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### NEWSLETTER ISSUE NO. 3 – NOVEMBER 2006

### FROM OUR DESK

#### **STATOIL TAKES HUMAN RIGHTS COMMITMENT TO THE NEXT LEVEL**

In June 2006, Lawhouse.dk won the Statoil ASA tender on the assignment "Concretisation of human rights responsibilities in Statoil". As member of the Business Leaders Initiative on Human Rights (BLIHR) and signatory to the UN Global Compact, Statoil has worked actively with human rights as part of its corporate policy for several years.

Through the project Statoil has cooperated with Lawhouse.dk to identify both the scope and the reach of human rights standards as they could apply directly to a business. Further, the project has aimed at identifying how well the existing governance systems in Statoil provide for compliance to such standards. Finally, the project has singled out crucial processes within Statoil, where a comprehensive human rights approach will improve Statoil's compliance and enhance opportunities to pro-actively contribute to human rights. The project was completed November 2006. The work involved visits to Algeria and Venezuela to test the approach and to bring in on-the-ground experience and considerations. Stakeholder engagement and discussions with the BLIHR network, with peers in the Oil industry, with the UN General Secretary's Special Representative John Ruggie and with lawyers from Harvard has enabled the sharing of 'lessons learned' and fruitful discussions on choices made during the project. Next step is for Statoil to outline short and long-term objectives for further implementation and consolidation.

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#### **STATELESS GIRL**

Lawhouse.dk has been negotiating with the Danish authorities on the obtainment of Danish citizenship on behalf an 8-year-old stateless girl living in Denmark. Born in Denmark, as a child of a Russian mother and a Danish father, the girl was mistakenly registered a Danish citizen at the time of birth and the mistaken registration was not discovered until this spring. At the time of birth, the law prescribed that citizenship followed the mother when parents were not married. The authorities rectified the mistake by a unilateral 'withdrawal' of the girl's registration as Danish citizenship thereby violating international law. Subsequent to filing a petition and negotiations, the stateless girl obtained her Danish citizenship in November retrospectively from the date of birth, which has never happened before in Danish history. However, most concerning is the fact that Danish authorities only responded positively by finding a solution after the case was broadcasted on nationwide television. The fact that more and more cases related to legislation on foreigners and immigration are resolved through media intervention, demonstrates an obvious gap between public "moral" and Danish legislation and practices.

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#### **CR Ltd**

Lawhouse.dk has formalised its close collaboration with the UK based solicitor James Oury through the creation of the consultancy Corporate Responsibility Ltd (Cr Ltd). The consultancy will focus on providing advice to companies on issues related to sustainability and thus, the triple bottom line. Through this collaboration, Cr Ltd will be able to offer services that, among

others, include: advise in relation to CSR strategy development and implementation, formulating training/educational modules; running training courses; developing codes of conduct; assisting with due diligence; creating frameworks for supply chain management systems; producing assurance statements on CSR reporting; offering analysis of threats and opportunities.

[www.corporate-responsibility.co.uk](http://www.corporate-responsibility.co.uk)



## NEWS

### GLOBAL STANDARDS FOR WORKING ENVIRONMENT

The World Bank's private sector arm, IFC, and the International Labor Organization (ILO) will begin develop a program to improve global working standards, including rules to ban child labor, writes World Bank Press Review. The Better Work Program will draw from the ILO's five-year-old garment factory project in Cambodia where the labor body monitors compliance with national and world labor standards, remedies shortcomings and offers training.

According to a joint IFC and ILO statement, the initiative has been widely credited with improving conditions and standards in Cambodia and helping its garment industry grow after a global system of preferential trade quotas expired. The first phase of the IFC-ILO collaboration begins by drafting rules that meet the ILO's four core standards banning child labor, forced labor, discrimination and allowing freedom of worker association in a way that suits local circumstances. IFC will provide the funds and technical support for the implementation of the program.

