

The “Business Case” for Corporate Responsibility

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The “business case” for social responsibility was always weak. But, with the UN Guiding Principles on Business and Human Rights, the focus on adverse impacts on human rights has fundamentally changed the context for the business case. Even before this important advance in the way that business responsibility is seen, many businesses had abandoned the concept (and many had never embraced it).

The business case was compatible with “Washington consensus” thinking of getting government “out of the way and, in effect, privatising public responsibilities. It was a modern form of the “withering away of the State” philosophy. Binding rules were necessary to facilitate the global operation of business, protect property rights and to globalise financial markets, but binding global human rights, social, and environmental rules were to be fended off by corporate social responsibility.

Many businesses never accepted the notion that business could or should replace the governance role of the State. The Guiding Principles clarify the roles and relationships and have also eliminated a lot of excuses. Weak governance is no longer an excuse for business acquiescence in the violation of human rights. And, governments cannot shift their responsibilities to business. And, if one is sensitive to human rights, rule of law becomes broader than protecting property rights.

One problem with the business case, of “doing well by doing good”, is that it assumes that by seeking the best return as part of a “triple bottom line” approach, one would naturally respect human rights. At best, that risks confounding the sustainability of the enterprise with the sustainability of society or with sustainable development.

The main weakness of the business case for respect for human rights is that it is also possible to make a business case for violating human rights. In some industries, it is even difficult to make any other argument. Given the history of the flight of the garment industry away from decent conditions and workers’ rights, one cannot credibly argue that the industry inherently respects human rights. Indeed, the sad history of workers in that sector would argue that, without credible global action by government, it will be impossible to rescue workers from their desperate situations.

How many workers have to faint on the job from hunger or be consumed by fires before global action will be taken? At least, the fire at the Triangle Shirtwaist factory in New York in 1911 led to protective legislation and spurred the growth of the International Ladies Garment Workers’ Union. But, of course, that progress evaporated when exposed to the heat of the global economy.

The experience in recent decades in the garment industry shows that the global economy produces human rights dead ends. The market creates competitive pressures that may have value in terms of prices or generating healthy dividends; but it neither produces human rights nor leads to their respect.

The market does not, inherently, bring social justice or equality, quality of life, the respect of rights or democracy. And, it does not clean up after itself. That is why government that functions is necessary. And, government and society have to insist that business respect human rights obligations.

Building any system of liberties requires power to be limited. That is true whether it is the power of private parties or of government itself. Government laws and regulations count, but so do the expectations of public authorities.

With respect to legal obligations, most businesses would be reluctant to openly argue the business case for obeying the law or subjecting the value of respecting the law to a cost-benefit analysis. Similarly, it should be seen as unacceptable to make the business, rather than the human rights case for honouring rights obligations

Although public intervention remains weak at the global or regional levels, in some cases undermining national efforts, there is some important progress, including through inter-governmental measures such as the updated OECD Guidelines for Multinational Enterprises.

Although the market may be morally neutral, it and its actors are not subject to pressures from government alone. They can also be influenced by rights-holders.

Rights-holders can be an offsetting force to corporate power provided that their rights are protected. That is why those who struggle for human rights mobilise to get governments to protect and guarantee their rights.

Individually, rights holders may be able to call attention to rights violations, often by being visible victims, but it is when they come together collectively to express, promote, pursue and defend common interests that they are most likely to be heard. That “coming together”, that shift from being victims to being actors, is through the exercise of freedom of association; a right closely linked with the right of assembly and freedom of expression.

Freedom of association is an “enabling right”, in other words, it is a right that, when exercised, enables people to protect other rights. It is a right on which the existence of civil society and democracy depend. The principle of freedom of association, however, is most clearly defined in the right of workers to form and join trade unions. When coupled with the right to collective bargaining, it provides sustainable protection for workers’ rights.

If trade union rights are understood, it is easy to make a [human rights argument](#) for their respect. For companies that are interested in carrying out their responsibilities and

obligations to respect human rights; those rights are relevant to both due diligence and remedy.

As is true for governance questions, national action alone is often insufficient if one seeks to respect workers' human rights. At the global level, company relationships with Global Union Federations (GUFs) can help support the respect and remedy pillars inside the company and in business relationships. In many cases, negotiated [global agreements](#) can facilitate that process.

With the adoption of the Guiding Principles, one must make the "human rights case" and figure out how to incorporate it into the cultures and daily operations of businesses. Focusing seriously on the three pillars of the Framework will, inevitably, "crowd out" the business case. When that happens, it will remove a barrier to understanding and implementing the Guiding Principles.