Business Leaders Dialogue on Corporate Respect for Human Rights

Addressing Complex Challenges, Business Risk and the Trust Deficit

26th May 2016, Turbine Hall, Johannesburg, South Africa

GLOBAL BUSINESS INITIATIVE
ON HUMAN RIGHTS

NBi
National Business Initiative

THE GLOBAL COMPACT
Global Compact Network
South Africa

Contents

Executive Summary

On 26 May, a unique business leaders conference was held on the topic of corporate respect for human rights in the South African context. The conference was attended by 100 business leaders and other experts. The event focused on case studies and real-life examples of how South African and multi-national companies are responding to and managing human rights in their businesses. The event was an opportunity to hear about how companies are responding to specific human rights challenges, learn about strategies and approaches to human rights and connect with peers and local experts.

The conference sought to explore current business practice plus local and international case studies. The dialogue explored a number of questions including:

- What does corporate respect for human rights look like in practice and how does this deliver positive outcomes for business and rights-holders?

- How can the South African and global business community learn from recent good practice case studies and instances where things have gone wrong?

- Are there capacity and capability gaps when it comes to operating with respect for human rights? If so, how can these be addressed?

- What does corporate respect for human rights look like in practice and how does this deliver positive outcomes for business and rights-holders?

- Does the international Business and Human Rights agenda – in particular the UN Guiding Principles on Business and Human Rights – help when thinking about South Africa's post-apartheid economic transformation?

- How do companies sustain the imperative to address social license to operate issues during times of economic and financial stress – as South Africa and economies around the world are experiencing right now?

The conference was also designed to support business participants to:

- Gain practical insight into how companies in diverse sectors seek to establish social license to operate in complex operating environments

- Learn about company policies, processes and practices to address human rights-related risks

- Learn from peers about their responses and ongoing challenges around specific incidents andd cases – covering issues such as land, community consultation and engagement, labour rights in the supply chain

- Access approaches to embedding and integrating human rights due diligence and remediation into governance and business processes

- Explore successful strategies where multiple stakeholders collaborate to solve complex social risk challenges at a local level

Key themes and insights

These are elaborated below, but included:

- Companies need to move beyond compliance to address human rights issues. Business needs to be innovative to be transformative actors in the South African context.

- Compliance is important but has not driven the radical transformation that South Africa to redress the wrongs of the past.

- Companies understand the need to engage with rights-holders, stakeholders and civil society but need support and guidance to do so more effectively.

- Companies have a good understanding of what human rights are and what the salient issues are. Companies need to move from issue- and crisis-management to due diligence.

- There is an important role for the state to deliver on its obligations. This will help companies meet their responsibilities. In the absence of state action, companies must step-up and be innovative.

- Implementing corporate respect for human rights is not straightforward in complex economies and across a web of business relationships. Companies need to take time and be patient. Thiss will require prioritising.

Participation in the conference was by invitation-only and conducted under Chatham House Rule. The event was co-hosted by the Global Compact Network South Africa (GCNSA), the National Business Initiative (NBI) and the Global Business Initiative on Human Rights (GBI).

Context

THE SOUTH AFRICAN CONTEXT

Many of the business and human rights issues in South Africa today have their origins in the country's apartheid history. Racially-based disparities in wealth, income and opportunity all have their roots in that history. The country's constitution and Bill of Rights deal with the need to address these inequalities, particularly the equality clause which permits and even encourages 'measures designed to protect or advance persons disadvantaged by unfair discrimination.' The second and third generation rights (dealing with social, economic and cultural rights) from clause 26 onwards are designed, among other things, to reinforce this approach of redressing the wrongs of the past.

Much legislation and regulation has developed in this regard, in particular socio-economic charters in various sectors and the overarching Broad Based Black Economic Empowerment codes. Remediation of these legacies is a big ticket item for much of South Africa's business community. In addition, the Companies Act requires companies to establish social and ethics committees to oversee company performance not only on these areas but also matters of the environment and health and safety, and performance in respect of the principles of the UN Global Compact (the Act preceded the approval of the UNGPs). And of course successive King reports on corporate governance have addressed such issues.

The existence of a high quality constitution, Bill of Rights and quite comprehensive set of legislation does not, however, mean that contemporary issues are devoid of human rights concerns. The starkest recent example of this were the events at Marikana in 2012. Questions on the lessons business can learn from this were one of the highlights of the day.

There is a range of other human rights issues that have arisen in South Africa's more recent business activities that provide challenges over and above ongoing efforts to deal with the legacies of the country's history. These are often dealt with in companies' risk registers. The challenge is for companies to view these not only as risks to the company but also from the perspective of risk to the external stakeholder.

The dialogue also included reflections on pursuing corporate efforts to respect human rights during times of economic and financial stress as South Africa's and economies around the world are experiencing right now.

BUSINESS AND HUMAN RIGHTS

The late 1990s and early 2000s saw an upsurge of protest against business, particularly multinational companies, following a series of serious industrial accidents affecting communities and workers (e.g. the Bhopal disaster) and suppression of community and labour leaders linked to anti-corporate protests in Africa and Latin America. That gave rise to animated though somewhat confused debate over the human rights responsibilities of business – where previously human rights had been perceived an issue simply for governments.