For further details see:  
[www.worldbank.org](http://www.worldbank.org)

#### Comments:

This is an excellent initiative and has the potential to have a great effect, as IFC operates in a large part of the world. It would have been better if the initiative addressed universal human rights. However the IFC, which is subordinate to significant political

limitations, cannot be expected to lead the way on this matter. The collaboration will, therefore, primarily lead to good examples on how to best incorporate ILO's core labor' rights locally. These rights are included in virtually any Code of Conduct and supplier governance system, consequently there is no doubt that the program will be monitored with great interest among businesses. However, companies must bear in mind that their risk profile in relation to human rights is considerably broader than the ILO core labor rights.

### UN GLOBAL COMPACT AND GLOBAL REPORTING INITIATIVE FORM STRATEGIC ALLIANCE

The world's two most significant international corporate citizenship initiatives have announced that they have united in a strategic alliance aimed at providing the global private sector with an opportunity to embrace a responsible business strategy that is comprehensive, practical, integrated and enjoys near or total universal acceptance. The United Nations Global Compact and the Global Reporting Initiative (GRI) intend to promote this synergistic platform of the Compact and the GRI to companies and corporate social responsibility organisations through advocacy and other partnership efforts.

While the UN Global Compact covers global citizenship

"implementation" through its 10 universal principles in the areas of human rights, labour standards, the environment and anti-corruption, the GRI's new "G3" Sustainability Reporting Guidelines provide guidance on transparency and how to report on performance results.

"Responsible corporate citizenship stands a crucial crossroads. The embedding of values and principles into organizational strategies and culture has been widely embraced by a critical mass of corporations around the world" said Petra van Hoeken, Global Head of Sustainable Development at ABN AMRO. "However, a bewildering array of codes, standards, and initiatives has arisen resulting in a state of fragmentation with respect to corporate citizenship strategy and execution. This alliance provides companies with a focused approach, covering principles, implementation and reporting". The first practical expression of the alliance is the release of a tool entitled "Making the Connection: Using GRI's G3 Reporting Guidelines for the UN Global Compact's Communication on Progress." This guide shows how Global Compact participants can use the G3 Guidelines to fulfil their commitment to the Compact by reporting on their progress of implementing the 10 principles. To reinforce the alliance between the UN Global Compact and the GRI, a "call to action" has been issued from both parties to other leaders in the field. "The objective is to mainstream responsible corporate citizenship in order to build a more sustainable and inclusive world

economy.

Full article:

<http://www.globalreporting.org/NewsEventsPress/PressResources/PressReleaseUNGC-GRI.htm>

#### Comments:

It is a positive development that two of the dominating international initiatives on corporate social responsibility are joining forces in the effort to tidy up the, mildly put, chaotic proliferation of CSR initiatives. The increased strength and synergy that can emanate from the alliance will, without a question, have an effect on how governments and national initiatives can find strength and international recognition through international principles – “think global, act local”.

#### NGOs PROVIDING ASSURANCE TO CORPORATIONS

It seems that a new trend has developed; corporations are increasingly making use of new external actors; namely NGOs to verify and enhance credibility of their reporting. Shell has used an external review committee, gathering individuals from NGOs together to assess Shell's 2005 Sustainability report. The panel has reported on two counts. Does the report contain the right information? And, does Shell meet the expectations of its stakeholders? Their assessment appeared balanced, criticizing the company for not explaining certain issues, such as the Nigerian crisis, in enough depth and for having a “low key” approach to climate change and human rights issues. This is an alternative way for the company to point out sustainable efforts, but it has been argued that it can bring about conflicts of interest and, in the case of the NGOs, of their *raison d'être*?. The point brought forward by critics concern the fact that NGOs should work as independent bodies. By employing someone affiliated to a certain NGO, the credibility and objectivity of that person's assessment may become impaired. As suggested by the corporate responsibility community, a possible way to get

around the issue involves the creation of an independent fund to support NGOs in developing assurance abilities and assessing companies. This will ensure that the sustainability reports published are backed in a credible way and will address the claims of critics. The community is positive towards the idea of NGOs providing assurance, however strongly emphasizing the importance of NGO assessments not being funded by companies.

