



Wilton Park



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Report

Business and human rights defenders: exploring best practice and finding common ground

Wednesday 5 – Friday 7 June 2019 | WP1678

In association with:





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Summary

There is a prevailing view that the relationship between human rights defenders and companies is largely adversarial. The caricature is two-fold. First, human rights defenders are viewed by companies as ‘trouble-makers’ when they expose violations of human rights incurred in relation to business operations, activity that may be undertaken at great risk to human rights defenders. Second, human rights defenders view companies with distrust. While this is true in many cases, it is perhaps equally untrue in others. Both responsible companies and human rights defenders benefit from the rule of law and fundamental freedoms, and have mutual interest in sustaining these values. When these values are under attack in many parts of the world, arguably business and human rights defenders have more in common than ever before. What is needed to improve their interaction and ensure free, open and empowering environments which uphold human rights and the rule of law?

Key points arising during the discussion include:

- Whether or not business and human rights defenders can find common ground is highly dependent on geographic context and the human rights issue in question.
- Even when collective action is inappropriate or undesirable, responsible business and human rights defenders have a common interest in the rule of law and fundamental rights.
- The role of human rights defenders must be seen as enabling; it is not just one of several priorities but is integral to progress on other issues.
- Legislation is an important tool, and there have been significant developments in recent years with the enactment in some countries of laws mandating human rights due diligence. But adopting law is not sufficient. It needs to be implemented and enforced.
- An enormous educational effort is required to enable business to understand human rights defenders and look through a human rights lens. This is especially true at the operational level, although at times among senior management also. In the case of multinational companies, there is often a large gap between company policy and practice at headquarters and the implementation in operations in other countries. Business – local or international – needs help continually to learn processes and practices in relation to the protection of human rights.

- Multinational companies need to learn how to consult effectively and be part of the local community when operating in countries other than headquarters. There is often a very low level of trust between corporate and local stakeholders. On-the-ground mechanisms are needed for dialogue and building trust. Dialogue needs to be meaningful, not simply for its own sake, although it is not necessary always to agree.
- While the focus is predominantly on multinational companies, where greater power is located and greater leverage can be exerted, some local companies are large in their own context or have significant impact on human rights, regardless of their size. They too are frequently associated with human rights abuses and also need to be held accountable.
- Companies genuinely find difficulty in navigating the UN's human rights machinery. If UN complaints mechanisms are to be used effectively in relation to business, procedures need to be more responsive. Civil society groups also need to improve how they initiate dialogue with companies.
- Just as there are genuine differences of opinion between business and human rights defenders, there are also often misconstrued perceptions between them. Narrative is all-important when demonization of human rights defenders occurs. Business, as well as governments, needs to focus on the legitimacy of what is being said, not on who is saying it.
- There is a large inequality in power relations between governments and business on the one hand, and human rights defenders on the other. Access to information is crucial in this respect as there are many missed opportunities with disparities in information.
- Effective multi-stakeholder and other collective action models exist and should be both built on and adapted in relation to human rights defenders, by sector and context. Yet collective action does not have to be based on the multi-stakeholder model. Different groups still need to do much more in their own roles.

Background

1. Over 20 years ago the UN adopted a landmark instrument, the UN Declaration on Human Rights Defenders, recognition that our freedoms depend on those who struggle for their protection¹. Another milestone was marked in 2011, when the Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights, guidelines for States and companies to prevent, address and remedy human rights abuses. While both represent major developments, neither has the binding force of law.
2. Advancing human rights is not a linear progression. It is widely accepted that in recent years there has been a closing of civil society space around the world. Governments use a range of measures to constrain freedoms of expression, association and peaceful assembly. Human rights defenders are on the frontline in opposing this trend; individuals and organisations exposing violations of human rights, or potential abuse, by companies in their operations and supply chains are felt to be under particular attack².

¹ On 9 December 1998, the eve of the 50th anniversary of the Universal Declaration of Human Rights, the UN adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights.

² See the 2017 report of the UN Special Rapporteur on the situation of human rights defenders, A/72/170. The report deals exclusively with the deteriorating situation of human rights defenders working in the field of business and human rights.

