



Human Rights and Business Dilemmas Forum

Dilemma - working examples

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1. Security forces and human rights

Original dilemma wording

How does a responsible business operating in a country with weak human rights protection use public and private security forces to ensure the protection of its people and assets, whilst at the same time ensuring respect for the human rights of others?

Alternative dilemmas

- (a) How does a company ensure respect for the human rights of local communities when circumstances dictate that they must rely on the protection of public security forces with a history of committing human rights violations?
- (b) How does a company ensure respect for human rights when they can only ensure the safety of their people and assets in an area of weak governance and instability by utilising armed public or private security forces over which they do not have complete control?
- (c) In the absence of adequate public security protection and rule of law, how does a company employ armed private security providers without risking infringement upon the human rights of local communities?

'Real-world' example

In 2001, 11 Indonesian villagers sued ExxonMobil in the US federal court alleging complicity in murder, torture, sexual violence and kidnapping by the Indonesian military, who they alleged had been provided with logistical and financial support by ExxonMobil to provide security for its natural gas facilities and pipeline in Aceh province. The plaintiffs maintain that the security forces are either employees or agents of Exxon Mobil, and thus Exxon Mobil is liable for their actions. The plaintiff's further claim that ExxonMobil knew or should have known about the Indonesian military's history of committing human rights violations against the people of Aceh. On 30 September 2009, the US District Court ruled on a motion to dismiss from the defendants. The judge granted ExxonMobil's motion to dismiss the case finding that the plaintiffs did not have standing to bring the case in a US court.

2. Gender

Original dilemma wording

How does a company respect the right to equality for women when operating in a country where widespread discrimination and violence against women is culturally and legally entrenched?

Alternative dilemmas

- (a) What should a company do when its internal policies prohibit gender discrimination yet local cultural, legal and business norms permit and promote discrimination against women?¹
- (b) What should a company do with respect to non-discrimination and harassment of female employees in its supply chain when suppliers are based in a country where such violations are widely accepted in the workplace?
- (c) How can a company maintain its internal policies and targets with respect to women in the workplace when it is based in a country where many women fail to complete their education?

'Real-world' example

HSBC, which through a wholly owned subsidiary holds 60% of equity in HSBC Saudi Arabia and SABB, has offices in Saudi Arabia as part of its strategy to increase its presence in the Gulf. However, discrimination against women, both in law and practice, is a significant problem in Saudi Arabia. Women are restricted from many occupations in this country and due to custom and law women employees are segregated from men in the workplace. This is the case with banks where offices are set up for women and only women are employed in these offices. In this context, it is not clear how the company can maintain effective adherence to its internal policies and targets with respect to women in the workplace.

¹ Suggested by Mark Nordstrom of GE. Note: consider changing 'permit' to 'demand' or something similar

Notes:

3. Migrant workers

Original dilemma wording

How does a company ensure decent working conditions and equal treatment for migrant workers within its own operations or those of its business partners and suppliers when operating in a challenging legal or cultural environment?

Alternative dilemmas

- (a) How does a company ensure the equal treatment of legal migrant workers within its own operations or those of its business partners and suppliers when operating in countries where discrimination is tacitly accepted in society?
- (b) How should a company respond to a business partner who retains passports of migrant workers where such retention is not in violation of country law?²
- (c) How does a company respect the right to non-discrimination and decent working conditions of migrant workers in its supply chain when its suppliers are based in a country where the law creates conditions of vulnerability and allows employers to exploit migrant workers?

'Real-world' example

Many electronic companies including LG Electronics, Nokia and Samsung source electronic components from South Korea. They procure components from South Korea due to the scale, quality and price at which they can be supplied. The South Korean Employment Permit System requires migrant workers to annually renew employment contracts with their employers for a period not exceeding three years, placing migrant workers in a vulnerable position. Although the companies are keen to avoid discrimination against, or exploitation of, migrant workers, very few migrant workers lodge complaints if their working conditions are inadequate for fear of the non-extension of their contracts by their employers. Likewise, non-Koreans received limited legal protection from discrimination and disputes over non-payment of wages involving migrant workers are commonplace.

² Ibid

4. Forced labour

Original dilemma wording

How does a company ensure there is no forced or compulsory labour in its value chain, particularly when its value chain extends into areas of weak governance?

Alternative dilemmas

- (a) How does a company minimise the risk of forced or involuntary labour in its supply chain when it must source raw materials from a region where forced labour is widespread and the remoteness of the sourcing area makes enforcement of labour laws difficult?
- (b) How does a global extractive or infrastructure company prevent the use of forced labour on the construction phase of its projects when its strategy requires it to work with a government characterised by a lack of respect for human rights and a history of demanding mandatory labour from local communities?
- (c) How does a company ensure it pays suppliers the lowest cost possible in order to remain competitive, whilst at the same time ensuring that this does not encourage the use of forced labour within the supply chain?

'Real-world' example

Major Japanese car manufacturer Toyota sources engine parts from a US company which purchases from a very competitive Brazilian producer of pig iron. Other companies that have sourced steel made from Brazilian pig iron in the past include Ford, General Motors and Kohler (a kitchen and bathroom manufacturer). The Brazilian pig iron producer in turn sources charcoal from a variety of remotely located producers in the Amazon. This is by far the cheapest means by which to procure this charcoal. Although there have been reports of forced labour in the region in which the charcoal is produced, none of these have so far been connected to specific suppliers of charcoal to the pig iron producer. Brazilian authorities have made some headway in tracing the charcoal extracted by forced labour and are currently investigating 30 forced labour cases.

