

CHAPTER 7

HUMAN RIGHTS

Every thought, every word, and every action that adds to the positive and the wholesome is a contribution to peace. Each and every one of us is capable of making such a contribution.¹

—Aung San Suu Kyi

Thus shall we live, because we will have created a society which recognises that all people are born equal, with each entitled in equal measure to life, liberty, prosperity, human rights and good governance.²

—Nelson Mandela

A DAY DOES NOT GO BY WITHOUT NEWS OF HUMAN RIGHTS ABUSES. THESE might be perpetrated by governments denying basic civil liberties to people or failing to guarantee a humane rule of law. In reading about violence around the world, you might notice that national governments have shut off people's access to the Internet: in Syria in November 2012,³ in Iran in February 2012,⁴ and in Egypt⁵ in January 2011.⁶ You might have followed stories about children forced into sex trafficking here in the United States,⁷ in Britain,⁸ and worldwide.⁹

Moreover, the products and services that companies produce and that we use daily might be tainted by human rights abuses of workers in the supply chain. As you consider the clothes that you wear, you might be concerned whether they were made in factories like the one in Bangladesh where recently more than a thousand garment workers perished in a shabbily constructed multi-story building,¹⁰ or where workers were trapped while fires blazed around them until they died.¹¹ As you shop, you might wonder if your television, computer, or cellphone is corrupted with “conflict minerals,” minerals mined in conditions of armed conflict and human rights abuses.¹² In fact, the materials we use daily are made with conflict minerals. These include electronic items and cars made of conflict minerals, and even zippers, watches, rings, and earrings.¹³

While human rights have been violated for as long as time, new media bring vivid pictures about victims directly onto the electronic devices in our very hands. Too often, elements of the corporate sector were responsible for creating the human rights abuses, environmental degradation, and economic injustices that continue to plague the world today. With knowledge comes a growing discomfort with the pain and suffering of others. Consumers feel

they are especially complicit with respect to the products they purchase, wear, and use.¹⁴ Employees, customers, and investors are ready to be activated.

Governments have not been particularly effective in addressing human rights abuses worldwide. In the case of freedom of expression and privacy on the Internet, for example, governments can even be central to the problem. As you will see in this chapter, however, some corporations working in partnership with NGOs are becoming potent players in addressing the complex problems of conflict minerals, supply chain issues, and human trafficking, freedom of expression and privacy on the Internet, and other human rights issues. Not only is this the right thing to do from a moral perspective, it is good business: it protects and builds brands, elevates employee morale and loyalty, and mitigates significant financial risks. This serves the bottom line.

What does a better world look like when it comes to human rights? It seems quite simple. The ethic of reciprocity, best known as “the golden rule,” says it best: “Do unto others as you would have them do unto you.”

The golden rule has particular resonance in today’s business world. Given many contemporary social challenges, a number of business, academic, and civic leadership organizations are recognizing the importance of *empathy* for personal and professional success.¹⁵ Ashoka,¹⁶ a network of 3,000 leading social entrepreneurs around the globe, has an “empathy initiative.” According to Dr. Angel Cabrera, president of George Mason University, “A business that doesn’t reward investors adequately, that treats employees unfairly, that cheats its customers or harms its community is a failure. Empathy is an essential element of business because, without understanding the needs and desires of others, it is impossible to satisfy them.”¹⁷

Businesses that play leading roles in advancing human rights do not always act out of purely altruistic motives. Some companies do the right thing because they have been shamed in the media for a horrific scandal, and the public humiliation has damaged sales; other companies are proactive to mitigate risk. Additionally, businesses have learned that there can be tremendous financial risks and costs associated with human rights abuses. Case studies published by the World Resources Institute (WRI), showed that resistance from communities and other stakeholders can delay permits, construction, operations, and revenues, cause conflicts with local labor markets, increase costs for financing, insurance, and security, and reduce output. According to the WRI report, “Development without Conflict: The Business Case for Community Consent,” community resistance can arise at any point in a project cycle, and can have negative impacts on the company far beyond the scope of the project in dispute, “including negative impacts on stock prices, brands, and reputations, and greater difficulty in securing financing, insurance, and community cooperation on future projects.”¹⁸

Damage to the company's reputation and potential project cancellations can add up to billions of dollars. In his book, *Just Business*,¹⁹ John Ruggie cited a Goldman Sachs study (2008) of 190 projects operated by multinational oil companies. Ruggie described an important finding of this confidential report, to which he had access: "Nontechnical risks accounted for nearly half of all risk factors faced by the oil majors, with 'stakeholder-related risk' constituting the single largest category of nontechnical risk."¹⁹ John Ruggie also reported that one particular company "may have accrued \$6.5 billion in such costs over a two-year period, amounting to a double-digit percentage of its annual profits."

Ruggie commented on the staff time devoted to managing conflicts within communities. "If these conflicts are left unattended, they may escalate, which can lead to property damage and injury, or worse, to community members and company employees."²⁰

In the last chapter of this book—Chapter 8—you will learn how businesses engage community stakeholders early in the planning process, and in ongoing discussions, in order to avert such harm to communities and the companies' bottom line.