Full article:

[www.ethicalcorp.com](http://www.ethicalcorp.com)

#### Comment:

It remains undisputed that conflicts of interests may arise, whenever funding, and thereby interests in keeping up an income for individuals, become part of the game. Everybody remembers the allegations of Shell having set up their 'own' NGO in Nigeria; hardly independent if true. Similarly, the direct hiring of NGO leaders or representatives will not provide for the needed 'arms length' to establish an adequate level of trust among stakeholders. In this light the suggestion to establish an independent body appears fair. However, there will be a need to create funding for such a venture and it may be possible to apply the 'polluter pays' principle to this endeavour. The issues discussed in relation to this principle are very similar to the dilemma of auditing firms. Therefore, rules of engagement and, with time, legislation could eliminate the fear of collusion. But the corporations should carry the bill, as the service will be in their interest.

#### INCREASED ATTENTION IN MULTINATIONAL COMPANIES TOWARDS AVOIDING HUMAN RIGHTS SCANDALS

Scandals associating global businesses with violation of human rights seems to have gotten the companies out of their chairs to find ways to avoid being involved with similar crises, a study of the Fortune 500-companies shows. The survey demonstrated that 91 percent of the responding

transnational companies (20.4% of the Fortune 500) believe they have structured management practices in place “regarding the human rights implications of their operations”. However, according to the survey, only 46 percent of the businesses had experienced a “considerable human rights problem”.

Perhaps surprisingly, NGOs are reported to be the most important “external stakeholders” for companies faced with human rights issues. 91 percent of the companies have established a relationship with such civil organizations, whereas only 54 percent had discussed human rights with governments.

2/3 of the companies in mining and other extractive industries had encountered human rights issues. This was the highest industry-specific score and reflects the highly profiled incidents in this sector in recent years, e.g. in Burma and the Democratic Republic of Congo.

The conclusions of the report could increase the existing concern of NGOs that the Special Representative on business and human rights will not recommend legally binding human rights standards for businesses.

Full article:

<http://www.ft.com/cms/s/77d77060-3956-11db-a21d-0000779e2340.html>

#### Comment:

The study clearly shows that the world's largest companies have opened their eyes to human rights issues as a significant parameter for good governance or the company's social responsibility. The problem is, however, that the companies' grandiose, yet often superficial, recognition of the significance of human rights is a long way from their efficient implementation in the company's governance systems. By far, most of the 'human rights initiatives' by companies are marked by a lack of understanding of the scope of human rights (aside from core workers' rights) and of their relevance to areas other than economic developing countries. Hopefully, the Special

Representative on business and human rights can impart this understanding to the business community when his final report is handed in at the newly established Human Rights Council

in 2007. So far, the Representative has applied for extension of the report from March 2007 to June 2007. Human rights organizations naturally fear that the

Representative will use the report to support the claim that binding standards are not necessary because 'market pressure' is supposedly adequate.

## CASE STORIES

### CORPORATE CONTRIBUTIONS TO SUSTAINABLE DEVELOPMENT

In recent years, many corporations have become interested in aligning business strategies with the overall goal of supporting sustainable development. The concept of sustainable development gained global momentum through the efforts of Gro Harlem Brundtland in the late 1980s. For business the term 'triple bottom line' (popularly known as the 'three Ps' - People, Planet and Profit) has become the common commercial nomenclature for sustainable development. However, even though sustainable development and corporate social responsibility (CSR) are not new phenomena, many corporations and namely SMEs (Small and Medium sized Enterprises) struggle to find ways of establishing frameworks and strategies for making their contribution.

