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BUSINESS AND HUMAN RIGHTS: THE CORPORATE RESPONSIBILITY TO RESPECT

In June 2011, the Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights, which were designed to guide governments, corporations, and stakeholders on how to ensure respect for human rights principles in their activities. Four years on, a Hogan Lovells panel of senior public policy and compliance professionals discussed how the principles are impacting corporate conduct.

The 2011 Guiding Principles on Business and Human Rights, or Ruggie Principles, set a global standard for addressing human rights risks related to business activities. It was the first authoritative global framework on human rights corporate responsibility, unanimously endorsed by the United Nations and was broadly welcomed by the global business community. The principles clarified the state duty to protect human rights; the corporate responsibility to respect human rights; and the need for access to appropriate and effective remedies for victims of business-related human rights abuses. In June 2015, Hogan Lovells published its Risk and Return Report, looking at foreign direct investment decision-making and the Rule of Law, and found that 73 percent of the senior Forbes 2000 decision makers surveyed had subscribed to the Ruggie Principles.

Following on from this global acceptance that business has a role to play in ensuring respect for human rights, the question today turns to how such promises are put into action. The Hogan Lovells panel included a human rights consultant working with businesses to address these issues, as well as the head of global policy at a social media company and a chief compliance officer working in the oil and gas industry. The two industries represented encountered human rights challenges in very different ways.

Structuring a response

The extractive industries have been among the most active in embracing the Ruggie Principles, not least because of their potential to impact local communities in the environments in which they operate. "When the Guiding Principles were formally endorsed by the UN Human Rights Council in 2011, we were quite quick to say that we would like to follow them, and we soon realised that that was going to be easier said than done," said the panelist. "With trial and error we now have a structured approach, and we have set up a cross-functional steering committee, because human rights affects the whole company, from operations to human resource issues."

The company has taken a legal and compliance approach to implementation, while recognizing that putting human rights at the heart of the business has to be more than a box-ticking exercise.

In the social media sphere, the human rights issues that arise are considerably different, often centring on discussions about the right to freedom of expression versus the right to privacy. Again, a structured approach has emerged as the best way forward, with a clear set of global standards on human rights responsibility and accountability.

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Addressing human rights questions can often mean facing up to difficult dilemmas where the rights of one group contradicts another. In this instance, engagement is key, according to the panelist. She said: "We are very focused on having a team that's very diverse, including human rights lawyers from around the world, people from lots of different backgrounds, and people that have worked in lots of different environments. We also make sure that we are always liaising with people on the ground in our community, understanding what's going on and reaching out to them."

Engaging communities

When it comes to engaging with communities, the extractive industries increasingly talk in terms of a social licence to operate, referring to the level of acceptance or approval a company and its operations has from the local community and stakeholders. The oil and gas industry's operations often involve building huge processing plants, building platforms in the sea, and putting pipelines in the ground, which may require anything from whole villages being uprooted to journeys for clean water being lengthened.

Another challenge in the energy sector is related to the role of security forces, which are required to protect assets but which can be tricky to effectively oversee and manage when operating in remote parts of the world with relevant security, political and social instability risks.

Managing the supply chain and ethical sourcing are critical issues for all businesses concerned with human rights, as is the growing need for proper human rights due diligence ahead of transactions. Media interest in the subject has pushed both even further up many corporate agendas.

The language of human rights

For many businesses, embracing human rights as part of corporate strategy has been a steep learning curve, particularly as the discussion has moved away from the more established notion of corporate social responsibility (CSR). Often the so-called "language of human rights" can be off-putting and needs to be translated in to corporate speak for business owners less familiar with the issues, the audience was told.

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For example, CSR initiatives are now seen as distinct from the corporate responsibility to respect human rights, the panelists said: "We have a separate team doing human rights from those doing CSR," said one. "We see CSR more as doing good – building schools, making a road better, contributing to the community with various projects. That's great stuff and has a good impact on local communities, but the human rights issue is more about avoiding negative impacts on the community and affecting third parties, and setting up grievance procedures."

The discussion turned to how certain key groups might be picked out for special focus in the context of human rights programs, and particularly how companies could encourage women's rights to be taken more seriously. The speakers talked about their businesses having formal human rights policies that identify certain exposed groups, and, in the case of women, commit to promoting diversity when operating in countries where women do not have equal rights, for example.

Promoting equal rights for women was seen as a human rights issue that could also be supported through CSR efforts, and an area where achieving maximum engagement across an organization was most effective in delivering positive results on a macro and a micro level.

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