Companies that are effective in addressing human rights issues do so with a keen understanding of the value to their brand, and the credibility they will garner among customers, employees, and investors. Additionally, as you will see in this chapter, many of the most effective business initiatives to address human rights are done through coalitions and partnerships with NGOs.

In the modern era, key stakeholders have recognized that success in achieving human rights requires the full engagement of businesses. Following World War II, the United Nations put forward the Universal Declaration of Human Rights (UDHR), a formal charter for human rights.²¹ The UDHR represented the international community's commitment to never allow atrocities like those of World War II to happen again. Eleanor Roosevelt was recognized as the driving force for the Declaration's adoption by the UN General Assembly on December 10, 1948. The UDHR addresses the state's duty to protect against human rights abuses by third parties, including *business enterprises*, through regulation, policymaking, investigation, and enforcement.

Launched in 2000, the United Nations Global Compact provides a framework for development and implementation of responsible and sustainable business practices. "The Global Compact asks companies to embrace universal principles and to partner with the United Nations. It has grown to become a critical platform for the UN to engage effectively with enlightened global business," states UN Secretary-General Ban Ki-moon on the Global Compact website.²² Companies are required to endorse ten principles related

to human rights, labor, environment, and anti-corruption.²³ Already, more than ten thousand business and non-business entities from 145 countries worldwide are participating in the Global Compact.²⁴

In 2005, UN Secretary-General Kofi Annan appointed Professor John Ruggie as the special representative of the Secretary-General on human rights and transnational corporations and other business enterprises to further define the human rights responsibilities of business. Following six years of multi-stakeholder discussions, the United Nations Human Rights Council (UNHRC) unanimously endorsed the *United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect, and Remedy" Framework*, on June 16, 2011.²⁵

The Guiding Principles are intended to provide operational clarity for the principles of the Global Compact, requiring companies to ensure that they are not engaged in human rights abuses.²⁶

The Guiding Principles encompass three axioms applying to all states and businesses: "the state duty to *protect* against human rights abuses by third parties, including business; the corporate responsibility to *respect* human rights; and greater access by victims to effective *remedy*, both judicial and non-judicial."²⁷

While this chapter features specific approaches that some companies are taking as part of coalitions to eliminate human rights abuses, many corporate actors have created and continue to perpetuate such threats. Only with such an understanding can we move forward together to find solutions. The purpose of this book is to look ahead by providing best practices and rallying the corporate sector to continue to think creatively and collaboratively about building a better world. Businesses that manage vast human and financial capital across nations have the power to implement the golden rule throughout the world: That which is hateful to you *don't* do unto others. Companies are learning that it is not only humane to follow this doctrine, but it is also more profitable in a world where customers, employees, and investors will no longer tolerate child sex trafficking in the hotels where they sleep, deaths in factories where their dresses are sewn, child labor involved in the harvest of their cocoa products, or extreme violence contaminating their hand-held mobile phones. Corporations are recognizing the win-win of providing respect, dignity, safety, and a fair wage for employees and customers worldwide.

BUSINESSES COMBAT HUMAN TRAFFICKING TO END FORCED LABOR AND SEXUAL EXPLOITATION

At the 2012 Clinton Global Initiative Annual Meeting, nine global companies launched the Global Business Coalition Against Human Trafficking (gBCAT) to fight human trafficking. gBCAT's founding members

include Carlson, Coca-Cola, Delta Air Lines, ExxonMobil, LexisNexis, ManpowerGroup, Microsoft, NXP, and Travelport.²⁸ gBCAT's mission is to mobilize the power, resources, and thought leadership of the business community to end human trafficking, including all forms of forced labor and sex trafficking. In a speech at CGI, President Barack Obama praised the coalition for its commitment to fight trafficking: "The good news is more and more responsible companies are holding themselves to higher standards. And today, I want to salute the new commitments that are being made. That includes the new Global Business Coalition Against Trafficking—companies that are sending a message: Human trafficking is not a business model, it is a crime, and we are going to stop it."²⁹

"Our core programs are designed to assist companies in training and education for employees, vendors, and sub-contractors; awareness programs to combat sex trafficking, notably in travel and tourism; identifying and preventing forced labor in supply chains and operations; and the transfer of best practices," explained Robert Rigby-Hall, co-chair, gBCAT, and chief human resources officer at NXP Semiconductors.³⁰

"Those of us who formed gBCAT are passionate about stopping all forms of human trafficking," he said. "We see ourselves as advocates in our industries to engage other companies in gBCAT."

Businesses are beginning to join the fight against global trafficking, with some companies taking the lead. To these companies—whose stories will be discussed in this chapter—combatting trafficking is a moral issue and a business imperative, raising employee morale, engendering good will with customers, and protecting the brand.

21 million people worldwide are victims of forced labor, bonded labor, child labor, and sexual servitude, according to the International Labour Organization (ILO).³¹ The World Bank indicates that human trafficking is a high-profit, low-risk business.³²

The most common form of human trafficking is sexual exploitation, according to the *Global Report on Trafficking in Persons 2012*,³³ by the United Nations Office on Drugs and Crime (UNODC). The second most common form of human trafficking is forced labor, although this may be a misrepresentation because forced labor is less frequently detected and reported than trafficking for sexual exploitation.

