

• 1. Positive examples and key actions companies can take:
  – Prevent and Respond
    • Cambodia
    • Pakistan
  – Partner, support and advocate
    • Angola
  – Remedy
    • Thailand

• 2. Best practices

• Sources: Charities Aid Foundation & the London School of Economics and Political Science: “Beyond Integrity” research, Freedom House, Harvard Kennedy School, Shift, BHRRC (joint project ISHR and BHRRC)
WHAT CAN CORPORATIONS DO?

- PREVENT, CONSULT and RESPOND
- PARTNER, SUPPORT and ADVOCATE
- REMEDY
PREVENT AND RESPOND:

- **Refrain** from any actions that would adversely impact the ability of defenders to do their work
- **Condemn** actions by any (sub-)contractors aimed at limiting the exercise of human rights
- **Outline obligations** related to human rights training and accountability in any external security contracts
- **Encourage home and host country governments** to adopt and implement international standards and good practices with regard to fundamental freedoms, to consult with defenders in the elaboration of National Action Plans (NAPs) and to include concrete measures and commitments to support defenders in NAPs
- **Speak out** in general terms in support of defenders and a safe and enabling environment for civil society as well as publicly or privately in individual cases of attacks or restrictions against defenders
- **Provide channels for whistleblowing**, to accommodate both external complaints arising from business operations as well as employee concerns about the potential impacts on HRDs of operations, policies and procedures.
- **Meaningfully consult** with defenders in the design, implementation and evaluation of projects and in due diligence and human rights impact assessment processes
- **Use local content sourcing** and procurement decisions to incentivise respect for human rights
PAKISTAN

• **Action: Refrain from any actions that would adversely impact the ability of defenders to do their work**

• The Pakistani government had released a tender asking IT firms to develop a URL filtering system.

• Local NGOs along with international CSOs mobilised major IT firms – Cisco, Verizon, Sandvine, McAfee and Websense – to make a public commitment to refrain from submitting bids in support of freedom of speech.

• Websense was the first firm to respond and went one step further than the rest; in addition to saying it would not bid, it called on other firms to also not bid
PAKISTAN

Drivers of business action:

– **Internal**: Complying with internal codes of conduct
– **Internal**: Ensuring enabling environment for Corporate Social Responsibility objectives
– **External**: Positioning company as leader
– **External**: Minimising reputational risk
– **External**: Comparison with peers: once Websense had made that commitment, others followed suit by committing not to bid
– **External**: Avoiding negative consumer action: an extensive network was formed to pressure the companies to abstain from the bid, there was a public petition asking them not to do it, New York Times wrote about it – a lot of attention on the situation
– **External**: Avoiding domestic or cross-border lawsuits

• **Consequences**: Willingly giving up a potentially very lucrative deal

• **Enablers of business action:**
  – **Assistance by CSOs**: NGO Bolo Bhi set out the human rights reasons for bidding for the project
PARTNER, SUPPORT AND ADVOCATE:

- Provide resources and support, as appropriate and in consultation with defenders and their organisations.
- Establish peer-learning group on these issues, and join or support campaigns or coalitions in support of defenders and against attacks and restrictions against them.
- Advise clients and engage suppliers as to how they can support defenders.
- Encourage home governments to be actively engaged with multinationals and raising awareness of the human rights situation in a country and to speak out in support of defenders through their diplomatic representations in States in which the company operates when defenders are restricted.
- Show public support for the work of the organisation or community, for example through public participation in their activities.
- Speak out publicly or privately in individual cases of attacks or restrictions against defenders and in general terms in support of defenders and a safe and enabling environment for civil society.
- Use local content sourcing and procurement decisions to incentivise respect for human rights.
ANGOLA

- **Action:** Speak out publicly or privately in individual cases of attacks or restrictions against defenders

- Rafael Marques was arrested for exposing government sanctioned injustices in the Angolan alluvial diamond mining industry.

- Civil society actors led a movement to demand his release, engaging with diamond companies Tiffany & Co., Leber Jewellers and Brilliant Earth.

