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Newsletter | Novartis Foundation for Sustainable Development



Business and Human Rights – advancing the debate

Do you know exactly what the UN Global Compact and its principles on the human rights role of business is all about? Or have you heard of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises? Have you ever visited the website of the Business and Human Rights Resource Centre? The debate is still largely being held in specialist circles. However, this is beginning to change, primarily: unlike ten years ago when it wasn't even clear whether business interfaced directly with the subject of human rights at all, it is no longer the case that everything is simply open to debate.

The Foundation for Sustainable Development has long been a driving force for an enlightened company position in this now central subject in the field of corporate responsibility. We began 7 years ago with an in-depth examination of the subject and 4 years ago, we were the co-initiator of the Business Leaders Initiative on Human Rights (BLIHR), a core group of interested businesses. Since then, BLIHR has demonstrated practical ways of applying the aspirations of the 1948 Universal Declaration of Human Rights within a business context.

To the extent that the business and human rights debate is becoming clearer, it is increasingly about specific tools for businesses to assess and address human rights issues. On September 24, we therefore organized the Business & Human Rights Tools Forum in Zurich for the second time, together with the WORLD BANK subsidiary IFC. We naturally contributed our own experiences there of testing the currently available tools. In addition to business, civil society and government were also represented as joined-up work on all sides is key to combating the fact that half of the world's population still has to survive on less than CHF 5 per day, and for this reason alone, many people see their right to a life in dignity endangered.

Klaus M. Leisinger

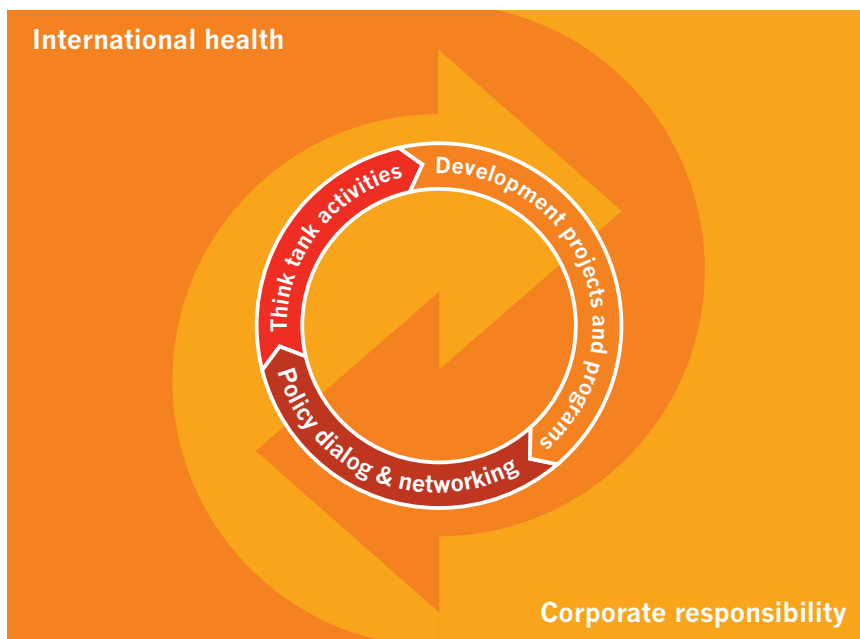
Business & Human Rights – the outlines are becoming clearer

The Foundation is well-known for endeavoring to initiate sustainable improvements in basic healthcare through innovative projects in developing countries. Alongside typically-discussed questions in the development cooperation community, as a Foundation working closely with a company, we are also constantly faced with questions that are largely deliberated in the community interested in the subject of corporate respon-

cessary means available. Rational argument is needed to determine which sectors of society can – and should – manage which contribution. In this way, active participation in a factual debate regarding business and human rights has become an important focus of the intellectual and advisory work of the Foundation.