The victims of human trafficking are predominantly women (59 percent). Children comprise a growing percentage of trafficking victims, up from 20 percent during the period from 2003 to 2006 to 27 percent between 2007 and 2010. Between 2007 and 2010, victims of 136 different nationalities were detected in 118 countries across the world. 27 percent of victims are trafficked domestically.³⁴

According to the World Bank, “not only are children often sexually exploited in the sex industry targeted for child pornography and pedophiles, but children are also trafficked to work on untangling fishing nets, sewing goods in sweatshops, picking cocoa, and begging. Traffickers may lure children and/or their parents into leaving home with the promise of a better life. On some occasions, desperate parents will sell their children to a trafficker so that they have fewer mouths to feed. Forced conscription of children into armed conflict is another form of trafficking which enslaves children in war zones and removes their freedom.”³⁵

A turning point for human trafficking came with the adoption of The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children,³⁶ by General Assembly resolution of the United Nations in 2000.³⁷ The Trafficking Protocol was entered into force on December 25, 2003.³⁸ For the first time, it provided a legally binding instrument on trafficking with an agreed-upon definition. The Trafficking Protocol defined human trafficking to include forced labor, sexual exploitation, and the removal of human organs:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Additionally, based on the Trafficking Protocol, trafficking includes activity that occurs across country borders and within countries; it victimizes men, as well as women and children, and is perpetrated by individuals as well as by organized crime. One of the Trafficking Protocol’s purposes is to facilitate international cooperation in investigating and prosecuting trafficking. Another is to protect and assist human trafficking’s victims with full respect for their rights as established in the Universal Declaration of Human Rights.³⁹

In an overview of human trafficking, the World Bank discusses the factors that make people most at-risk for trafficking. Risk factors include age, gender, poverty, illness, lack of educational opportunity, marginalization or discrimination based on ethnicity, race, disability, and religion. Also most vulnerable are victims of climate change and natural disorder, conflict and war, social exclusion, drug and alcohol addiction and mental illness, lack of rule of law, and government corruption or inaction.⁴⁰

According to the United Nations Office on Drugs and Crime, 154 countries have ratified the Trafficking Protocol. Furthermore, there is evidence that trafficking from Eastern Europe and Central Asia has been declining since 2000. Nonetheless, the number of convictions for human trafficking remains quite low. According to the UN Report, “the conviction rates for trafficking are at the same level as rare crimes such as homicides in Iceland or kidnappings in Norway.”⁴¹

Lest one think that human trafficking only occurs in countries with poor governance, trafficking is prevalent in New York City. According to a study conducted in 2011, the number of trafficked persons in the New York metropolitan area “significantly exceeds official estimates. The report estimates that private service providers in the New York City metropolitan area have interacted with at least 11,268 survivors of trafficking since 2000 and at least 1,606 over the last year.”⁴² Furthermore, The Polaris Project, a global NGO fighting human trafficking and modern day slavery, shows that human trafficking occurs in all 50 of the United States—victimizing men, women, and children in cities, suburbs, and rural communities.⁴³

Governments alone have not been able to combat human trafficking. Businesses have a tremendous opportunity and responsibility to address this vital challenge in partnership with NGOs and governments. Carlson, a global hospitality and travel company, was the first US-based global hospitality company to sign the travel industry’s international “Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism”⁴⁴ as early as 2004. The Code, aiming to prevent sexual exploitation of children at tourism destinations, was developed by ECPAT (End Child Prostitution and Trafficking), a global children’s rights NGO.

By 2003, over 40 companies, tour operators, travel agencies, tourism associations, and tourism unions endorsed the Code, committing themselves to implement the measures shown below. The number of tourists impacted by the Code was estimated to reach over 30 million per year, travelling to destinations in over 16 countries worldwide.⁴⁵ The Code commits endorsers to do the following.

1. To establish a corporate ethical policy against commercial sexual exploitation of children.
2. To train the personnel in the country of origin and travel destinations.
3. To introduce clauses in contracts with suppliers, stating a common repudiation of sexual exploitation of children.
4. To provide information to travelers through catalogues, brochures, in-flight films, ticket-slips, websites, etc.
5. To provide information to local “key persons” at destinations.
6. To report annually.

As of April 2013, the Code has 1,200 international signatories in 40 countries.⁴⁶ Carlson, however, remained the only global corporation based in the United States that signed the Code of Conduct until 2011.⁴⁷ The story of how and why Carlson came to be the first US-based company to sign the Code is illuminating. In 2004, Marilyn Carlson Nelson, chairman and former chief executive officer of Carlson, was approached by Ambassador John R. Miller to sign the Code. At the time, Ambassador Miller was leading the State Department's efforts to combat sex trafficking under President Bush.