A great challenge perceived by many SMEs concerns the limited amount of funds available for philanthropy. Many associate CSR engagement with being able to donate large sums to grand development projects or being able to build schools for children in illiterate areas. Such proactive initiatives to support development are great efforts but CSR commitment can be facilitated and made operational on a smaller scale where SMEs also have a chance of making a contribution.

Only in recent years has consensus solidified that there is a need for global standards to establish benchmarks for minimum requirements for corporations to observe throughout their operations. What is required from the chaotic jungle of CSR definitions and initiatives is the establishment of

such minimum requirements for corporations, which can provide for guidance on how to go about outlining a solid CSR strategy. Prerequisites in developing a sustainable development framework within the people part of 'the triple bottom line' include continuous work to improve social performance by setting high objectives and integrating social, human rights consideration, including health & safety, into daily business. Consequently, an obvious framework for guiding corporations on how to establish a CSR strategy is the United Nations International Bill of Human Rights. Even though these primarily obligate states, they are very instrumental in guiding corporations on how to conduct business in a global marketplace, since human rights are the only set of social values accepted and recognised globally. Moreover, the rights directly address the UN Millennium Development Goals ensuring that a human rights focus feed into the global development agenda and they constitute 6 of 10 principles of the UN Global Compact initiative aimed at promoting responsible corporate citizenship.

#### How to get started?

To contribute to a more sustainable and inclusive global economy and in order to make CSR strategies robust, corporations should, first of all, conduct risk assessment in relation to business sphere of influence. What are the primary pitfalls in relation to human rights and how can they be remedied? Through such an analysis, awareness will be raised and it will become possible for corporations to better safeguard against future incidents or potential violations. Likewise, a risk analysis will provide for guidance when drawing up Codes of Conduct (CoC). By having a thorough CoC in place that

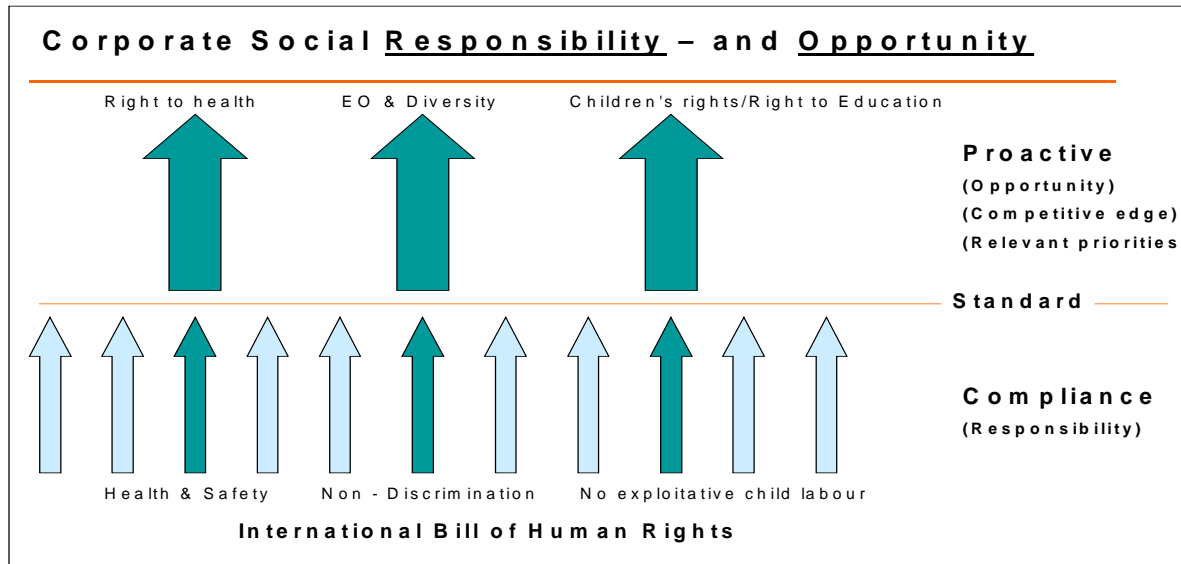
formulates minimum requirements and thus sets standards in the company's operations as well as for suppliers, a sustainable business strategy is commenced. However, it should be noted that in spite of a risk assessment pointing towards specific human rights challenges, the full range of human rights should be considered in CoCs, since this will assure consistency and human rights compliance. This will also ensure that the focus of CoCs is not limited to core labour rights (prohibition of slave, forced, and child labour, freedom of organisation and equal opportunities), which are 'the usual suspect' of attention in most CoCs. Finally, in order to facilitate compliance with Codes of Conduct, companies should engage in dialogue with suppliers to make sure that requirements are understood and adhered to. However, monitoring compliance and measuring corporate social responsibility performance is perceived by companies to be complex and much debate centres on the cost-efficiency of existing wide reaching supply chain management efforts. Consequently, code compliance and outlining of company responsibility should be made part of business contracts. Likewise, the establishment of indicators that are relevant for business and which offer benchmarking opportunities, poses a great challenge. 'You can't manage what you can't measure' is recognised as common business maxim. Through the establishment of human rights related indicators it becomes possible to monitor development and such indicators will be essential in assuring compliance and thereby making CSR meaningful.

