

Business & Human Rights

Presentation to the Joint Committee on Human Rights

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CORE's work from 2001 to 2007 focused around what has now become *The Companies Act*. During this time, the coalition articulated three policy demands in relation to its broader goals of enhancing transparency, improving accountability and adequate recourse mechanisms for victims of human rights abuses committed by UK companies' abroad. In relation to transparency, CORE campaigned for mandatory environmental and social reporting standards for large and medium sized companies to be introduced. In relation to accountability, for company directors to have a duty to minimise, manage and mitigate the companies' human rights and environmental impacts. And finally, in relation to adequate recourse, CORE campaigned for easier access to UK courts for foreign victims of UK corporate abuse.

CORE's campaign resulted in significant changes to company law, including a reporting obligation on large public companies and a duty for company directors to have regard to their environmental and social impacts. In follow up to *The Companies Act*, the Government committed to review the success of this new reporting obligation after two years, however it is not clear exactly when this will occur.

On reflection of *The Companies Act* Campaign, there was I believe an unhelpful polarisation between proponents of voluntary initiatives and those who emphasised the need for greater regulation. Clearly the need to create a level playing field of acceptable corporate behaviour in law should not in any way prevent, in fact it should strengthen, the development of voluntary initiatives which provide a forum for best practice. Although CORE's emphasis during this time was in relation to the need for more and better regulation of companies, CORE now recognises an increasing need to ensure greater enforceability of existing standards by UK companies in relation to their operations abroad.

Bearing this in mind, CORE believes there is a real need for the UK Government to do more in ensuring UK companies respect internationally agreed human rights standards in relation to their overseas operations. This we believe could be most effectively done through the creation of a new body, mandated to ensure coherence of UK companies when operating abroad with human rights standards. The JCHR successful promotion of the Human Rights & Equalities Commission provides inspiration to CORE's campaign for such a body.

In CORE's experience of working in this area for several years, there are some key issues that would be very useful for the JCHR to address in the context of this enquiry. Chris Avery has already outlined some of the issues of UK business and human rights internationally, and in CORE's experience, the UK Government could do much more to make the global impact of UK companies on human rights much better both in terms of *practical* reforms and *systemic* reform.

In relation to practical reforms, there are several initiatives relating to business and human rights that the Government are currently involved in. Of significance is the

best practice nature of the vast majority of this work. I believe DBERR and DFID represent the NCP for the OECD Guidelines, The FCO lead on the UN HRC and liaison with the Special Rapporteur for Business and Human Rights, the DWP on ILO conventions, DFID on the ETI, EITI, The Kimberly Initiative and The Global Compact. Very little coordination exists between the departments involved in these initiatives and none to date, as far as I'm aware, have conducted any cross-initiative learning or analysis of if and how these initiatives may have contributed to preventing human rights abuses or the attainment of the MDGs. Furthermore, DBERR, FCO and DFID all have their own CSR strategies and it remains unclear as to the progress achieved in relation to these strategies to date [eg. DBERR - Developing a methodology for assessing the progress of the government's overall objectives on CSR, developing strategies for incentivising business].

The most significant role the Government currently plays in ensuring UK business compliance with human rights is within its role of NCP for the OECD Guidelines for Multinational Enterprise. Recent reforms of the NCP have resulted in some significant improvements to this process, [new independent steering board, increased capacity, judgements] though inherent limitations remain significantly in relation to the lack of enforceability of the decisions made by the NCP [Afrimex mineral company funding of rebel groups in DRC, decision August 2008 yet continues].

On a *systemic* level, I would like to refer to three issues. Firstly, a lack of effective enforcement by host countries where UK companies' operate, coupled with a lack of respect for human rights standards by too many UK companies in relation to their overseas operations. Secondly, victims of human rights abuses rarely receive adequate remedy when these breaches occur. This is due to a range of social, political and economic factors within host countries and a lack of remedial options available at the company country of origin [in UK – NCP or legal action] as well as internationally. Finally, there is a plethora of initiatives, some good, some not so good and it is very difficult for business, investors, consumers, workers groups and civil society to distinguish which are worthwhile. Civil society are asked to get involved in all, but do not have the capacity to take part in all of these initiatives in a meaningful way and do not have the mandate or authority to act as a global police force for business and human rights.

Based on the key practical and systemic issues I have outlined, I believe the JCHR could play an instrumental role in preventing human rights abuses occurring by UK companies operating abroad by investigating the three following issues:

1. Is the UK Government doing what it should to prevent harm caused by UK companies abroad?
2. What steps could the Government take to ensure human rights are more effectively enforced in relation to UK businesses abroad?
3. What should the Government do to ensure that victims of human rights abuses caused by UK companies obtain effective remedy?