Nelson and the company already had a history of supporting children at risk for abuse and exploitation. In 1999, Her Majesty Queen Silvia of Sweden had invited Carlson to join her and a number of corporations in establishing The World Childhood Foundation, an NGO whose very mission is to "defend the rights of the child and to promote better living conditions for vulnerable and exploited children at risk all over the world."⁴⁸

When Ambassador Miller asked Nelson to sign the Code, she was personally inclined to say yes, but she wanted to review the decision with her executive team. Discussions were complicated by concerns over potential legal exposure and public relations—the very hindrances that have kept other US companies from signing the Code. Nonetheless, the Carlson team agreed to proceed simply because they felt it was the right thing to do. Nelson reported the decision to sign the Code to Ambassador Miller.⁴⁹

Signing the Code would involve a tremendous investment on Carlson's part. With hundreds of thousands of employees at 1,300 hotels in operation and under development, and a global footprint spanning 160 countries under many brands, the training demands and logistics were massive. Carlson encompasses Radisson, Park Plaza, Park Inn by Radisson, and Country Inns & Suites. Additionally, Carlson added a clause in their supplier contracts that they would not work with companies involved in child trafficking.

Carlson's executive team embarked on the decision of signing the Code with some trepidation. They did not anticipate the response they would receive from employees and customers. "To our surprise," said Deborah Cundy, vice president, Office of the Chairman at Carlson, "things caught on fire with this issue! Employees were thrilled. Customers were thrilled. All of our fears were washed away!"⁵⁰

Stating the business case for signing the Code of Conduct, Cundy said, "To begin with, child trafficking is illegal criminal activity. We don't want that in our hotels. It endangers our employees and our guests. Also, there's just this sense of righteous indignation. There were lots of reasons not to do this, but none of them more compelling than the case to do it. We're really proud of it. We didn't do it to win accolades. But I can't tell you how

many people get in touch with me to praise our leadership. Employees feel proud...so thrilled...such expressions of gratitude.”

Elaborating on her decision to sign the Code, Nelson explained further that “it’s one more indication of moral authority. In today’s world, particularly the millennials want to feel comfortable that they’re working in an organization that lives its credo and its mission. That means that if you talk about an inclusive and respectful environment, then it’s totally consistent to want to protect and stand for human rights.”

Moreover, Nelson emphasized that trafficking is illegal regardless of sovereignty. “Businesses around the world are recognizing that corruption undermines business and trade. Taking a stand against corrupt practices supports the rule of law and court system.” Nelson pointed out that human trafficking is often conducted by organized crime. “I don’t think that any hospitality company is eager to have this take place in its establishment.” She added that the “safety and security of our employees and guests is important.” Like Cundy, Nelson noted how much pride the company’s position has engendered among employees, as well as good will among customers, partners and suppliers.

Nelson pointed out that “most companies are identifying a range of risk, particularly brand risk. I think that it’s impossible to control all of the variables when you have a global collection of hotels, but to at least have established a policy and procedure to protect against illegal activities like this is an important element of protection from brand risk.”⁵¹

Eventually, during the past couple of years, Hilton, Wyndham, and Delta Airlines have signed the Code. Hilton signed the Code a year or so after a highly publicized sex prostitution ring scandal at one of their franchise hotels in Beijing.⁵² Wyndham was introduced to ECPAT and the Code via the Interfaith Center on Corporate Responsibility, Christian Brothers Investment Services, Mercy Investment Services, and a few additional socially responsible investment companies; this underscores the importance of investors as drivers.⁵³

Wyndman signed the ECPAT Code in 2011 under pressure following a child sex trafficking scandal at a Wyndham-franchised hotel.⁵⁴ This demonstrates the power of the media and the concerns of businesses regarding investors, customers, and employees.

Hilton has 540 hotels in 78 countries on six continents.⁵⁵ Starwood Hotels and Resorts Worldwide, Inc. has 1,134 properties in nearly 100 countries and 171,000 employees at its owned and managed properties.⁵⁶ Delta Air Lines serves more than 160 million customers each year, and employs 80,000 employees worldwide, offering service to nearly 318 destinations in 59 countries on six continents.⁵⁷ The Code has far reach and impact when its six measures are implemented through all of these businesses.

According to Carol Smolenski, executive director of ECPAT-USA, additional signatories to the Code include Real Hospitality Group, a property management company, and Nix Conference and Meeting Management. “These two companies are perfect examples of the range and opportunity for businesses to be industry leaders in combatting child trafficking.”⁵⁸ The companies not only did the right thing, but benefitted their businesses by protecting and building their brands, reducing risks, elevating employee morale, and attracting socially responsible investors.

HIGH TECH COMPANIES FORMED A COALITION TO ADDRESS CONFLICT MINERALS

In the early 2000’s, Leonardo DiCaprio and other celebrities began raising awareness about endangered species, and then human rights, related to mining minerals in Central Africa. DiCaprio’s movie *Blood Diamond* provided horrific visuals connecting mass rape and murders to the sourcing of diamonds in the same region during the Sierra Leone civil war.⁵⁹

Similar violence surrounds the sourcing of rare minerals used particularly in the manufacture of electronics. High tech companies felt threatened by negative publicity in the media by “conflict minerals” and knew they had to act. The electronic industry decided to band together in collaboration with BSR, a global NGO whose mission is to work with business to create a just and sustainable world. Together they formed the Electronic Industry Citizenship Coalition (EICC), whose goal was to harmonize the standards and assessment methods they would all use to hold each other accountable for social and environmental issues. The EICC was formed in 2004 with seven members. Today it has more than 70 member companies.⁶⁰

The EICC, together with the Global e-Sustainability Initiative (GeSI), commissioned a joint study on mineral extraction associated with conflict as it relates to the electronics supply chain. The two business groups then formed a joint working group to develop a three-year action plan for a multi-stakeholder, multi-industry approach to a solution.