**Going beyond basic compliance to pro-active contributions**

Compliance to basic human rights standards beyond compliance to national laws is the starting point for any engagement in the area of CSR; voluntary initiatives beyond such minimum requirements are step two. Consequently, when having assured compliance, pro-active

initiatives should strategically be considered. Companies could benefit from aligning their core business activities with the strategic focus of the international community in relation to CSR international human rights. This would meet the urgent need to 'think global, act local' emerging out of globalisation. Questions to help guide companies in the right

direction could include: what activities and focal areas feed well into our line of business? Such strategic considerations will serve to keep attention and focus on the business activities and serve to create a competitive edge by aligning strategy and initiatives as illustrated in the model below.



In conclusion, by taking the International Bill of Human Rights as point of departure when developing a sustainable CSR framework, materialising a company's engagement will not require great financial resources, but rather a strong commitment, strategic considerations and firm implementation measures.

**HOW TO MAKE HUMAN RIGHTS COMMITMENT OPERATIONAL?**

Many companies proudly state their commitment to respect, protect, fulfil or promote human rights through their membership in international organisations, on company web pages and in annual reports. However, strikingly few companies are actually well versed in identifying what a firm commitment on human rights actually requires in relation to company policies, procedures and practises.

Key questions to be considered in relation to this are: "How can a

corporation avoid commitments being mere "window dressing" or, in other words, how can commitments transform into action? How to best facilitate anchoring and institutionalisation of such commitment? How does a human rights commitment become operational?"

A publicly stated human rights commitment must be considered a binding obligation, which should permeate organisational policies and procedures and become an integrated part of corporate conduct. To assure an action-oriented commitment, company policies and procedures should be analysed to ensure that they support the commitment, and, furthermore, processes should be identified that would ensure human rights compliance and possibly create relevant proactive strategies.

Attention must be given to analyse whether policies and procedures comprehensively ensure observance of international minimum standards on human rights; and especially

that policies and procedures, in themselves, do not pose challenges to such observance. For example, do the procedures that allow for testing of substance abuse by employees provide adequate protection of the right to privacy?

To be able to perform such an analysis, corporations must engage in defining minimum human rights standards that should form the core corporate responsibilities vis-à-vis state responsibilities. As a prerequisite, companies are expected to comply with international, regional, national and local laws and regulations *directly applicable* to companies. International human rights obligations for corporations have never officially been described. The Draft UN Norms, in 2003, were the first initiative to describe universal human rights for business, but were only partly instrumental in guiding corporations on their human rights obligations. In most societies, compliance with national regulations would fulfil

the vast majority of requirements from minimum standards on human rights under CSR. However, most, if not all, societies will continuously face challenges in relation to a few specific rights and companies need, to the best of their ability, to ensure compliance with these rights, in particular where national laws fail to adhere to universal standards, or even contradict these. The Universal Declaration of Human Rights and the subsequent International Covenants on Human Rights (all three referred to as the International Bill of Human Rights) primarily obligate states and are not, yet, described as obligations for corporations. Nonetheless, these rights are fundamental and should serve as guidance to companies conducting their business in a global market place, as they represent the only set of social values accepted and recognized globally.