From a historical retrospect, it is important firstly to bear in mind that the Universal Declaration of Human Rights – today the undisputed reference point for all human rights discussions – was written in 1948, and thus at a time when nobody would have thought to compare the influence of nation states with that of business. The social order was a result of state control and thus the Universal Declaration of Human Rights was also conceived as an agreement between states, which was to make sure through national law and enforcement actions that the various players in society behave in line with human rights – as far the exercise was not about “taming” their own institutions and authorities. Even today, only the government can be seen to hold the primary responsibility to respect, protect, fulfill and promote human rights in a particular country – admittedly only if it has democratic legitimacy.

In the preamble to the Universal Declaration on Human Rights, it is not accidental that “every organ of society” is named as addressee, and not only government players. Every individual citizen but also every organization is called on to help improve matters where a person cannot live a life of dignity. Increased interest in the human rights role of business initially came about in view of events such as, for example, the chemical accident in Bhopal, the large-scale spread of sweatshops in the supply



sibility. It is particularly in the context of human rights challenges that this community is currently wrestling with fundamental statements on what the role of a company in global society should be, as demonstrated in concrete activities. Only a few years ago, the standard answer to the question of responsibility for the respect and support of human rights was that this was a matter for the state – and hardly anyone, including the leading human rights organizations such as Amnesty International, considered businesses much. This has changed. Today, we can even hear voices which (particularly with respect to states with weak or reluctant governments) regard globally operational companies as the parties which have to take the responsibility, whether this is because they presume business is guilty of the current problems, or just because they believe that companies have the ne-

chain of the textiles sector, or the stabilization of unethical regimes by deliveries of goods or even weapons. Here, it was a matter of companies refraining from doing something, so that the people concerned were free from the questionable – direct or indirect – effects. The insight today that human rights challenges for business are not only to be sought in the context of the most cruel human rights abuses, and that it cannot be a matter of refraining from doing something alone, is slowly taking root. Increasingly, it is also a matter of those conditions needed for a life with dignity which cannot be established through omissions, but only through active and, in particular, interconnected contributions from the various players in global society. The human right to health is an example which brings with it great challenges – and also many open questions.

The first largely visible manifestation of the fact that business explicitly and definitely started to be interested in clarifying what contribution it could and should make to the respect and support of human rights, is the UN Global Compact, which came into being in 2000. As we know, companies

The Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labor standards, the environment, and anti-corruption:

- 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.

which have committed to participate in this initiative must demonstrate at least once a year, based on ten principles (the first two of which relate explicitly to human rights), what progress they have achieved on the road to contributing to globalization with a human face. This enables all interested parties to engage and contribute to improving, spreading and linking projects and the further development of concepts – and in this way it also becomes clearer what exactly businesses can do within their sphere of influence to uphold these ten principles. As this initiative, alongside these ten principles, also refers to the Millennium Development Goals attention is particularly drawn to where human rights challenges are at their greatest: in underdeveloped regions.

Business Leaders Initiative on Human Rights

The time for a cross-company take-up of the business and human rights issue was ripe for the Foundation when in 2003, the UN Sub-Commission on the Promotion and Protection of Human Rights presented a draft on the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights. Regrettably, the then public debate became extremely polarized. On the one hand, the draft norms were built up into the specter of an imminent flood of lawsuits against companies and the threat of the expansion of an anti-business UN bureaucracy. On the other hand, the illusion was created of suddenly being able to achieve miracles in those regions of the world in which the government allows human rights abuses and where the mechanisms of the international community have failed for decades. Both views lacked substance to a large extent, not just because the draft norms were linked by content to the existing human rights declarations and conventions of the international community, but also in the way that they could only be a rough basis for applicable laws which still needed to be drawn up by the relevant authorities, normally the nation states.

