

Characteristics and Abuses of Human Rights in Corporate Communication

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ABSTRACT:

Globalization has changed the world we live in. It presents new and complex challenges for the protection of human rights. Companies have an enormous impact on people's lives and the communities in which they operate. Sometimes the impact is positive - jobs are created, new technology improves lives and investment in the community translates into real benefits for those who live there. There are few effective mechanisms at national or international level to prevent corporate human rights abuses or to hold companies to account. We are thankful to all that have contributed in one way or another to the conclusion of this case such as the various NGOs, especially Amnesty International, who have come to our aid.

Keywords: Corporate, Communication, Human Rights, Abuses, Corporate laws etc.

INTRODUCTION:

Corporate Communication remains thin, but corporate law scholarship is thickening. This Symposium is both a symbol of and a major contribution to that process. We are stepping beyond the narrow models of rationally maximizing fictional shareholders and purely self-interested managers competing in an

evolutionarily determined and purely individualistic market inevitably maximizing social wealth through the pursuit of private profit. Instead, new scholarship is taking a richer perspective infused with the insights of group and individual psychology, recognitions of institutional realities, and broader conceptions of the social good. American corporate law restricts itself to a limited view of the public corporation. In state corporate law, a corporation consists of little more than directors and shares,¹ with the occasional cameo appearance of creditors of a firm near bankruptcy, or managers as the secret doppelgangers of the inside directors. The issues of central concern to the law are similarly restricted: the formal voting rights of shares, the ultimate power of the directors to manage the corporation and the limited exception granted to shares to sue derivatively, the directors' limited fiduciary duties to the corporation and its shares, and some cameo appearances of other legal values when shares and directors are at odds over takeovers. Even in these areas, corporate law is famously "enabling," "towering skyscrapers of rusted girders, internally welded together and containing nothing but wind."² When corporate law has entered the normative thicket, it has

usually been to enforce the thin view of its purposes: to define shareholder interests as the interests of the role, rather than the human beings who inhabit it, and to force managers to restrict their view of the corporation's interests to those of these legally constructed fictional shareholders.' ERISA and the fiduciary and agency rules regulating the decision-makers for most institutional shareholders (that is, the holders of most shares), often require them to act as if their only concern were maximizing returns to undiversified shareholding in the particular corporation.

Moreover, corporate law gives directors and shares the right to sell corporate control without consent of other corporate constituencies. Combined with the anonymous market for publicly traded stock, this creates vast market pressure to run the firm in the manner most likely to be rewarded by the stock market. And (at least since the demise of the conglomerate fad of the 1960s) the stock market has generally bid up the stock prices of corporations that demonstrate a decent respect for the opinions of institutional shareholders and show a keen focus on identifying corporate interests with stock market interests. Other areas of the law regulate other aspects of the public corporation, but generally without consideration of the specific characteristics of corporations as such. Thus, securities law, in general, protects securities holders as outsiders, consumers of a product produced by the corporation, creating

rights to information in the manner of a truth-in-packaging law.' Environmental law, constitutional law, criminal law, labor law and so on, generally regulate the corporation as a "person," ignoring its collective and corporate character and subjecting it to norms created for citizens without much consideration of special issues of organizational behavior.'

Human Rights:

The doctrine of human rights has been highly influential within international law, global and regional institutions. Actions by states and non-governmental organizations form a basis of public policy worldwide. The idea of human rights suggests that "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights." The strong claims made by the doctrine of human rights continue to provoke considerable skepticism and debates about the content, nature and justifications of human rights to this day. The precise meaning of the term right is controversial and is the subject of continued philosophical debate while there is consensus that human rights encompasses a wide variety of rights such as the right to a fair trial, protection against enslavement, prohibition of genocide, free speech, or a right to education, there is disagreement about which of these particular rights should be included within the general framework of human rights; some thinkers suggest that human rights should be a minimum requirement to avoid the worst-

case abuses, while others see it as a higher standard.

Many of the basic ideas that animated the human rights movement developed in the aftermath of the Second World War. Ancient peoples did not have the same modern-day conception of universal human rights. The true forerunner of human rights discourse was the concept of natural rights which appeared as part of the medieval natural law tradition. From this foundation, the modern human rights arguments emerged over the latter half of the twentieth century, possibly as a reaction to slavery, torture, genocide, and war crimes, as a realization of inherent human vulnerability and as being a precondition for the possibility of a just society.

A) Right to Life:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. The right to life is the essential right that a human being has the right not to be killed by another human being. The concept of a right to life is central to debates on the issues of abortion, capital punishment, euthanasia, self defense and war. According to many human rights activists, the death penalty violates this right. The United Nations has called on states retaining the death penalty to establish a moratorium on capital punishment with a view to its abolition. States

which do not do so face considerable moral and political pressure.