3. Business broadly is unfamiliar with the concept of human rights defenders – individuals or groups who, in their personal or professional capacity and in a peaceful manner, engage in protecting and promoting human rights. Human rights defenders are identified above all by what they do. They promote human rights for all, through local, national, regional and international action, and their specific activities can include: collecting and disseminating information on violations; supporting victims of violations; acting to secure accountability and end impunity; supporting better governance and government policy; contributing to the implementation of human rights treaties; advocating against particular developments through civil action or litigation; and human rights education and training. In the field of business and human rights, human rights defenders are crucial to protecting the land and environment, demanding the right to form unions, securing just and safe conditions of work, combating corruption, respecting indigenous cultures and rights and achieving sustainable development.
4. Against the background of confrontation which often prevails between human rights defenders and business, the meeting brought together a range of expertise including human rights defenders from throughout the world, business representatives, academics, policy makers and civil society organisations. Drawing on best practice from across sectors, industries and countries, it aimed to:
 - explore the barriers that limit discussion between human rights defenders and business;
 - identify strategies to overcome dilemmas facing businesses and human rights defenders in their interactions with one another;
 - and develop proposals for joint action that include a range of stakeholders.

Examining the context, challenges and opportunities

5. For many in civil society who work at local level, governments, both home and host, and business, local or multinational, are perceived to work in collusion. Companies are driven by profit, and government regulation is left behind by commercial innovation, without regard for the consequences. Companies in the extractives industry, for example, are seen to work closely with the security forces. Those in power dismiss human rights defenders as ‘trouble-makers’ or ‘agitators’, rather than listening to what is being said and the legitimacy of a claim. There is an inequality in power and economics, and a gulf in cultures.
6. While companies may disregard civil society critics, suspicions can be mutual. Companies and human rights defenders likely speak what seem different languages and lack mutual knowledge. The level of common mistrust makes for confrontation rather than consultation. Without consultation and dialogue, companies are unable to understand the context in which they are working. Structures are needed to address the inequality in relationships, help to create a more level playing field, examine the barriers to dialogue and build trust. It is difficult to navigate power asymmetries if you are not able to talk about them. Nurturing trust often requires facilitation. While there may be awareness at the headquarters of a company of the need to respect human rights, there is often a major lacuna in understanding how to apply this in field operations or through supply chains.

7. Rule of law, due process, transparency and accountability are all vital to both business and civil society, and should form common ground. Conflict between local communities and companies is often caused by inadequate access to information, in particular in relation to land and resources. It is suggested that recent environmental conventions, especially in Latin America, might point the human rights world in the right direction on how to improve access to information. Transparency of contracts is needed, as well as of impact assessments. Some question why social audit reports are not more transparent, and why the methodology for these is so different from financial auditing.
8. Supply chains present particular challenges, especially for marginalised groups like women, migrants and indigenous peoples. Recruitment practices are often at the basis of other abuses and lead to debt bondage. Migrants are vulnerable as they invariably have no representation in the system and often nowhere to turn for help. Governments in migrant workers' countries of origin need to play a more supportive role. Small and medium-sized companies are generally criticised for being the worst offenders, and brands should themselves exert greater influence to ensure that international standards are met. Despite the complexity and genuine difficulty in following what happens along an extensive chain, companies need to make requirements of their suppliers explicit in contracts, throughout these tiers. Companies require adherence to high standards for consumer safety, for example. They should extend similar due diligence with regard to human rights. They need to consider what sort of policy commitments are necessary, and how these can be made known throughout the supply chain, not just at headquarters; how leverage can be used with suppliers; how the work force is able to organise, and how consultation can be introduced at the earliest opportunity to identify risks and mitigate them. If workers can genuinely be involved in organising and improving their workplace, it empowers them and will be much more effective than a paternalistic approach associated with corporate social responsibility. It has been demonstrated, in the Rana Plaza factory tragedy in Bangladesh, that certification of standards is not enough.
9. In parallel, there is a strong argument, especially in the garment and food industries, that monitoring and compliance only really serve as band aids and do not address the root cause of problems, which lie in the business model. With consumers wanting 'fast fashion' and the availability of all sorts of food whatever the season, brands squeeze suppliers to meet consumers demands. There is a need to rethink the model of direct supplier relationships. Others underline the centrality of collective bargaining, which is important to the supply chain. Introducing human rights criteria into pricing, not just pricing quality, would be a positive way forward.
10. Land disputes often arise between companies and human rights defenders in the extractives and agri-industry sectors. Security of tenure is a core security issue, for communities as well as for companies. There have been positive developments in recognition of tenure in legal systems, and the Voluntary Guidance on the Responsible Governance of Tenure (VGGT)³ is a useful tool. Yet laws need to be applied, and greater clarity needs to be given to 'recognition of tenure', including customary tenure. Free Prior and Informed Consent (FPIC), a specific right of indigenous people recognised in the UN Declaration on the Rights of Indigenous People⁴, is another important instrument and needs to be institutionalised. In India,