At any rate, the main problem remained unsolved: namely that businesses still couldn't get their hands on any reasonably concrete guidelines if they, as an organ of society (addressee in the Universal Declaration of Human Rights), tried to determine what exactly their contribution to respecting and supporting human rights could consist of. So initially seven (!) globally operational companies from a wide variety of sectors got together in 2003 and created the Business Leaders Initiative on Human Rights to address this challenge

as pragmatically as possible. Logically, the first step was a road testing of the contents of the draft norms in which a matrix was created – with the individual draft norms on one axis and three basic relevance indicators (“must”, “ought to” “can”) on the other axis. Policies and practices of the businesses relevant to human rights were sorted into the matrix so that in the course of a self-assessment (potentially also in an external assessment), a “map” is created which makes it easier to determine the main focuses of action. Apart from specific working groups like on emerging economies or on minimum standards, the initiative, which had grown to 13 businesses by 2007 and which plans to fulfill its mission in this form by the end of 2009, is currently occupied in particular with the further development of both diagnostic and therapeutic tools. Particular attention is being given to the second-generation BLIHR Matrix, which has already become necessary because, after their rejection by the relevant UN Commission in 2004, the draft norms were no longer being pursued further. Therefore they could no longer form one axis of an instrument which should experience wide-spread use in the future.

BUSINESS LEADERS INITIATIVE ON HUMAN RIGHTS

BLIHR's mission is to find practical ways of applying the aspirations of the Universal Declaration of Human Rights within a business context and to inspire other businesses to do likewise.

HUMAN RIGHTS IN THE BUSINESS SPHERE

Meeting in Zurich: The next steps

That the outlines of the business and human rights debate have become clearer was recently apparent at the meeting of experts on September 24, 2007, which was hosted by the Foundation and the World Bank subsidiary International Finance Corporation IFC. Coordinated by the BLIHR secretariat under the lead of John Morrison, it was mainly attended by representatives of companies who already had practical experience of various human rights impact assessment tools. Naturally, key representatives of civil society and from the governmental side were also present at this forum for exchanging experiences, together with members of special representative John Ruggie's team, contributing in this way to developing a common understanding on the specialist scene as to how development could and should continue.

Even though we seem unquestionably to have moved on from the days in which the systematic application of tools to assess and address human rights challenges within and by business was a rare thing, there is still some way to go before widely-used standard tools of a “diagnostic” and “therapeutic” nature are established. It is still too early to bring together the diverse endeavors to develop and refine these tools so as to avoid duplication of effort. However, it has become very clear in Zurich that the exchange and cooperation between the various organizations, which lead the development of these tools, must be stepped up significantly in the next phase. Only when it is possible for non-experts to see the complementary main functions of the different tools and recognize options of coordinated use, will a greater number of companies engage in the matter at all. And only once a company gets involved with one or more of the tools will it actually experience the surprises necessary for a positive, systematic integration of human rights aspects into strategic and operational business decisions – pleasant sur-

prises, notably the insight that the majority of human rights challenges are already being addressed, and not-so-pleasant surprises, mainly, for example, the discovery of certain deficits that would continue to be overlooked in the absence of understanding of specific human rights mindsets, and which pose an incalculable risk. As such, of the companies which are currently promoting the development, one group assumes a particularly significant task: those companies that implement actual pilot projects using not just one but several of the currently available tools, and pass on their experiences to interested companies, especially the developers of the tools.

That said, most companies that have become aware of the issue of business & human rights are probably still at the stage of getting a general overview of the available tools and selectively incorporating individual elements into ongoing projects or existing management systems. This certainly has some influence on priorities but generally doesn't produce real clarity what human rights challenges are actually all about. The necessary expertise cannot, as was generally underlined in Zurich, be achieved through course attendance or similar further training measures, for example. Instead, it will be acquired if the highly diverse sector- and company-specific fields harboring human rights-related risks or opportunities are thoroughly "worked over". This can only succeed when there is sufficient "rubbing" against the often unfamiliar content – unfamiliar because the mindsets and control mechanisms in the field of human rights arose in the spheres of international politics and law, and the concept has yet to be translated into the language of the world of business.