- The resulting international campaign was augmented by open letters from those firms and others urging the regime to respect Marques’s freedom of expression, eventually resulting in the charges against him being dropped.
ANGOLA

• Drivers of Business action:
  – Internal: Ensure enabling environment for CSR objectives
  – Internal: Improve operational environment and cost certainties
  – Internal: Complying with internal codes of conduct
  – External: Position company as leader (desire to be seen as a leader in creating a global diamond supply chain free from human rights abuses);
  – External: Improve RepuAtation among sensitive consumers
  – External: Avoid negative consumer action and minimise reputational risk - Desire to avoid bad publicity, especially given the high public awareness of the issue
ENABLERS OF BUSINESS ACTION

• **Collaboration:** BHRRC drafted policy-neutral letters to firms

• **Importance of the sector:** The diamond sector in Angola is a major source of income – influence

• **Commitment of Private Firms**

• **The activist having strong international reputation / a “name”**

• **Networks**
• **Provide effective grievance mechanisms and channels for whistleblowing**, to accommodate both external complaints arising from business operations as well as employee concerns about the potential impacts on HRDs of operations, policies and procedures.

• **Raise publicly or privately with governments concerns related to individual cases**, especially when those violate both domestic and international law and when they are the result of actions by contractors or subsidiaries that directly contradict relevant human rights policies.

• **Speak out** in general terms in support of defenders and a safe and enabling environment for civil society.

• **Condemn and respond to actions** by any contractor or sub-contractor contractors within the host country aimed at limiting the exercise of human rights or fundamental freedoms.
THAILAND

• **Action: Condemn and respond to actions by any contractor or subcontractor within the host country aimed at limiting the exercise of human rights or fundamental freedoms**

• Labour rights researcher Andy Hall was charged for defamation and other related crimes for reporting on abuses in migrant labour practices of Natural Fruit.

• Industry associations, the Thai Tuna Industry Association and the Thai Frozen Food Association, posted his bail as a show of support, expressing their concern against his arrest.

• The Ethical Trade Initiative called on the Thai pineapple industry to drop legal action and focus on respecting workers’ rights; United Nordic also voiced alarm over the case.

• S Group of Finland, a former buyer of Natural Fruit, testified in support of Andy Hall.
THAILAND

Drivers of business action:

- **Internal:** Improving operational environment and cost certainties:
  Threat of future social conflicts, which would lead to instability for business operations

- **Internal:** Complying with TTIA code of conduct

- **External:** Positioning company / industry association as leader: S Group: this case is a very big change from respecting human rights to promote human rights – hope others will follow

- **External:** Ensuring social license to operate

- **External:** Being seen as reliable business partners

- **External:** Avoiding negative consumer action and minimise reputational risk: there was huge pressure from consumers in United States, and the EU gave Thailand a yellow card with regards to illegal fishing. That created political pressure in Thailand - especially for the big companies. Almost 80% of the workforce in Tuna industry is migrant workers, and there are a lot of reports and media coverage around the issues of migrant workers’ rights in the tuna industry.
ENABLERS OF BUSINESS ACTION:

- The activist having strong international reputation / a “name”
- Public pressure
- Networks
- Seeing clear value in activist’s work
1. Directly target governments engaged in closing the civil society space and use your leverage

2. Form long-term relationships with Human Rights Defenders and build trust

3. Take advantage of networks – we are in touch with many companies showing leadership on this issue, if you’d like to know more, get in touch with us

4. Safeguard institutional memory
SOURCES:


• Positive Action by Companies to Protect Civic Space, BHRRC website, 2016

• Open for Business report, 2015

• Front Line Defenders 2016 report


• *Costs of Company-Community Conflict in the Extractive Sector*, Harvard Kennedy School, Shift & The University of Queensland, 2014

• Freedom in the World Report 2016, Freedom House

• World Press Freedom Index 2016, Reporters Without Borders (RSF)

• On Dangerous Ground report, 2016, Global Witness
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Resources

- Human Rights Defenders, Big Issues (Business and Human Rights Resource Center)
- Adidas Group Policy Statement (The Adidas Group and Human Rights Defenders)
- Business for the Rule of Law (UN Global Compact/LexisNexis)
- Why Corporations Should Learn to Love Civic Activists (Freedom House)
Thank you!

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