



note: The Business & Human Rights Resource Centre has submitted this document to the UK Parliament's Joint Committee on Human Rights in response to their call for evidence.

Presentation to the United Kingdom Parliament Joint Committee on Human Rights

Mini-conference on business and human rights, 25 February 2009

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The purpose of this mini-conference was "to give the Committee an opportunity to gather information about business and human rights, and to shape the Call for Evidence for the Committee's future Business and Human Rights Inquiry".

The agenda:

13.40 – 13.45 *Welcome by the Chair*

13.45 – 14.20 *Presentations*

- *Christopher Avery, Business and Human Rights Resource Centre*
- *Richard Baron, Institute of Directors*
- *Hannah Ellis, the Corporate Responsibility Coalition (CORE)*

14.20 – 15.30 *Round-table discussion*

We congratulate the Joint Committee on undertaking this inquiry. This is one of the most important fields of human rights, and there is much work to be done.

I have been asked to provide a brief overview of some international developments in this field.

The charity I direct (Business & Human Rights Resource Centre), headquartered in London, has developed an independent, online hub that pulls together in one place information on this subject from across the world. Our aim is to encourage a constructive debate and informed decision-making, and to promote respect for human rights by business. We cover more than 150 issues in over 180 countries, and we track reports on the human rights impacts (positive and negative) of more than 4000 companies. We have regional researchers based in Hong Kong, India, South Africa and Ukraine – soon also in Senegal.

UK organizations

One advantage you have is that the UK has been somewhat in the forefront of business & human rights debates, and there are many NGOs, businesses and others in the UK whose work and thinking will be helpful to the inquiry.

Ten years ago few NGOs had the private sector on their radar. Particularly over the past five years a number of UK-based NGOs have given much attention to business & human rights issues, including ActionAid, Amnesty International, Anti-Slavery International, CAFOD, Christian Aid, CORE Coalition, Cornerhouse, Environmental Justice Foundation, Friends of the Earth, Global Witness, Greenpeace, Human Rights Watch, International Alert, Oxfam, Pesticide Action Network, Rights & Accountability in Development, Save the Children, Survival International, War on Want, WWF – and many others. Labour organizations such as the TUC have done the same.

Corporate responsibility organizations such as International Business Leaders Forum have done considerable work on these issues over the years, including producing many learning tools for business.

UK businesses and business organizations have become much more engaged in these discussions over recent years. For example, Barclays, Body Shop and National Grid have taken part in the Business Leaders Initiative on Human Rights, a group of companies working with Mary Robinson and others to operationalise human rights in their core business. BP developed a human rights training guide for its managers. Many UK companies participate in the UN Global Compact. Over half of the FTSE 100 companies have adopted a formal [human rights policy statement](#) – I believe this is the highest percentage of any country.

Continuing concerns

Despite clear progress, there are many challenges, and while my colleagues and I increasingly post on our website reports of positive human rights initiatives by business, much of our time is spent posting reports of alleged abuses by companies.

Civil society in developing countries

One of the most important developments over the past five years has been that NGOs and community groups in developing countries have been giving much more attention to human rights issues relating to the private sector. But too often their voices are left out of debates in Europe and North America. I hope your inquiry will find ways to include input from those in developing countries who have been affected by the operations of UK companies.

The work of John Ruggie

John Ruggie was appointed in 2005 by Kofi Annan as Special Representative of the UN Secretary General on business & human rights. He is a Harvard professor of international relations who directed the Center for Business and Government at Harvard's Kennedy School of Government, and had served as an Assistant Secretary-General of the United Nations.

Professor Ruggie's 28-page [2008 report](#) starts off with a frank recognition of the problems in this field:

"The root cause of the business and human rights predicament today lies in the governance gaps created by globalization. These governance gaps provide the permissive environment for wrongful acts by companies without adequate sanctioning or reparation. How to narrow and ultimately bridge the gaps in relation to human rights is our fundamental challenge."

His report puts forward a three-part framework:

- *the State duty to **protect** against human rights abuses by business*
- *the corporate responsibility to **respect** human rights*
- *the need for greater access by victims to effective **remedies***

[Addendum 2](#) of his report summarized the scope and patterns of alleged corporate-related human rights abuse found in a sample of 320 cases posted on the Business & Human Rights Resource Centre website from February 2005 to December 2007. Professor Ruggie noted that all industry sectors were alleged to impact human rights, and impacts were alleged to occur in all regions. He found that corporations are alleged to have impacted the full range of human rights: civil, political, economic, social and cultural.