³ VGGT was elaborated by the Committee on World Food Security in 2012, under Food and Agriculture Organisation (FAO) auspices. These global guidelines for governments help them safeguard the rights of people to own or access land, forests and fisheries, outlining policies and practices governments can refer to when making laws and administering land, forests and fisheries.

⁴ Article 10 of the UN Declaration on the Rights of Indigenous Populations states: "Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return."

two domestic laws were recently enacted which either refer to or embody FPIC in the law. While the authorities may still circumvent the provisions of the law and obfuscate villagers in the consent process, FPIC is undoubtedly a significant development. When there is a colonial legacy of outdated records, FPIC forms a strong starting point. It will help build transparency, as questions can be asked, and companies need to know local communities have the option to say no. To operate effectively, it needs disclosure of information from governments and companies. Companies in Mexico deem FPIC is insufficiently explained and regulations should clarify what a company should or should not do. In volatile situations, when communities may feel insecure and vulnerable, it is difficult for them to engage in a consultation if there is not such clarity.

11. Online space is increasingly impacted by digital technologies which present opportunities to exercise human rights – use of social media can in some situations be a game changer -- but also pose serious challenges to their realisation. There are a lot of questions about what constitutes due diligence requirements for the technology sector. Some suggest a new technology should not be introduced unless you can map clearly its consequences; at present, there is a general laxity, and it is incumbent on all companies to think this through. Facial recognition, while only one of a broad scope of trackers, has huge civil rights implications. It is already in use, and there is a need to be alert to other potential developments yet on the horizon.
12. Technology companies have to comply with law-enforcement assistance requests blocking access to social media, for example, or intercepting voice messages; refusal to do so is not an option. To provide transparency on this, several telecom and internet-based companies, have begun publishing reports where they disclose government requests and the company's response, identifying countries from which such requests are made. Technology companies may also try to push back discreetly by 'silent' action behind the scenes on regulations which are not felt to have the safeguards required under international standards. Increasingly governments have argued there is 'necessity' to introduce measures to protect national security, and the notion of 'proportionality' is being undermined. Companies are themselves affected when online space shared with civil society is closed down and human rights defenders are under attack; business sustainability can also be affected. Multi-stakeholder projects, such as the Global Network Initiative (GNI)⁵, are great value as a forum where companies can informally discuss the challenges of respecting the rights of their users with informed non-governmental expertise. Encouragingly, when human rights defenders raise issues of concern, practical cooperation can often be very good from a number of technology companies.
13. A troubling trend which has recently emerged is that governments no longer need to get data from technology companies, but are able to extract it themselves using specific software, or spyware companies are commissioned by governments to conduct surveillance on their behalf. Naturally, of particular concern to human rights defenders is the safety of their contacts and sources. Governments also have the capability themselves to shut down services, thereby exercising direct control over freedom of expression. Some governments, it is argued, essentially expropriate their citizens' personal data, expanding the concept of eminent domain.

⁵ GNI was launched in 2008 to address how technology companies can best respect the rights of their users wherever they operate. Its membership includes technology companies, human rights and press freedom organisations, academics and investors.