B) Freedom from Torture:

Throughout history, torture has been used as a method of political re-education, interrogation, punishment, and coercion. In addition to state-sponsored torture, individuals or groups may be motivated to inflict torture on others for similar reasons to those of a state; however, the motive for torture can also be for the sadistic gratification of the torturer, as in the Moors murders. Since the mid-20th century, torture is prohibited under international law and the domestic laws of most countries. It is considered to be a violation of human rights, and is declared to be unacceptable by Article 5 of the UN Universal Declaration of Human Rights. Signatories of the Geneva Conventions of 1949 and the Additional Protocols I and II of June 8, 1977 officially agree not to torture captured persons in armed conflicts, whether international or internal. Torture is also prohibited by the United Nations Convention Against Torture, which has been ratified by 157 countries. National and international legal prohibitions on torture derive from a consensus that torture and similar ill-treatment are immoral, as well as impractical. Despite these international conventions, organizations that monitor abuses of human rights (e.g., Amnesty International, the International Rehabilitation Council for Torture Victims) report widespread

use condoned by states in many regions of the world. Amnesty International estimates that at least 81 world governments currently practice torture, some of them openly.

C) **Freedom from Slavery:**

Freedom from slavery is internationally recognized as a human right. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Despite this, the number of slaves today is higher than at any point in history, remaining as high as 12 million to 27 million, Most are debt slaves, largely in South Asia, who are under debt bondage incurred by lenders, sometimes even for generations. Human trafficking is primarily for prostituting women and children into sex industries.

D) **Right to a Fair trial:**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. The right to a fair trial has been defined in numerous regional and international human rights instruments. It is one of the most extensive human rights and all international human rights instruments enshrine it in more than one article. The right to a fair trial is one of the most litigated human rights and substantial case law has been established on the interpretation of this human right. Despite variations in wording and placement of the

various fair trial rights, international human rights instrument define the right to a fair trial in broadly the same terms. The aim of the right is to ensure the proper administration of justice. As a minimum the right to fair trial includes the following fair trial rights in civil and criminal proceedings

- the right to be heard by a competent, independent and impartial tribunal
- the right to a public hearing
- the right to be heard within a reasonable time
- the right to counsel
- the right to interpretation

E) **Freedom of Speech:**

Freedom of speech is the freedom to speak freely without censorship. The term freedom of expression is sometimes used synonymously, but includes any act of seeking, receiving and imparting information or ideas, regardless of the medium used. In practice, the right to freedom of speech is not absolute in any country and the right is commonly subject to limitations, such as on libel, slander, obscenity, incitement to commit a crime, etc. The right to freedom of expression is recognized as a human right under Article 19 of the Universal Declaration of Human Rights and recognized in international human rights law in the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the ICCPR states that "everyone shall

have the right to hold opinions without interference" and "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

F) Freedom of thought, conscience and religion:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. Freedom of thought, conscience and religion are closely related rights that protect the freedom of an individual or community, in public or private, to think and freely hold conscientious beliefs and to manifest religion or belief in teaching, practice, worship, and observance; the concept is generally recognized also to include the freedom to change religion or not to follow any religion. The freedom to leave or discontinue membership in a religion or religious group—in religious terms called "apostasy"—is also a fundamental part of religious freedom, covered by Article 18 of the Universal Declaration of Human Rights.

Human rights groups such as Amnesty International organizes campaigns to protect those arrested and or incarcerated as a prisoner of conscience because of their conscientious beliefs, particularly concerning intellectual, political and artistic freedom of expression and association. In legislation, a conscience clause is a provision in a statute that excuses a health professional from complying with the law (for example legalizing surgical or pharmaceutical abortion) if it is incompatible with religious or conscientious beliefs.

G) Freedom of movement:

Freedom of movement asserts that a citizen of a state in which that citizen is present has the liberty to travel, reside in, and/or work in any part of the state where one pleases within the limits of respect for the liberty and rights of others,[1] and to leave that state and return at any time.

H) Rights debates:

Events and new possibilities can affect existing rights or require new ones. Advances of technology, medicine, and philosophy constantly challenge the status quo of human rights thinking.

I) Right to keep and bear arms:

The right to keep and bear arms for defense is described in the philosophical and political writings of Aristotle, Cicero, John Locke, Machiavelli, the English Whigs and others. In countries with an English common law

tradition, a long-standing common law right to keep and bear arms has long been recognized, as pre-existing in common law, prior even to the existence of national constitutions.

HUMAN RIGHTS ABUSE:

Abuse is the improper usage or treatment of an entity, often to unfairly or improperly gain benefit. Abuse can come in many forms, such as: physical or verbal maltreatment, injury, assault, violation, rape, unjust practices; crimes, or other types of aggression.