The UN Human Rights Council was unanimous in welcoming Ruggie's framework and in extending Ruggie's mandate for another three years, asking him to focus now on operationalising this framework, by providing more concrete content and guidance for states and companies.

Since being appointed Professor Ruggie has convened a total of about 15 multi-stakeholder consultations on five continents and conducted more than 25 research projects – the reports of

these consultations and research projects, and commentaries by NGOs about John Ruggie's work, should be very useful to your inquiry. One example of a specialised initiative feeding into Professor Ruggie is the work being done by Caroline Rees (who is here today) on non-judicial remedies, i.e. how various forms of conciliation and mediation might help resolve conflicts between business and affected communities.

Two recent comments by John Ruggie make important points in relation to the government's duty to protect against human rights abuses by business:

- "Governments should not assume they are helping business by failing to provide adequate guidance for, or regulation of, the human rights impact of corporate activities. On the contrary, the less governments do, the more they increase reputational and other risks to business."
(John Ruggie's [2008 report](#) to UN Human Rights Council, 3 Jun 2008, paragraph 22)
- "Governments are the most appropriate entities to make the difficult balancing decisions required to reconcile different societal needs. Yet, as I noted earlier, most governments, whether host or home states, take a relatively narrow approach to managing the business and human rights agenda. Often human rights concerns are kept apart from, or heavily discounted in, other policy domains that directly shape business practices, including commercial policy, investment policy, securities regulation, and corporate governance... Therefore, the human rights policies of states in relation to business need to be pushed beyond their narrow institutional confines. Governments need actively to promote a corporate culture respectful of human rights at home and abroad. And they need to consider human rights impacts when they sign trade and investment agreements, and when they provide export credit or investment guarantees for overseas projects in contexts where the risk of human rights challenges is known to be high."
(John Ruggie [speech](#) at 3rd Annual Responsible Investment Forum, New York, 12 Jan 2009)

Some recent initiatives by other governments

Canada

A Canadian Parliamentary Standing Committee tabled in 2005 a [landmark report on Mining in Developing Countries and Corporate Social Responsibility](#). The report recommended that the Canadian Government move away from its current voluntary approach to CSR. It called for policies that condition public assistance for Canadian companies on compliance with international human rights and environmental standards, including core labour rights. The report also identified the need for legislation that holds companies accountable for their actions overseas. That Canadian Parliamentary Committee held public hearings on the subject. They also held special hearings where they heard from representatives of victims and affected communities in developing countries – these special hearings were held in camera in order to ensure the security of those testifying.

The Canadian Government failed to adopt the majority of the recommendations put forward by the Parliamentary Committee, but did commit to hosting a series of national roundtables with the aim of identifying ways for Canadian companies to meet or exceed international standards and best practices. The Canadian Government then sat down with business and civil society to write a concluding document to the roundtables – eventually the government pulled out of this process, but it is interesting to note that that business and civil society continued working together on this, and agreed to an outcome document: an Advisory Group [report and recommendations to the government](#) issued in March 2007, which includes summaries of the national roundtables.

Recommendations from that document or from other Canadian initiatives include calls for the establishment of:

- a Canadian ombudsperson on business & human rights;

- multi-stakeholder advisory committees to the government, each committee to include civil society and business representatives and to focus on one sector (e.g. extractive industry, financial industry, IT industry);
- guidelines specifying when the government would withdraw support from a particular company, including loans or export credits and guarantees.

Denmark

Denmark recently adopted a [law requiring corporate social responsibility reporting](#) by its 1100 largest companies.

Netherlands

The Dutch Government has adopted a [national action plan](#) for [sustainable public procurement](#), which provides that from 2010 environmental and social criteria will apply to all public procurement. Public bodies will need to ensure that their purchasing is from companies with supply chains that respect criteria including core conventions of the International Labour Organization (relating to freedom of association and collective bargaining, child labour, forced labour, etc).