This "rubbing" can essentially be facilitated in two ways: Either we can try to extrapolate the content which is meaningful for companies from the relevant declarations and conventions, as formulated by the community of states, or we can try to ensure that the respective rights holders are able to formulate their issues. And so it is not by chance that two of the tools discussed in Zurich in effect represent the poles of the relevant spectrum. Firstly, in its development work for the Human Rights Compliance Assessment spanning over six years, the Danish Institute for Human Rights, which is at the forefront of the debate on business & human rights, has reviewed all human rights standards with a view to their potential relevance for typical corporate activities and departments, and has tested them in a variety of practical situations in companies from various sectors. A database of 335 questions has been created, the answering of which should be facilitated by 4 or 5 indicators each with respect to possible policies, procedures or practices. Ultimately this produces a list of the most serious risks, i.e. potential human rights abuses or deficits. Secondly, there is the Human Rights Impact Assessment of the International Business Leaders Forum, essentially a handbook that takes users through a seven-step clarification process resembling the now commonly used environmental and social impact assessments. It is mainly aimed at dialog with those potentially affected by the business activities under consideration.

The aforementioned second-generation BLIHR Matrix, which is currently being developed and is focused on a self-observation process with self-selected depth and priority-setting, is intended to offer information content (ideally at the moment of need) on the relevant human rights responsibility. Apart from this, the emphasis at the Zurich meeting of experts was on two further tools: Conflict-Sensitive Business Practice by International Alert and Community Human Rights Impact Assessment by Rights and Democracy. Whilst the first

was specifically developed for the extraction sector with regard to business activities in conflict zones and, by the way, has been applied most frequently so far, the latter is focused mainly on a process by which the affected population groups can assess the relevant impact of an usually foreign investment on their region, and incorporate these findings into a dialog process – kind of a mirror image of the evaluation conducted by the company.

The Zurich gathering impressively underscored the fact that the following currently holds true: The more companies begin to experiment with the tools available for assessing and addressing human rights challenges, the more will experience not only that these challenges are eminently manageable, but also that opportunities for sustainable business development are to be discovered. The more companies that have this experience, the more will openly exchange their experiences. And the more this happens, the sooner we will see viable (because they have not been developed by bureaucracies alone) and reliable standard tools become available, which those companies that are not at the forefront of this field can also apply.

With two pilot projects in Novartis Group Companies under our belt to date, which used the full Danish Human Rights Compliance Assessment database (more on this shortly on our website), to our knowledge, the Foundation is currently spearheading test activities. We can but encourage all those interested in the subject, working both within and with companies, to support steps which foster consciousness of human rights in business, i.e. towards the full integration of human rights concepts into day-to-day processes. Demanding composure and tolerant creativity are undoubtedly two key ingredients if the world of business and the world of human rights are not to appear irreconcilable.

Current publications of the Foundation

Corporate philanthropy:

The “top of the pyramid”

Klaus M. Leisinger

In: Business and Society Review, 112:3, S. 315-342.

Corporate Responsibility for Human Rights

Klaus M. Leisinger

In: Benjamin K. Leisinger, Marc Probst (ed.),

Human security & business,

Rüffer & Rub 2007, p. 44-73.

ISBN 978-3-907625-39-2

Die Macht der Würde – Globalisierung neu denken

Klaus M. Leisinger

In: Christoph Quarch, Silke Lechner, Peter

Spiegel, Ulrich Dettweiler (ed.),

Die Macht der Würde – Globalisierung neu

denken, Gütersloh Verlagshaus:

Gütersloh 2007, p. 163-170.

ISBN 978-3-579-06970-8

Access to Health Care in Contexts of Livelihood Insecurity:

A Framework for Analysis and Action

Brigit Obrist, Nelly Iteba, Chrisitan Lengeler,

Ahmed Makemba, Alexander Schulze et al.

Public Library of Science Journals,

Collection on Poverty, PLoS Medicine, 2007.

www.plosmedicine.org

Useful websites for further information

www.novartisfoundation.org

www.corporatecitizenship.novartis.com

www.business-humanrights.org

www.humanrightsbusiness.org

www.ohchr.org/english/HR_Learning.htm

www.blihr.org