Consequently, corporations will be left with the task of interpreting what corporate compliance with human rights actually means in practice. Without such an interpretation a commitment to human rights will remain an 'empty barrel'. However, when defined it becomes a relatively straightforward task of analysing corporate governing documents to reveal gaps and dilemmas between the firm human rights commitment and existing implementation measures in relation to such commitment.

In addition, key processes will facilitate and secure implementation of amended governing documents, or in other words, make the commitment come alive. In the extractive sectors, processes such as

country risk analyses and impact assessments can be accentuated as highly appropriate and supporting means for integrating and implementing a company's commitment into practical procedures.

### **Country Risk Analyses and Impact Assessments**

A Country risk analysis (CRA) brings to light the external risks in a certain country. In relation to human rights, these risks will primarily be related to the general human rights condition in that country. Applying a human rights focus to a general CRA will enhance the understanding of such risks and enable identification of key areas for proactive engagement in risk mitigation. An impact assessment will focus more on the impact of a given company on its stakeholders, primarily its employees, in the specific context of its operation. Environmental impact assessments are part of legislative demands in most countries. In relation to human rights, the Impact Assessment will prescribe how the company can ensure not to violate human rights within its sphere of influence and possibly mitigate the prioritised and major risks derived from the risk analysis. Since the general human rights 'picture' of the country in most circumstances will reflect the 'local picture', the findings and priorities from the CRA should form the basis of addressing human rights during Impact Assessments. This is particularly relevant when identifying 'mitigation' initiatives. Corporations often separate analysis and assessments and approach them as two distinct processes. However, a more efficient approach would interlink the CRA with the Impact Assessment, optimising the

synergies of the processes and their output. Simple and operational processes and tools designed on the basis of the International Bill of Human Rights will ensure efficient implementation without compromising comprehensiveness and quality.

### **Training**

To assure effective institutionalisation of human rights into various business areas, it is fundamental to build into a corporation an increased understanding and awareness of human rights and their relevance to business ('the business case'). In order to make human rights work effectively focused training needs to be conducted to increase understanding and awareness among employees so that a company's human rights commitment has a genuine chance of becoming implemented into operational measures. Ideally, the role of human rights should be integrated into all training related to Corporate Social Responsibilities, Corporate Responsibilities, Ethics, Compliance, Human Resources or similar endeavours. In particular, it is of high value to conduct such training for local staffs before Country Risk Analyses or Impact Assessments are undertaken at given locations. If no consistent training process is introduced in corporations in support of their corporate commitments, no capacity building will progress; thus, it will leave a limited foundation for the implementation of human rights into key principles and processes, as well as, for the appreciation, recognition and awareness of the importance of adequately meeting internal and external human rights challenges.

## **UP-COMING EVENTS**

December 8, 2006, Düsseldorf, Germany  
Implementation of new GRI/G3 guidelines  
<http://www.csrvalues.com/>

December 8-9, 2006, Lausanne, Switzerland  
Swiss master class in CSR 2006 – Corporations as political actors? Facing the post national constellation  
<http://www.hec.unil.ch/csr/>

December 13, 2006, Salvador, Brazil  
Conference on CSR in Europe – Latin America and the Caribbean: The best of two worlds  
<http://www.iadb.org/csramericas/2006/dinamarca/europe.html>

January 10-12, 2007, Hongkong

CSR Asia: 3- day Academy Hongkong - Advanced training on Corporate Social Responsibility

<http://www.csr-asia.com/upload/3dayacademy.pdf>

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