



Business and Human Rights - an Introduction (Part 1)

The CrowdJustice Team posted on 23 Mar 2018

Adam Smith-Anthony, Head of Business & Human Rights at Omnia Strategy LLP, on the relationship between business and human rights.

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Marge Simpson once said that her family “*can’t afford to shop at any store that has a philosophy*”. More famous, at least within business circles, is Milton Friedman’s edict that there is “*one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits...*”.

Undoubtedly, these two intellectual titans combined to reflect the traditional view of consumer priorities and corporate duties. However, this characterisation is quickly giving way to a new reality: that businesses have a responsibility to respect human rights, and that consumers – together with investors, employees, policy-makers and other “stakeholders” – expect to see companies acting as good global citizens.

Examples of businesses causing harm are painfully familiar. The Bhopal gas leak; oil spills in Alaska, Nigeria and the Gulf of Mexico; the Rana Plaza factory collapse in Bangladesh; and even the current Facebook data privacy scandal.

And yet, commercial imperatives – much more than legal or moral pressures – drove the changing attitude in corporate boardrooms. For example, 18 years ago, Unilever Co-Chair and CEO Niall FitzGerald had this to say:

“Corporate Social Responsibility is a hard-edged business decision. Not because it is a nice thing to do or because people are forcing us to do it... but because it is good for our business.”

Belatedly, the law is now catching up.

First came so-called “*soft-law*”, and most notably the UN Guiding Principles on Business & Human Rights (or “UNGPs”). The UNGPs delineate the State duty to protect human rights, the corporate responsibility to respect human rights, and victims’ rights to have *access to remedies*. They apply to all States and to all business enterprises, and reflected existing law rather than creating new obligations.

The legal landscape continues to develop. In the UK alone, certain companies must now report publicly on how they are combatting modern slavery in their organisations and supply chains, and – topically – on their gender pay gaps. Similar rules have been introduced or are being considered in Australia, Canada, the EU, France, Hong Kong, the Netherlands and Switzerland, to name a few. New global initiatives are being taken up all the time, for example the “*employer pays*” recruitment movement, the push for climate competency on boards, the living wage campaign, work on responsible investment, and the recasting of fiduciary duties to encompass longer term sustainability concerns. Further change is inevitable.

To be fair to Friedman, his famous maxim ended with a comment that a business must pursue profits “*so long as it stays within the rules of the game*”. Well, the rulebook is changing fast. With these changes comes a

challenge for businesses, of course, but also a great opportunity in an age when customers increasingly identify with values more than with products. Leading businesses spotted this shift early and are enjoying the benefits. Those that fail to catch on will, quite simply, be left behind.

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