The basic rights and freedoms to which all humans are considered to be entitled, often held to include the rights to life liberty, equality, and a fair trial, freedom from slavery and torture, and freedom of thought are all human rights and expression and violation to these basic rights of people by treating them wrongly is called as human rights abuse.

States have a responsibility to protect human rights. However, many are failing to do this, especially when it comes to company operations - whether because of lack of capacity, dependence on the company as an investor or outright corruption. Companies operating across borders are often involved in severe abuses, such as forced labor or forcibly relocating communities from their lands. Unsurprisingly, abuses are particularly stark in the extractive sector, with companies racing against each other to mine scarce and valuable

resources. Traditional livelihoods are destroyed as land is contaminated and water supplies polluted. The impact can be particularly severe for Indigenous Peoples because their way of life and their identity is often closely related to their land. Affected communities are frequently denied access to information about the impact of company operations. Meaning they are excluded from participating in decisions that affect their lives. Although it is now widely accepted that corporations have a responsibility to respect human rights, too many times profits are built on the back of human rights abuses. Despite laws in many countries that allow companies to be prosecuted, governments rarely even investigate corporate wrongdoing.

ABUSES AND MISBEHAVIOR IN CORPORATE COMMUNICATION:

Here, we aim to explain the term ‘organizational abuses and misbehavior’ and its implication towards management-employee relations and the nature of control and power in workplaces. Although rumor and gossip are often viewed as misbehavior because they are often assumed to undermine productivity and reduce employee morale, they are however important in the workplace because they involve detailed knowledge of not just what is happening, but also who is doing what, with whom, how and why. Broadly, these can be depicted as information, influence and entertainment.

Workplace sabotage is another type of misbehavior that demonstrates employees' resistance. Powerlessness is one of the mechanisms that drive employees to engage in sabotage in order to achieve a sense of authority. It intends to damage, disrupt or subvert the organization's operations by creating unfavorable publicity, embarrassment, delays in production, damage to property, destruction of working relationships, or the harming of employees or customers. Employee theft constitutes one of the most serious types of misbehavior in organisations. It is estimated that three-quarters of all employees steal from their employers at least once and many of them repeat such actions on a regular basis.

Lying can also be considered one of the 'acts of resistance'. Lies have received little attention in management literature, yet we all know that it happens. People have the choice of whether or not to engage in misbehavior by choosing to tell lies or to tell the truth in the course of their work. Employees will tend to lie when faced with conflicting demands. Gross human rights abuses are, by definition, serious violations of legal and moral standards. Where these amount to international crimes a natural person can, upon conviction, expect a lengthy prison term. Obviously, this form of punishment is not available for corporate entities. Instead, a corporate offender is most likely to face financial penalties or "fines". However, as a form of punishment, financial penalties have a

number of limitations. First, they do not necessarily have proper deterrent value and often lack the necessary social stigma. They may, instead, be treated simply as a "cost of doing business". Second, the burden does not necessarily fall on those responsible, but ultimately shareholders, who may have had only limited (if any) means with which to influence the decision-making that led up to or contributed to the abuse. Third, while they may send a signal, fines frequently do not offer any prospect of compensation of victims of crime (although some jurisdictions, such as France, Norway and Germany, permit the joining of civil actions with criminal proceedings through which compensation for victims can be claimed). Fourth, apart from their deterrence value, they do not, of themselves, help prevent future occurrences of criminal behavior. For these reasons, some domestic legal systems have developed alternatives to fines designed specifically with the possibility of corporate defendants in mind, such as placing restrictions on the ability of the company to operate in certain economic areas, banning the company from procurement opportunities, requiring the company to publicise the conviction and penalties imposed, confiscation of property and, in extreme cases, compulsory winding up.

CONCLUSION:

The management and employees are likely to strike out in an explosive manner when they

feel powerless. If top management is to seriously deal with misbehavior, they must be willing to deal with the issue in a straightforward manner, specifying corporate communication and policies that will compel corporate members to maintain ethical behavior. Such intervention by top management is vital, and if properly executed, can reduce the consequences or costs of misbehavior. Some corporations and think tanks argue that their actions can actually be positive. Their “constructive engagement” allows the spread of democracy, new technologies, human rights and so on to those regions, which, over time, would allow more positive benefits to be realized.

This sounds nice and comforting and there are certainly cases where this happens. With globalization in general, cross cultural communication is occurs far quicker than ever before. Small business owners should treat all employees complaining of abuses with respect and make them feel at ease and not open to retaliation. Most of all, keep the complaint of verbal harassment between only the parties involved as discrimination can pit employees against each other.

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