GeSI’s mission is to be a globally recognized thought leader, partner of choice, and proactive driver of the information and communications technology (ICT) sustainability agenda as measured by the development and use of its tools, broad member base, and contribution to relevant policies.⁶¹ The Public-Private Alliance for Responsible Minerals Trade (PPA)⁶² is another multi-stakeholder collaboration that addresses conflict minerals in the Democratic Republic of the Congo (DRC) and Central Africa.

How is this relevant to us? “Conflict Minerals are minerals mined in conditions of armed conflict and human rights abuses, notably in the eastern

provinces of the DRC. The minerals, also known as 3TG are: Tantalum (Columbite-Tantalite), Tin (Cassiterite), Tungsten (Wolframite) and Gold.⁶³

Americans use conflict minerals daily, including brushing teeth with tin (contained in toothpaste); dressing in jewelry and watches made of tin, tantalum, tungsten (the 3TG), and gold; using electronics made of the 3TG; and driving in cars made of the 3TG.

Unfortunately, many people are unaware of which products contain 3TG or where they are sourced from. As a result, it is possible to unknowingly fuel the armed conflict and human rights abuses by using 3TG.⁶⁴

Two NGOs—the Enough Project, which fights genocide and crimes against humanity in Africa,⁶⁵ and Global Witness, which runs investigations and advocacy campaigns against natural resource-related conflict and corruption and associated environmental and human rights abuses⁶⁶—along with the media, stirred public awareness about conflict minerals. Tech companies responded. The EICC formed in 2004 and soon produced the first version of the Electronic Industry Code of Conduct. The code includes expectations of suppliers across a broad range of labor and environmental issues but did not contemplate conflict minerals in its earliest forms. As this issue matured, however, EICC proved to be the ideal organization to manage conflict minerals.⁶⁷

As described by Tim Mohin, who was director of Sustainable Development for Intel at the time, “the epiphany was how to manage the issue. Not company by company. But to band together.” Today, Mohin is director of Corporate Responsibility, Advanced Micro Devices. He is the author of *Changing Business from the Inside Out: A Treehugger’s Guide to Working in Corporations*,⁶⁸ and chair of the board of the EICC.⁶⁹ Mohin shared how high-tech companies looked at the supply chain to pinpoint the choke point, which is where the smelters refine the minerals into metals.

As Deborah Albers at Dell Inc. explains, “Most companies do not have direct relationships with mining companies. Minerals are procured from multiple sources including recycled material, metal inventories, and virgin ore, and a final product may contain a number of these metals... Minerals are often mixed with recycled metals from other geographic locations and smelted together. This makes identifying the country of origin of one combined material difficult, if not impossible... These materials are not used in their raw form because they must be refined first; therefore the smelter is the right point at which to focus a common solution.”⁷⁰

As a result, explained Mohin, “we decided to approach the smelters by using an audit approach. We would require that they get their materials from conflict-free sources. For smelters that qualified, they’d be certified as conflict-free.”⁷¹

In August 2012, the Securities and Exchange Commission (SEC) issued a final rule mandated by Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule requires companies to publicly disclose their use of conflict minerals that originated in the DRC or an adjoining country.⁷²

An unfortunate consequence of the monitoring and audits was the initial avoidance of minerals derived from the DRC, which took a devastating financial toll on people in the community, particularly in 2011. While avoidance of minerals from the DRC and surrounding region is still very much an issue, there are a few multi-industry programs to source conflict-free minerals from the area, such as the Conflict Free Tin Initiative (CFTI), which launched legal mining in eastern Congo⁷³ and is expected to produce its first refined tin in 2013.⁷⁴

Companies have a self-interest in a conflict-free supply of minerals in order to produce their products, limit risk with regard to compliance and interruption of business, and protect their brands. By acting on that imperative, companies advance their profits, while promoting human rights.

COMPANIES SEEK TO ADDRESS SUPPLY CHAIN VIOLATIONS OF WORKER SAFETY AND PERSONAL SECURITY

Labor conditions and the treatment of workers present the modern global corporation with a serious human rights challenge and responsibility. Recently, highly publicized, tragic, and avoidable deaths of garment workers have brought greater public scrutiny of the condition of workers producing goods for the developed world. Some companies are beginning to take steps to address the humanitarian issues for their workers and within their supply chains. Companies are becoming motivated out of a desire to protect their brands, manage risk, and satisfy investors and customers.