Notes:

5. Child labour

Original dilemma wording

How does a company responsibly address child labour in its supply chain, particularly in locations where child labour is relatively common and where there is evidence that removing income-generating opportunities will push children into deeper poverty or other forms of exploitation?

Alternative dilemmas

- (a) How does a company minimise the risk of child labour in the supply chain when, to remain competitive, it must source raw materials from a region where there are numerous reports of child labour and enforcement of child labour laws is weak?
- (b) If child labour is discovered in a company's supply chain, how does it respect its legal obligations with regards to child labour whilst not worsening the socio-economic conditions of the child and its family or making the child even more vulnerable to exploitation by third parties?
- (c) How does a company address child labour in its supply chain when it must source raw materials from a region where child labour is thought to be prevalent and the remoteness of the sourcing area makes enforcement of labour laws difficult?

'Real-world' example

The National Health Service (NHS), a UK governmental health service, sources some surgical instruments from Pakistan. In Pakistan, child labour is known to be common in the production of surgical instruments. It is difficult for the NHS to trace the source of these instruments due to the complex supply chains that bring the products to Europe. Moreover, there is evidence that some children working in the surgical goods industry, which is hazardous, were previously working in the football stitching industry in Sialkot. Many had been retrenched from the football stitching industry when sporting goods brands like Nike, Mitre and Adidas came together to responsibly tackle child labour.

6. HIV/AIDS

Original dilemma wording

When operating in countries with a high prevalence of HIV/AIDS and poor health care systems, how does business respect the right to privacy and ensure non-discrimination against employees when implementing an effective and responsible disease management programme?

Alternative dilemmas

- (a) To what degree should business considerations dictate the scope of a company's HIV and AIDS management programme? How should these boundaries be implemented and monitored, especially if the inability to extend treatments beyond employees to spouse and family members limits the effect of preventative and treatment programmes?
- (b) To what degree should a company place restrictions on employees infected with HIV and AIDS when trying to ensure the well-being and confidence of its broader workforce?
- (c) How does a company set the boundaries for the continued inclusion of individuals in its HIV and AIDS management programme during times of recession and retrenchment?

'Real-world' example

De Beers, a diamond company, works in many southern African countries with a particularly high HIV/AIDS prevalence rates. It has a long-standing presence in these countries where many of its diamonds are produced. The company must maintain workforce productivity and to fulfil its role as a caring and supportive employer. Its company policy is to provide disease management and provide anti-viral treatment (ART) in a sustainable manner and balance the requirements of strong HIV/AIDS management against an individual's right to privacy. The company has identified the following challenges, among others:

- Controlling company costs whilst supporting public health services
- Balancing business needs with the needs of those that are HIV positive
- Setting appropriate boundaries in terms of who is included in HIV/AIDS management
- Balancing the requirements of strong HIV/AIDS management against individual rights

Notes:

Human Rights and Business Dilemmas Forum

The Human Rights and Business Dilemmas Forum aims to enhance our collective understanding of human rights themes and to identify practical good practice to dilemmas that challenge responsible multi-national corporations. It does so using innovative online feedback mechanisms and interactive workbooks to allow users to propose, explore and discuss a wide range of dilemmas and potential good practice. The Forum also provides a series of case studies demonstrating real-world dilemmas faced by companies and other organisations around the world – as well as real-world efforts to manage or resolve these dilemmas in a responsible way. Links are also included to other relevant websites, resources and initiatives.

The Human Rights and Business Dilemmas Forum is produced jointly by the United Nations Global Compact and Maplecroft, and is funded by the GE Foundation. Unless otherwise indicated, the content of the Forum or any materials posed within the Forum are not intended to reflect the official positions, views or opinions of the UN. For more information or to engage and suggest good practice, visit <http://human-rights.unglobalcompact.org>

About the United Nations Global Compact

The United Nations Global Compact is both a policy platform and a practical framework for companies that are committed to sustainability and responsible business practices. As a multi-stakeholder leadership initiative, it seeks to align business operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption and to catalyze actions in support of broader UN goals. With over 5,000 signatories in more than 130 countries, it is the world's largest voluntary corporate citizenship initiative. For more information, visit www.unglobalcompact.org.

About Maplecroft

Maplecroft is a specialist research and advisory company established in 2001. It helps both business and humanitarian organisations to manage global risks and responsibilities, build reputation and harness leadership opportunities. Creative design and software engineering are combined with meticulous analysis of the political, economic, social and environmental landscape, to communicate risk and responsibility in visually compelling ways. Maplecroft is a trusted advisor to some of the world's leading businesses. Its employees are among the world's leading non-financial risk analysts and thought leaders. Specialist services include carbon foot-printing, human rights monitoring, ethical value chain management, stakeholder engagement as well as award-winning sustainability reporting. Maplecroft has extensive expertise in the area of business and human rights. This includes the publication of the Human Rights Risk Report since 2004 and the first ever subnational human right risk indices, maps and country scorecards for 2009. For more information, visit www.maplecroft.com.

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The GE Foundation, the philanthropic organization of the General Electric Company, works to solve some of the world's most difficult problems. In coordination with its partners, it supports U.S. and international education, the environment, public policy, human rights, and disaster-relief around the globe. In addition, the GE Foundation supports GE employee and retiree giving and involvement in GE communities around the world. In 2007, the GE family including businesses, employees, retirees and GE Foundation contributed more than US\$210 million to community and educational programs, including US\$93 million from the GE Foundation. For more information, visit www.gefoundation.com.

Contacts

United Nations Global Compact
Ursula Wynhoven
wynhoven@un.org
+1-212-963-5705

Maplecroft
Kevin Franklin
dilemmasforum@maplecroft.com
+44 (0) 1225 420 000