In relation to the OECD Guidelines for Multinational Enterprises, since 2007 the Dutch National Contact Point has been, as stated on [its website](#), “an independent body, comprising four independent members from various fields and four official representatives from different government ministries.”

Norway

The Norwegian Government has just adopted a [100-page white paper on Corporate Social Responsibility](#), which frames the responsibilities and dilemmas of companies. It gives special attention to subjects such as the challenges involved in operating in conflict zones, and issues relating to indigenous peoples. The paper also proposes strengthening the National Contact Point system of the OECD Guidelines for Multinational Enterprises.

Switzerland

The Swiss Government generally, and the Swiss Federal Department of Foreign Affairs particularly, have given much attention to business & human rights issues.

One of the Swiss Government’s initiatives, launched with the International Committee of the Red Cross in 2006, resulted in the “[Montreux Document](#)” on private military and security companies (PMSCs), finalised in 2008. This document was developed with the participation of governmental experts from 17 countries including the United Kingdom. So far [20 countries](#), including the UK, have agreed to the Montreux Document.

The [Montreux Document is described on the ICRC website](#) as follows: “The Montreux Document reaffirms the obligation on States to ensure that private military and security companies operating in armed conflicts comply with international humanitarian and human rights law. The document also lists some 70 recommendations, derived from good State practice. These include verifying the track record of companies and examining the procedures they use to vet their staff. States should also take concrete measures to ensure that the personnel of private military and security companies can be prosecuted when serious breaches of the law occur.”

United States

A draft law was introduced in the last session of the US Congress, the [Global Online Freedom Act](#), which, according to a [2 May 2008 analysis](#) of the bill by the non-profit Center for Democracy & Technology, would mandate “that U.S. Internet companies take certain actions to combat censorship and protect personal information, or otherwise be subject to criminal or civil

prosecution...or civil lawsuits brought by private litigants.” According to a [1 May 2008 report](#) by the technology news website Ars Technica, “the Act appears to be a direct response to the furor over Yahoo’s involvement in outing a number of Chinese dissidents to the government, resulting in their arrest and imprisonment.” The proposed law has not yet been adopted.

The reality of how UK companies are impacting human rights on the ground

The cases mentioned in this section are drawn from the following [charts available on our website](#) covering companies in all countries:

1. *Companies we invited to respond to concerns in our Updates – indicating the country and issue, and whether or not the company responded (Feb 2005 to present)*
2. *Positive human rights initiatives by companies featured in our Updates (Feb 2005 to present)*

We have also produced two UK-specific charts that include the cases mentioned below and others concerning companies headquartered in the UK:

1. [UK companies we have invited to respond to concerns](#)
2. [Positive human rights initiatives by UK companies](#)

First I want to point to examples of positive initiatives by UK business that we have drawn to international attention on our website:

- **Accenture** has been involved in the China Health Alliance, a partnership against TB and AIDS.
- **Anglo American** now ties managers' promotions to their safety record, in an initiative to achieve zero deaths at its mines.
- **Anglo American** and **Rio Tinto** announced that they would require Chinese joint venture partners in Africa to pledge adherence to human rights and environmental standards.
- **Barclays** and **Lloyds TSB** were among the top 5 firms in Stonewall's workplace equality index ranking gay-friendly employers.
- **C&A, Marks & Spencer** and **Tesco** announced that they were taking measures to exclude Uzbek cotton from their products.
- **Diageo** was among 10 companies receiving awards in Nigeria for initiatives to help achieve the UN Millennium Development Goals.
- **G4S** recently signed a global agreement with Union Network International on labour rights.
- **GlaxoSmith-Kline's** CEO last week pledged a major new initiative to cut prices of medicines for the poor, and challenged other pharmaceutical firms to follow suit.
- **Tate & Lyle** sugar became the largest UK Fairtrade firm.
- **Unilever** worked with Oxfam to come up with a joint report on how Unilever's business impacts poverty in Indonesia, positively and negatively.
- **Vodafone** Foundation and UN Foundation joined in an initiative to improve health in poor countries through access to data.
- **Waitrose** has focused on letting farmworkers make the decisions in social, educational and health initiatives funded by the company.