Responding to the challenges

Joint and collective action

14. Sport, and in particular football, a vector of popular culture throughout the world, can be very effective in galvanising joint and collective action in defence of human rights, and human rights defenders. This was demonstrated in early 2019 by the pressure applied by a coalition of concerned parties to secure the release of the Australian footballer Hakeem al-Araibi, a dissident originally from Bahrain, whose arrest was sought by the Bahraini authorities as he transited in flight through Thailand. A range of stakeholders were involved, including the Australian Government, sporting bodies, both in Australia and internationally, including the Fédération Internationale de Football Association (FIFA), human rights organisations, trade unions and major commercial sponsors of football tournaments. All consulted and coordinated their action regularly as a group, working in common cause for common values. It illustrated that much more can be achieved through multi-stakeholder initiative than when acting alone. Using football as a medium to support LGBTI+ rights in Africa can similarly be influential.
15. There are already a number of multi-stakeholder initiatives which work well, and should be built upon. The Extractive Industries Transparency Initiative (EITI) provides global standards for the good governance – open and accountable management -- of oil, gas and mineral resources. It brings together governments, companies and civil society representatives and provides sufficient mechanisms of public disclosure to enable well-informed debate with agreed facts, permitting civil society to hold governments and companies better to account. The question is asked whether a similar model could be used in relation to the protection of human rights defenders. GNI (see above paragraph 12), already 10 years in existence, is constantly expanding its company participation. Starting in 2015, the Business Network on Civic Freedoms and Human Rights Defenders, an informal network of companies, was established specifically to explore the role companies may play in helping to protect civic freedoms and human rights defenders, including through individual and collective action around the world.⁶ The Leadership Group for Responsible Recruitment was launched in 2016 as a collaboration between leading companies and expert organisations to drive positive change in the way that migrant workers are recruited.⁷
16. There is a strong sense that the environmental movement demonstrates clearly the value of collective action and the human rights movement should learn from it. For example, in March 2019 the Human Rights Council adopted a resolution entitled “Recognising the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development”.⁸ It underlines the need for access to justice and effective remedy for environmental human rights defenders, and requires governments to consult with them. The human rights community should aim through collective action to achieve similar recognition for human rights defenders.
17. While much collective action is taking place, a number of factors should nevertheless be considered in advance including the legitimacy of the convening party/parties, the ability of the actors and recognition of power dynamics among them, what previous interventions occurred, the specificity of the context and the potential for reprisals.

⁶ Convened by the Business and Human Rights Resource Centre, The B Team and the International Service for Human Rights, the Business Network on Civic Freedoms and Human Rights Defenders serves as a space for discussion and exchange of information, advice and strategy, enabling mutual learning.

⁷ Developed as an initiative of the Institute for Human Rights and Business, the Leadership Group operates as a company-led advocacy platform harnessing the leverage of major international brands to promote responsible recruitment practices among business, the recruitment industry and government.

⁸ See Human Rights Council resolution 40/11 of 21 March 2019

It could be useful to compile a guide to what collective action currently exists, analysing what are the important elements in fostering these initiatives and their experiences, thereby sharing learning among a range of stakeholders.

Looking to good practice

18. The law is a very necessary instrument to drive good practice. The introduction in France in 2017 of due diligence (devoir de vigilance) legislation requires large companies to implement 'vigilance plans' to identify and prevent risks of human rights abuses in their business operations and supply chains. If harm occurs, the company can be held liable for failing to implement an adequate plan. The Government of Finland has pledged to introduce legislation similarly making mandatory human rights due diligence through human rights impact assessments, including in supply chains. A number of other countries are considering enacting analogous legislation, including in Switzerland, Luxembourg, Germany and the Netherlands.
19. Inclusion of Free Prior Informed Consent (FPIC) in law is also an important good practice. In India, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 brought a paradigm shift in the approach of law towards indigenous people by referring to FPIC. A subsequent federal law, on land, embodies the concept in law.
20. Governments can further contribute towards setting good practice through policy. As part of a government's responsibility to protect human rights and disseminate information about the UN's Guiding Principles on Business and Human Rights, over 20 countries have now launched National Action Plans (NAPs) for implementation of the Guiding Principles, and a larger number are in the process of elaborating NAPs. The UN Guiding Principles indicate approaches companies are expected to take in conducting human rights impact assessments (HRIAs); in NAPS governments can further press companies to undertake appropriate HRIAs, including with the full involvement of human rights defenders. Some companies commit to externally conducted expert HRIAs, undertaken, for example by the Danish Institute for Human Rights. Rights and Development, a Canadian organisation, developed a model for a community-driven HRIA which continues to be promoted by Oxfam America and the International Federation of Human Rights. Giving communities a stronger negotiating voice in any discussion with business and government about human rights enables them to engage in solving human rights threats by working with companies, and governments on a more equal footing. Community participation can be a key to ensuring effective due diligence processes which should be perceived as beneficial for all stakeholders.
21. Governments can also provide companies with incentives to protect human rights and, conversely, impose penalties where necessary. In Canada, for example, companies which fail to commit to responsible business conduct can lose trade benefits.
22. Companies can themselves press governments to provide stronger legal frameworks. An association representing companies in the mining sector petitioned the Government of Myanmar to improve legislative provisions by incorporating standards in the International Covenant on Economic, Social and Cultural Rights (ICESCR) to which the country is a state party.