Historically, a major impetus for improved worker conditions and safety has come from international quasi-governmental bodies, such as the International Labour Organization (ILO). The ILO was founded in 1919 following World War I to “pursue a vision based on the premise that universal, lasting peace can be established only if it is based on social justice.”⁷⁵ The ILO became the first specialized agency of the United Nations in 1946 with a mission to “promote rights at work, encourage decent employment opportunities, enhance social protection, and strengthen dialogue on work-related issues.”⁷⁶

The ILO’s governing body has identified eight “fundamental” conventions, addressing basic principles and rights at work, including “freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective

abolition of child labor; and the elimination of discrimination in respect of employment and occupation.”⁷⁷

Countries that ratify the conventions commit themselves to applying them in national law. In 1995, the ILO began a campaign to achieve universal ratification of the conventions. “There are currently over 1,200 ratifications of these conventions, representing 86 percent of the possible number of ratifications.”⁷⁸ The eight conventions are given below.

1. Freedom of Association and Protection of the Right to Organise Convention
2. Right to Organise and Collective Bargaining Convention
3. Forced Labour Convention
4. Abolition of Forced Labour Convention
5. Minimum Age Convention
6. Worst Forms of Child Labour Convention
7. Equal Remuneration Convention
8. Discrimination (Employment and Occupation) Convention

The fatalities and injuries due to safety hazards in apparel factories in the developing world can be understood as human rights abuses because of the tragic personal toll on the workers and their families. On May 4, 2013, following the Rana Plaza Building collapse in Bangladesh that claimed over one thousand lives,⁷⁹ the ILO High Commission issued a statement committing its tripartite partners (governments, employers, and workers) “to increase their efforts to provide every single worker in Bangladesh with a safe work place, and to ensure workers’ rights and representation, regardless of whether that work place may be a garment factory, a retail shop or a bank.”⁸⁰

In May 2013, Abercrombie & Fitch became the second major American retailer—joining Phillips-Van Heusen, owner of Calvin Klein, Tommy Hilfiger, and Izod, which had signed on a year earlier—to sign an agreement to improve factory safety in Bangladesh. As reported in the *Financial Times*, the agreement had already been signed by 35 major European retailers and brands, including including H&M, Carrefour, Mango, Primark, Marks & Spencer, and Inditex, the parent of Zara.⁸¹

“Under the legally enforceable plan, retailers and apparel companies have committed to having rigorous, independent factory inspections, and to helping underwrite any fire safety and building repairs needed to correct violations.”⁸² As of May 2013, Gap has been reluctant to sign due to concerns about legal liabilities. Walmart has also been hesitant to agree.⁸³

US retail companies are facing pressure from the media, US lawmakers,⁸⁴ and citizen campaigns to sign the agreement.⁸⁵ Moreover, two investors—the

Amalgamated Bank LongView Funds, and the Interfaith Center on Corporate Responsibility—together representing a total of \$2.45 trillion in assets—called on American companies like Walmart, Target, Sears, and Gap to join the accord to ensure compliance with safety standards in Bangladesh and to disclose all of the factories they use.⁸⁶

Additional investors that have signed letters to US retailers urging them to sign include Boston Common Asset Management, Christian Brothers Investment Services, Domini Social Investments, Trillium Asset Management, and Wespeth Investment Management, investing on behalf of the United Methodist Church.

Investors recognize the power of companies in addressing these vital human rights issues. At the same time, these investors are exercising their influence to pressure businesses to advance progress. As reported in *The New York Times*, these investors wrote in their letter: “Acting alone, companies can and do bring about meaningful and positive changes in human rights in the countries where they source and manufacture. But when faced with intransigence of the type we have historically seen in Bangladesh on worker safety issues, we are convinced that systemic change will only occur when companies take action together.”⁸⁷

A few companies have begun to lead the way in addressing human rights issues for workers in the developing world by engaging with NGOs and quasi-governmental partners. This is an ongoing story.

COMPANIES PURSUE PROTECTIONS OF FREEDOM OF EXPRESSION AND PRIVACY ON THE INTERNET

On March 12, 2013, Google disclosed that in prior years, it had been gathering private passwords, e-mails, and other personal information from unsuspecting individuals in the course of creating online maps in 38 US states.⁸⁸ Who else might be invading your email or listening in on your mobile calls? What data is being collected about your medical and mental health, and your personal buying habits, and how is it being bought, sold and shared?⁸⁹ What personal information do we reveal about ourselves without realizing how it might be used by data collectors?⁹⁰ In what parts of the world must you be cautious about what you say online and the ramifications?

The way in which governments have used the Internet as a tool to repress freedom of expression is a grave concern. According to Amnesty International, “the Internet itself can become a tool of repression where the monitoring of communications, the censoring and filtering of information and the amassing of immense databanks of information enhance the ability of repressive governments to restrict the freedoms and basic human rights of their citizens.”

The Chinese government has done so with the cooperation of global corporations.⁹¹ In a widely publicized case, China sentenced Shi Tao, a Chinese poet and journalist, to ten years in prison for sending an email to the United States. By Yahoo!'s own admissions, Yahoo! China provided account-holder information, in compliance with a government request, that led to Shi Tao's sentencing.⁹²

Global corporations are finding that coalitions can effectively address vital global challenges. In the case of freedom of expression and privacy on the Internet, China is only part of the problem. It is much bigger. "When we first established the Global Network Initiative (GNI)," said Dunstan Allison-Hope, "everyone assumed it was about China. People referred to it as 'the China Initiative.' Then came the Arab Spring, and restrictions on Internet use in many other countries. Now people see that freedom of expression and privacy on the Internet is a global issue, even here in the United States."