One section of our site, the [Corporate Legal Accountability Portal](#), profiles human rights lawsuits against companies, including the following ones brought against UK companies with mixed results:

- **Anglo American** was sued in South Africa by former gold miners suffering from silicosis.
- **Anglo American, Barclays, BP, NatWest** (part of **Royal Bank of Scotland**) and **Rio Tinto** were among the companies sued in the US for apartheid reparations.
- **BP** was sued in the US by a group of Inupiat Eskimos in Alaska, alleging that BP's activities would destroy their traditional way of life.
- **BP** was also sued by Colombian farmers in the English High Court alleging that an oil pipeline caused severe environmental damage to their lands.
- **British American Tobacco** was sued in Nigeria by the federal government and an NGO alleging that it was marketing its tobacco products to under-aged persons.
- **Cape plc** was sued in the UK by workers suffering from asbestos-related disease who had not been given adequate protective gear.
- Private security firm **Erinys** was sued in UK over the shooting of civilians in Iraq in disputed circumstances.
- **Rio Tinto** was sued in the US court by residents of Bougainville, Papua New Guinea, alleging that the firm was complicit in human rights abuses by the army, harmed their health; and engaged in racial discrimination against black mine workers.

UK lawyers representing victims in these cases would like to see a review of UK company law so as to make it simpler for a parent company to be held responsible for the human rights abuses committed by its subsidiaries overseas and for abuses committed by foreign companies in respect of which it is a material shareholder.

Specific concerns have been raised by civil society about businesses in all sectors and from all countries, including the UK. When John Ruggie surveyed the nature and scope of alleged abuses by business in his 2008 report, we were gratified that he drew the data from our website and said in his report that our site was "the most comprehensive, objective information source available".

As for reports of alleged abuses by civil society, our practice is to invite companies to respond to allegations before we post the reports on our site or in our Weekly Update, so that one has access to both perspectives. This response process sometimes helps encourage constructive engagement between the complainant and the company. 75% of companies have responded when we invited them to do so.

I would like to mention some examples of concerns raised about UK companies over recent years. I should emphasise that in many of these cases the company has provided some sort of a response to the allegation, which should also be taken into account; each allegation and response can be seen in the charts listed at the beginning of this section.

- Burma Campaign UK said firms providing insurance to companies operating in Burma support the military government – the firms named included **Atrium Underwriting** and **Lloyd's of London**.
- **Barclays** was accused of lending to Zimbabwe government ministers on an international blacklist.
- Friends of the Earth, Christian Aid and Action on Smoking & Health said **British American Tobacco** was using Corporate Social Responsibility to try to block anti-smoking initiatives.

- Residents of Douala, Cameroon, accused **Guinness** (part of **Diageo**) of chemical pollution of their neighbourhood – green water had flowed from the Guinness factory down a cliff and into a residential area for several years.
- NGOs said **GCM Resources'** Phulbari coal project in Bangladesh threatened the health, water and livelihoods of local communities.
- A *South China Morning Post* article provided evidence that Chinese wig manufacturer Henan Rebecca used forced prison labour – **HSBC** was listed among the top shareholders of Henan Rebecca, holding shares on behalf of clients.
- Bench Marks Foundation said platinum mines in North West Province of South Africa owned by companies including **Lonmin** were putting workers' and communities' health at risk.
- A mine run by **Metals Exploration** was accused of “endangering lives” in Vizcaya, Philippines, the community claiming there was a risk of a potential landslide among other concerns.
- A Global Witness report and *Financial Times* article raised concerns that an oil-backed loan by banks (including **Royal Bank of Scotland** and **Standard Chartered**) to Angola's state oil company Sonangol without IMF involvement would perpetuate corruption and poverty.
- A 2005 ActionAid report said women working on fruit farms in South Africa supplying **Tesco** work in “appalling” conditions – receiving “poverty wages”, exposed to pesticides, living in “dismal housing” and losing out on benefits.
- Christian Aid, Action for Southern Africa & Scottish Catholic International Aid called on multinationals in Zambia (including **Vedanta**) to give the country a fairer deal in copper mining contracts, otherwise the government's ability to fund development, education and health in the country would be undermined.

Conclusion

I will close by wishing you well in this inquiry. Following Professor Ruggie's 2008 report, the world is watching to see whether and how governments will move ahead through law, regulation and other initiatives to fulfil more effectively their duty to protect against abuses by business, so the timing of this inquiry could not be better.