23. Increasingly, multinational companies broadly have global human rights and non-discrimination policies in place. The challenge remains, however, to ensure these are fully implemented, including in relation to human rights defenders, with whom companies are especially unfamiliar, ill at ease or even hostile. A promising recent development is if it can be mainstreamed within a company and replicated elsewhere has been the elaboration of policy specific to human rights defenders. One sportswear company adopted such a policy in 2016. It states the company “has a longstanding policy of non-interference with the activities of human rights defenders, including those who actively campaign on issues that may be linked to our business operations. We expect our business partners to follow the same policy; they should not inhibit the lawful actions of a human rights defender or restrict their freedom of expression, freedom of association, or right to peaceful assembly.” The statement continues that the company will engage with human rights defenders on any issue, and where issues of shared concern are identified, the company may “actively support the work”. It also commits the company to “petition governments, alone or in concert with other actors, where we feel the rights and freedoms of human rights defenders with whom we are engaged have been impinged by the activities of the State, or its agents.”⁹
24. Increasingly companies are speaking out on human rights matters¹⁰; it would be a positive development for this to become regular practice. Most importantly with respect to human rights defenders, Nike made a powerful statement in featuring Colin Kaepernick in an advertising campaign two years after the National Football League player kneeled during the performance of the US national anthem to protest racial injustice in the USA.
25. By becoming aware of not only enterprise risk but also risk to people, investors should have the same stake as companies in advocating for human rights, and human rights defenders. In April 2019 Eumedion, a Dutch corporate governance group backed by 60 institutional investors, pushed Royal Dutch Shell to use its influence with the Brunei Government to press for the improvement of LGBTI+ rights following the introduction of a law making gay sex, adultery and abortion punishable by death. Eumedion shareholders include BlackRock, Standard Life Aberdeen and Capital Group. Following worldwide protests from the European Union, some governments, civil society groups, and interventions such as the one by Eumedion, the Brunei Government backtracked on the legislation, extending a moratorium on the death penalty to cover the new law.
26. Other champions, celebrities or “icons” from a variety of sectors and backgrounds, including sports bodies and personalities, particularly from the world of football, can also speak out effectively on behalf of human rights defenders. Sustaining attention from such champions can, however prove a challenge.
27. For mega-sports events such as the Olympics and World Cup, human rights defenders, including journalists, are often at the front line in alerting international organising bodies as to what are the challenges in holding these events in a particular country. While human rights criteria had not been built into the bidding process for the award of the World Cup to Russia in 2018 and Qatar in 2022, they are now, and FIFA engaged rights holders in risk assessments for the 2026 World Cup awarded to the USA, Canada and Mexico. FIFA also launched in May 2018 a web-based complaints mechanism and will intervene by the means it deems likely to have most impact on individual cases, for example if there is discrimination in the non-accreditation of a specific individual for an event. FIFA, and other major sporting

⁹ See https://www.adidas-group.com/media/filer_public/f0/c5/f0c582a9-506d-4b12-85cf-bd4584f68574/adidas_group_and_human_rights_defenders_2016.pdf

¹⁰ For example companies which criticised the travel ban on seven Muslim-majority countries imposed by President Trump after his assumption of office in 2017 included Google, Starbucks and Chobani. “See <https://www.ihrb.org/other/governments-role/commentary-trump-travel-ban-corporate-leadership.”>

bodies, could exercise major leverage if human rights criteria can be integrated into the contracts issued in relation to mega-sporting events, and the sponsorship of these. Even without the degree of due diligence now required, it is argued that some positive influence was exercised in Qatar, by FIFA and by business, over construction standards, which spun off into other areas, including Qatar's 2010 national development strategy.