Hope is managing director of Advisory Services at BSR, which co-facilitated the GNI into existence. The GNI is a multi-stakeholder group, including companies, NGOs, investors, and academics, whose mission is to protect and advance freedom of expression and privacy in information and communications technologies (ICT).

Interestingly, government is not invited to the table with the GNI, Hope said. "With the issues we deal with, governments are the ones undertaking surveillance or mandating censorship and filtering, so for many people government is part of the problem not the solution."⁹³ Hope is the author of *Protecting Human Rights in the Digital Age*.⁹⁴

According to chief privacy officers at ICT companies, the ability of a company to ensure its consumers of the privacy of their data puts a company at a competitive advantage. As reported by Somini Sengupta in the *New York Times*, "established companies are trying to gain market advantage by casting themselves as more privacy-friendly than their rivals."⁹⁵ In her article, "Web Privacy Becomes a Business Imperative," Sengupta described the security measures that were discussed at a gathering of Internet and ICT companies in San Francisco in early March 2013. People from Apple, Facebook, Microsoft, Google, and Mozilla shared new approaches to help their customers protect their privacy. "They're [customers] asking for a different level of privacy on your service. You have to listen to that. It's critical to your business," said Alex Fowler, Mozilla's chief privacy officer.⁹⁶

When asked about the motivation of businesses to promote freedom of expression and privacy on the Internet, Hope explained that this position is "consistent with the UN Guiding Principles on Business and Human Rights that it is the responsibility of business to respect human rights." Additionally, he believes that companies seek to protect the rights of their users and

customers. “It is in the interests of their users—and therefore of them as companies—that strong privacy and freedom of expression protections exist globally, and the GNI is one mechanism to help try to achieve that. The ICT companies exist to promote freedom of expression, not restrict it, and to help their users communicate without interference from governments.”⁹⁷

Demonstrating the concern of corporations for freedom of expression and privacy on the Internet, the following eight companies recently decided to collaborate with the GNI’s initiative to exchange best practices, learning, and tools: Alcatel-Lucent, France Telecom-Orange, Millicom, Nokia Siemens Networks, Telefonica, Telenor, TeliaSonera, and Vodafone.

“This is a positive step from some of the world’s largest companies providing communications and Internet access to consumers around the world, and we hope that this effort will lead to full implementation of human rights standards through membership in GNI,” said Arvind Ganesan, director of business and human rights at Human Rights Watch, a member of the GNI. “This is an opportunity for GNI to learn from telecom companies about the complex human rights challenges they face and for them to learn from GNI about how they can develop an accountable system to safeguard human rights.”⁹⁸

Another multi-stakeholder group in this arena is the Center for Democracy and Technology (CDT),⁹⁹ whose mission is to conceptualize and implement public policies that will keep the Internet open, innovative, and free. CDT deals with matters such as the Cyber Intelligence Sharing and Protection Act, or CISPA, a bill that was reintroduced into the House on February 13, 2013. CISPA “allows private Internet communications and information of American citizens to go directly to the NSA, a military intelligence agency that operates secretly with little public accountability,” according to CDT president Leslie Harris. “Once that private information is in the hands of the military, it can be used for purposes completely unrelated to cybersecurity.”¹⁰⁰ CDT also deals with privacy of personal health data,¹⁰¹ and freedom of expression on the Internet.¹⁰²

A third nonprofit that addresses freedom of expression and privacy on the Internet is the Berkman Center for Internet and Society at Harvard University. The Berkman Center’s mission is to explore and understand cyberspace, to study its development, dynamics, norms, and standards, and to assess the need or lack thereof for laws and sanctions.¹⁰³

Protecting privacy on the Internet is challenging for ICT companies, given the demands placed on them by governments to reveal personal information about their users. You might imagine that more totalitarian governments placed demands on ICT companies for personal user data. In fact, however, “the countries that made the most requests and received information from Microsoft for Skype noncontent information last year, in descending

order, were Britain, the United States, Germany, France and Taiwan, which together accounted for about 80 percent of the requests,” according to the *New York Times*.¹⁰⁴

“Noncontent information” is defined as an account holder’s name, sex, email address, IP address, country of residence, and dates and times of data traffic, whereas “content information” is described as actual content of a communication, like the subject heading of an email, the contents of an email, or a picture stored on SkyDrive, its cloud computing service.

While companies might be required to comply with law enforcement requests, they are stepping forward to disclose information to the public about such requests. In fact, the *New York Times* article reported that Microsoft was joining the ranks of Google, Twitter, and other Web businesses in disclosing the number of requests it had received from government law enforcement agencies for data on its hundreds of millions of customers around the world. Microsoft said it planned to update its transparency report every six months.

