

HOW DO WE MAKE IT REAL?

5. Coming to grips with implementation – views and challenges of the stakeholders

Sune Skadegard Thorsen, attorney at law, Denmark, talked about the business perspective (a powerpoint presentation is available from Peter Pennartz at IRENE). He said that communicating the Norms to business is a challenge. The triple bottom line approach is understood by business and this is a useful way for them to think about the Norms and frame their responsibilities.

PEOPLE	PLANET	PROFIT
Social	Environment	Economics
International Bill of Human Rights	Johannesburg Action Plan Rio Declaration UN Biodiversity Convention UN	International Accounting Standards Anti-Corruption & Bribery Convention

Companies will never accept responsibility for all human rights. Some, like environmental issues, are highly contentious and there are other obligations, that States do not adhere to, for which it would be impossible to make companies liable.

Eighty percent of his work with business is raising awareness. Companies need basic human rights explaining. There is a need to demystify what they are and explain what the impact would be on companies if they ever became liable. No-one in business wants to be in conflict with human rights – it is just that they need informing about them.

Professor Alan Miller, Business Leaders Initiative on Human Rights, talked about this three-year programme to help lead and develop the corporate response to human rights. It aims to explore a common language and framework and consider what the shared responsibilities are.

BLIHR took a problem solving approach to look at the benefits of the Norms to companies. Each of their eight member companies is participating in a range of projects. Some projects look at how the Norms affect individual companies, others look at the effect on the sector and others look at the broader governance issues.

Member companies are:
ABB - project: taking a case in a certain country to see to what extent adoption of the Norms would contribute
Barclays PLC – project: looking at other instrument compared to UN Norms
Hewlett Packard – project: looking at supply chain issues
MTV Networks Europe
National Grid Transco plc
Novartis
Novo Nordisk – project: looking at management systems along the Norms
Body Shop International – project: researching UN Norms vs. GRI

There are two more years for the projects to develop with a report being published on 10 December 2004 (Human Rights day) and an interim report due next year.

The company views:

AkzoNobel: The company has a lot of hesitation about the UN Norms because they are abstract. Explaining the huge range of issues and implications to the Board would be impossible. The Norms would be easier to accept if they were more focussed and it was clear who would enforce/ monitor them and what the sanctions are.

How can we improve the Norms? There is a need to sit together and look at each one. What does each one mean for each of the stakeholders? Only communication and dialogue will achieve Norms that are acceptable.

ING Group: Business principles talk about human rights and although this is voluntary it does not mean that business does not want to follow them.

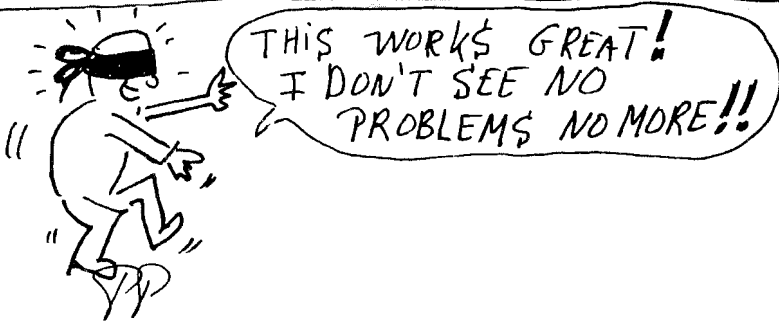
Ahold: There is a feeling in the company that although the UN Norms have been put together, no-one knows what they will do. There is also confusion about the role of companies' own business principles and whether they will cover them under the Norms. Company business principles are based on their priorities – for example, Ahold is a retailer so the issues are about suppliers not about all human rights issues.

How will companies be judged by the Norms – will it be on their effort or on the amount of control they have? "This lack of clarity creates fear."

The issues raised by the companies centred the discussion on how companies deal with compliance on human rights. The point was made that they currently only concentrate on rights that they identify they can deal with (ie. gain value from their CSR initiatives). This raises the question of how companies make their compliance systems work so that they comply with all of the Norms.

The discussion moved on to consultation and there was feedback that business is critical of the lack of consultation by the Sub-Commission. A "formal consultative" process was proposed which establishes a framework for business to look at the Norms in detail.

A NEW MONITORING MECHANISM:



• If the Norms are clarified, will businesses support the monitoring mechanisms?

One company expressed support – that if companies were participating, they will want to be involved in monitoring – but questioned what this would be. The discussion also focussed on the difficulty of getting change in companies, even with the majority in support.

The Norms were also seen as an opportunity for business. They are currently investing heavily in internal monitoring but the Norms would move some of this obligation to an international monitoring system. However, another participant said that third party monitoring would be more objective. Monitoring does not have to be a UN responsibility.

One company said it is a task for progressive companies to explain the UN Norms to other businesses not present at the meeting. There is a need to clarify and make it attractive for business to participate. It was also noted that there was a need to be careful that those companies that do officially try and improve, do not get all the bad publicity whilst others hide.

In summary, the key message seemed to be that the only way to develop clarity about human rights is through constructive engagement.

The views from the South

Yin Shao Loong, Friends of the Earth / Malaysia.

Yin Shao Loon's presentation argued that the Norms would help protect local communities from bad company practices that affect the environment. He cited a case taken up by FOE Malaysia where hydrogen sulphide gas emissions from a rubber factory were causing severe health problems in the local community saying that this would not have happened if the Norms were in place.

He emphasised the need to take the Norms forward, stressing that the obligation to act is paramount.

Usha Ramanathan, India, made the case for international law and cited the Bhopal case as an example of why this is necessary. She felt that there is a fundamental problem over jurisdiction.

Large corporations have a huge influence over municipal laws which makes it even more important that international law sets standards. In addition, MNCs use the threat of withdrawing from countries to prevent governments

from acting. She argues the need for different ways to curb these practices.

There are also a host of other issues including child labour, unionisation, occupational health, environmental free riding etc, which have not moved forward either and she asks finally, "What do we mean when we say we want corporations to respect and protect and fulfil these human rights?"

Elijah Munyuki, SEATINI, Zimbabwe, commented on how business profits are up 900% in the harsh economic and political environment of Zimbabwe. There are allegations of unethical business practices and a lack of respect for legal processes. There are many states with similar problems across Africa and Western MNCs are seen as part and parcel of bad governance. He sees the possibility of a system to enforce business standards as very attractive.

Businesses in Zimbabwe are asking what the Norms will mean and also question what they mean for indigenous MNCs. He sees the need to build capacity within African professionals to raise awareness of CSR – in particular the UN Norms and asks whether the International Bar Association (IBA) is interested in doing this work in Zimbabwe or in the region.

Viraf Mehta, Partners in Change, India, recognised the perceived failure of CSR and voluntary approaches in Northern countries and pointed out that India has only been dealing with this for 5 years and has not got far in the process. Very few companies in India have even heard of the Norms.

Asian countries supported the Global Compact and Millennium Development Goals which had something visible at the centre that would do something about poverty. There was a belief that working together with companies on business in the community initiatives would lead to monitoring in the long term.

Now there is suspicion about what the UN Norms actually intend – he feels that they fail to see how the voluntary approaches move on to corporate accountability. The UN needs to come up with something that makes business a partner in this pro-poverty agenda. Business needs to make the move from looking at the symptoms of poverty to looking at the underlying reasons for why it exists.

He feels that specific standards for sectors are more relevant and companies find these easier to deal with and he is not convinced that the UN has done enough to make the State more accountable.