28. One response towards dealing with the human rights challenges manifest in many supply chains has been the development of a new model of worker-driven social responsibility (WSR), where workers are the leading force, as opposed to corporations, in designing, monitoring and enforcing programmes for improving working conditions and wages. Under WSR, agreements between brands and worker organisations must be legally binding and require brands to provide financial support through a menu of options to assist suppliers in meeting labour standards. The monitoring and enforcement mechanisms are designed to provide workers with an effective voice in their own protection. WSR schemes have been introduced in the agriculture and construction industries in the USA and in the garment sector in Bangladesh and are an expanding area of interest.
29. While some continue to see business and human rights defenders as “polar opposites”, trust is nevertheless built from talking to each other, not for its own sake, but with a meaningful or common purpose in sight. Working with governments, business, trade unions and civil society, the Centro Regional de Empresas y Emprendimientos Responsables (CREER) in Colombia has sought to identify the barriers to trust in the mining sector through a local or ground-based multi-stakeholder approach. Addressing mistrust requires shared knowledge, reciprocity and agreeing a priority or common purpose, such as security concerns, even if the motivations are different. Through a facilitated dialogue framework it was possible to develop a guide on security threats, detailing in protocol style how, for example, to react to threats, who to speak with about a potential or actual incident, how to set up dialogue and how to engage with a victim. The guide constitutes the ground rules for conversation and became part of company management procedure. As part of a regular dialogue mechanism, stakeholders present to the others what they have been doing over the recent past in relation to security issues. The dialogue mechanism covers not only security but multiple topics, such as labour and environmental issues. The value of the framework was demonstrated recently when there was a collective statement on the part of four companies and municipalities together with civil society representatives at the time of a significant security risk.

General recommendations

30. Societies based on the rule of law, enabling freedoms of expression, association and assembly, offer the best protection to human rights defenders. Strengthening the rule of law, through an independent judiciary and access to justice, should be a priority for all. There should be training, scholarships and capacity building on the rule of law, and what good regulation looks like. Reference can be made to the Rule of Law Index¹¹ and the Business for Rule of Law Framework of the UN Global Compact.¹² Measures are needed to counter Strategic Lawsuits against Public Participation (SLAPP), such as penalties for plaintiffs who file lawsuits ruled frivolous and special procedures where a defendant may ask a judge to consider that a lawsuit is a SLAPP.

¹¹ The World Justice Project Rule of Law Index 2019 measures how the rule of law is experienced and perceived by the general public in 126 countries and jurisdictions worldwide. See <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2019>

¹² The Framework provides guidance on how business can respect and support the rule of law in a way that business can relate to. The UN Global Compact has collected over 100 case examples of business action in support of the rule of law to illustrate. See <https://www.unglobalcompact.org/library/1341>

31. Working to prevent violence is also important, including establishing structures for dialogue and to build trust, as has been done in Colombia (see above paragraph 29). These should help to inform about potential threats, and protocols should be established for times of risk.
32. When threats occur, there should be a readiness to react. In addition to ongoing and regular stakeholder engagement, when security threats can be discussed and business can learn about the problems, there needs to be a reactive and fire-fighting alert system for when human rights defenders are under threat. Emergency support should be provided until the issues are resolved. Companies need to be vocal and supportive. Social media can potentially be used to good effect in these situations. Accountability may also include 'naming and shaming'.