Both the Center for Democracy and Technology (CDT) and The Internet Association celebrated a victory in April 2013 when the Senate Judiciary Committee passed the Electronic Communications Privacy Amendments Act (ECPA) of 2013. The Internet Association represents the interests of America’s leading Internet companies, such as Amazon, Google, Facebook, and Expedia. The Internet Association is “dedicated to advancing public policy solutions to strengthen and protect Internet freedom, foster innovation and economic growth, and empower users.”¹⁰⁵ Passage of the ECPA is regarded as a significant step “to ensure emails and documents we store in the cloud receive the same Fourth Amendment Protections as postal mail and documents we store in desk drawers in our homes,” said Greg Nojeim, senior counsel at the CTD.¹⁰⁶

Companies are advancing the important human right of free expression. This protects their customers, serves the core business values, and promotes its competitive position in the marketplace.

**THE UNITED NATIONS GUIDING PRINCIPLES PROVIDE A
FRAMEWORK FOR COMPANIES TO DEFINE THEIR HUMAN
RIGHTS RESPONSIBILITIES AND ASSESS THEIR IMPACTS**

Human trafficking, freedom of expression and privacy on the internet, and conflict minerals are just a few human rights issues where corporations have opportunities and responsibilities. “How does a global company with the breadth of operations of Microsoft talk about human rights? How do we protect the rights of users? Supply chains? How do we get our arms around

these issues? These are the questions we were asking,” explained Dan Bross, senior director, Corporate Citizenship, Microsoft. “On June 16, 2011, the Ruggie Principles provided clarity,” Bross continued, referring to the United Nations Guiding Principles. “That gave us the framework that we needed to think about our responsibilities.”¹⁰⁷

By early 2013, more than 10,000 business and non-business entities from 145 countries worldwide are participating in the Global Compact. The Guiding Principles further clarify a company’s human rights obligations under the Global Compact.¹⁰⁸

Microsoft signed onto the Global Compact in 2006. When the Guiding Principles were issued by the United Nations in 2011, Microsoft tasked Bross to form and lead a cross-company working group to develop the company’s human rights statement and related work. Bross worked with the company’s business segments to define the company’s responsibilities within its supply chain—to respect Microsoft’s users and employees.

“We looked at our mission and our responsibilities as a corporate citizen and came up with a statement which is now online,” he said. The statement reads as follows: “Our commitment to respect fundamental human rights of our employees, people working for our suppliers, and our customers reflects Microsoft’s company mission to help people and businesses throughout the world realize their full potential.”¹⁰⁸ The statement continues on to commit to the Guiding Principles.¹⁰⁹

The statement concludes by noting that: “To help advance the thinking and discussion in the area of ICT [information and communications technology] and human rights responsibilities and commitment, we established a Technology and Human Rights Center.”¹¹⁰

Once committed to the Guiding Principles, Microsoft moved forward to assess the human rights impacts of its operations on an ongoing basis through a Human Rights Impact Assessment (HRIA) process. BSR says that an HRIA is “part of every company’s responsibility to treat all human beings with respect and dignity.” BSR anticipates that “HRIAs will become a key component of companies’ strategies for new product development, market entry, and other key business decisions.”¹¹¹ Microsoft is working with BSR to develop its human rights impact assessment approach based on the company’s commitments and responsibilities.¹¹²

Bross cautions that some companies are afraid of exposing risks through the human rights assessment. His view, however, is that “it’s already a corporate responsibility to assess risk. We’re merely adding human rights. This work is a journey, not a destination. We as a company are seeking to institutionalize, systematize, synthesize, and operationalize human rights issues... to figure out the human rights checklist we need to go through when developing

new products, devices, and services. This is just part of a system of doing business.”

“It’s the government’s responsibility is to *protect* human rights, but it’s the company’s responsibility is to *respect* human rights,” Bross pointed out. “The Guiding Principles gave us the framework to fulfill that responsibility.” He also noted that adherence to the Guiding Principles is voluntary, although companies are judged in the court of public opinion based on their respect for human rights. Bross also commented on the role of NGOs and the media in holding companies accountable for meeting their social and environmental responsibilities.¹¹³

BSR finds that companies benefit from the results of the human rights impact assessment as well as the process itself. “We have found that the process of conducting an HRIA can help build internal capacity, strengthen stakeholder relations, and yield important insights into the effectiveness of existing company policies, processes, and tools,” according to the BSR report.¹¹⁴

Additional benefits to companies that perform human rights impact assessments include maintaining a good reputation, identifying and managing risks, creating a legal and social license to operate, increasing the motivation and productivity of workers, understanding the society in which the company works, attracting investors, and advancing sustainable development.¹¹⁵

“The HRIA process serves as a key tool for Microsoft to develop a strong point of view and strategy on human rights,” Bross said. “Aligning the HRIA with the company’s strategy and human rights principles resulted in clear, actionable recommendations that enabled Microsoft to manage its risks and maximize its opportunities for positive impact.”¹¹⁶

COMPANIES RECOGNIZE THAT THE GOLDEN RULE IS GOOD FOR BUSINESS AND A BETTER WORLD

As employers of tens of millions of people worldwide, purchasers at the tops of massive supply chains, and owners of vast global property and agribusinesses, global corporations affect the rights of many people who live on this planet. Laws and the commitment to enforcement vary from one country to another. Multinational corporations, however, are in a powerful position to respect—and even sometimes to protect—human rights throughout the world. The voices of customers, employees, and investors matter. Companies can increase their profits while improving the human condition.