Recommendations to governments

33. Under the UN Guiding Principles, it is the state's responsibility to protect human rights. Governments which host multinational corporations can in particular play a major role in protecting human rights defenders elsewhere, for example through their NAPs and mechanisms to provide export finance. Among other specific recommendations for governments are:
 - include clauses to safeguard and protect human rights and human rights defenders in bilateral trade agreements or investment protocols, including development assistance projects and export credit;
 - advise companies on the human rights situation in environments where they consider investing;
 - provide export incentives and trade promotion services only to companies which respect human rights and human rights defenders;
 - examine export controls to restrict exports of sensitive technology (the use of which can adversely affect human rights) to repressive governments;
 - review recruitment law to ensure it is compliant with human rights standards, particularly in relation to migrant workers; and governments whose citizens migrate to work should play a greater role in supporting them;
 - review and clarify legislation on parent company liability to ensure it complies with the UN Guiding Principles;
 - ensure that measures are provided to counter strategic lawsuits against public participation (SLAPP), such as penalties for plaintiffs who file lawsuits ruled frivolous and special procedures where a defendant may ask a judge to consider that a lawsuit is a SLAPP;
 - review regulations governing Free Trade Zones to ensure these do not diminish recognised labour rights;
 - encourage embassies to support multi-stakeholder initiatives to protect human rights defenders.

Recommendations to companies

34. In the current disruptive global environment, it is persuasively argued that business and civil society share an interest in ensuring the rule of law and fundamental freedoms of expression, association and assembly: these elements are essential to the realisation of human rights as well as a stable, profitable and sustainable business environment.¹³ There is thus a strong business case for companies to act to protect human rights defenders, including in the following ways:

- define policies specifically to embrace human rights defenders;
- prior to market entry, companies should engage human rights defenders during the research and analysis they undertake to inform decision-making on whether or not to invest;
- when carrying out human rights due diligence, examine elements which contribute to the safety of human rights defenders, including the legal framework, whether human rights defenders have public and high-level recognition, the legitimacy of their work, and actual protection mechanisms which could be brought into effect;
- sustain regular engagement and meaningful dialogue with local communities so as to be alert to threats to human rights defenders;
- ensure that human rights policies permeate the whole company, and in particular field operations; interrogate field operations to ensure they are fully compliant with their human rights operations, and conduct regular human rights assessments on the ground;
- provide senior management support to those in the company whose responsibility is to ensure human rights compliance throughout the company's enterprise;
- provide training to staff in relation to the protection of human rights defenders;
- build corporate activism into core business so that the company will both speak out in specific cases of threats to human rights defenders (where appropriate) as well as use its leverage in behind the scenes or undertake 'silent' diplomacy on their part;
- make clear requirements of suppliers to protect human rights defenders;
- ensure effective right to remedy, including through credible and participative grievance mechanisms, publicising these procedures and their outcomes.

Recommendations to others

35. In addition to governments and companies, other institutions can play a role in protecting human rights defenders. This includes:

- investors need to be more connected to what happens on the ground in global operations of a company, identify risks to people, including human rights defenders, and speak out in their protection;
- multi-lateral financial institutions, such as the International Finance Corporation, could provide incentives to encourage business compliance with human rights and the protection of human rights defenders;
- business schools need to integrate human rights training, and the protection of human rights defenders, in their curriculum;

¹³ See "Shared space under pressure: business support for civic freedoms and human rights defenders", issued in August 2018 by the Business and Human Rights Resource Centre and the International Service for Human Rights

- national human rights institutions should make their grievance mechanisms specific to the needs of human rights defenders;
- diplomatic missions should be active and vocal in protecting human rights defenders;
- bidding processes for the hosting of major sporting events should include human rights criteria, including assessment of the situation of human rights defenders.

Conclusion

There has to date been difficulty in getting priority attention for human rights defenders. Business is unfamiliar with the concept; power relations are hard to change, even if a shift may be starting. The views of human rights defenders and the risks they face need to be integrated into a company's approach to and conduct of its business. Human rights defenders are essential for holding both business and governments to account; they can also exert significant influence over companies aiming to implement the corporate responsibility to respect human rights. Both business and human rights have an interest in upholding the rule of law and civic freedoms. While there is a need for their joint action in some contexts, it is not so in others. Understanding what is appropriate where and when requires deeper trust and communication between business and all others committed to human rights. A global campaign, "Stand up for human rights defenders", would also highlight their rights and role, and why protection of their rights is of fundamental importance.

Isobelle Jaques

Wilton Park | August 2019

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