In 2006 the then UN Secretary General Kofi Annan appointed Harvard professor John Ruggie as a Special Representative on Business and Human Rights to develop a coherent perspective on this. The outcome was the UN 'Protect, Respect and Remedy' Framework and associated Guiding Principles (UNGPs) for their implementation. The UNGPs today form the basis of other sets of standards dealing with these issues including the UN Global Compact, the OECD Guidelines for Multinational Enterprises, the ISO 26000 guidance standard on social responsibility, among others. Increasingly, civil society organisations are referring to the UNGPs as they approach companies with allegations of wrong doing and calling for their implementation.

STATE DUTY TO PROTECT	CORPORATE RESPONSIBILITY TO RESPECT	ACCESS TO REMEDY
States have a duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication.	Corporations have a responsibility to respect human rights, which means acting with due diligence to avoid infringing on the rights of others.	Victims should have access to effective remedies. This encompasses both judicial and on-judicial remedies.

The UNGPs outline that the duty to protect human rights rests with States. They also assert that companies have a *responsibility* to respect human rights which means to act with due diligence to prevent human rights harms. The UNGPs hold that corporate respect for human rights requires an appropriate policy statement, a systematic and ongoing process of human rights due diligence and a process to remediate harm if things go wrong.

POLICY COMMITMENT	HUMAN RIGHTS DUE DILIGENCE	REMEDIATION
A policy commitment to meet the responsibility to respect human rights. This sends the right messages and sets the right tone. It should emanate from the leadership to all functions, business units, business partners and relevant stakeholders.	A human rights due-diligence process to identify, prevent, mitigate and account for human rights impacts. This is a process of continuous learning and action that can build on, and enhance, existing management systems.	Process to enable the remediation of any adverse human rights impacts that the business causes or contributes. This can be via existing third party processes (including courts), and company mechanisms.

An increasing number of prominent companies have embraced the UNGPs, both in recognition of this being 'the right thing to do' and through developing an awareness of the costs (litigation, disruption of business, reputational impact, consumer boycotts etc.) of failures to respect human rights.

However, as all would acknowledge, there remain many areas where implementation of respect for human rights is clouded with uncertainty, where progress is incremental and where companies are learning by doing.

71% of business respondents now agree that respect for human rights requires going beyond national law, according to a recent Economist Intelligence Unit report[1].

63% of business respondents say discussions on human rights have become more prevalent in their companies over the last 5 years.

Themes and Insights from the Conference

South Africa is uniquely positioned to be a champion of the business and human rights agenda

- South Africa occupies a unique position in the business and human rights global landscape because of the country's apartheid past and what that means for the role of business in democratic society. Apartheid's legacy on society continues to be felt and the role of the private sector in righting the wrongs of the past is regularly examined.

- There are many active conversations on what the role of business is in addressing poverty and inequality, the role of business in development and the role of business in redressing the wrongs of the past – particularly for those industries that benefited from the apartheid system. Business, civil society and government all have interests in seeing the private sector embrace social responsibilities and respect human rights.

- In this context, the UNGPs and international standards are useful because they delineate what companies' responsibilities are and give guidance on how companies can meet social expectations. Conference participants regularly referred to the value and utility of the UNGPs and other international standards such as the OECD Guidelines for Multinational Enterprises and the Voluntary Principles on Security and Human Rights. Participants also emphasised how business can be champions of international standards, particularly through their business associations in support of transformation.

Business should move beyond compliance to fully address the full range of potential human rights impacts. This will enable business to be innovative, transformative actors in the South African context.

- Regulation and policy has been developed to try to redress the wrongs of the past and improve the lives of historically disadvantaged South Africans. This has been an important and needed development – though questions remain as to the extent of transformation in the democratic era. Nonetheless, while compliance with Broad-based Black Economic Empowerment and other regimes is essential – from a human rights perspective, addressing issues through a compliance lens alone will not manage all a company's potential human rights impacts and risks. Further, whilst transformative policies have led to achievements and changes in the landscape, reliance or overt focus on compliance alone can lead to number-chasing, overlook the potential for transformative action and may lead to a 'race to the bottom.'

- Respect for human rights is increasingly critical to being a responsible global company. Corporate respect for human rights could make a substantial positive difference to South African society and sustainable development by ensuring that the rights of workers, communities and customers are at the heart of corporate activity. This is not necessarily a quick or easy journey, particularly given the breadth and depth of global value chains and complex business relationships. Many participants noted this and emphasised thinking about 5- or 10-year beyond compliance, human rights journeys.

There is a trust deficit between business and society in South Africa. Business should meaningfully engage with directly-affected stakeholders to redress the trust deficit and to deliver effectively on the responsibility to respect human rights.

- There is a significant trust deficit between business, civil society and impacted people in South Africa. This is not sustainable, nor advisable as companies want to be having strong, productive relationships with their workers, local neighbours and customers.

- To address this, a number of companies emphasised the importance of meaningful stakeholder engagement with those affected by a company's operations, products or services. One company participant emphasised that business cannot assume to know what is needed by the community in which it operates and how engagement is the only means by which the company can identify those needs and consider them. This was echoed by a speaker from civil society who encouraged business not to approach community grievances with "predetermined solutions" but to "be modest and listen". Another company emphasised the trouble that comes with only engaging with traditional leaders when seeking to secure a social license to operate and communities' sense of frustration when only elites are seen to benefit from corporate activity. Participants also recognised the challenges of engaging with civil society given low levels of trust and dialogue between the two groups.

- It was recognised that for business to redress this, it must meaningfully engage with directly-affected stakeholders, whether workers, communities or customers. Meaningful engagement requires business listening openly to concerns, complaints, hopes and aspirations of those impacted by the company's activities. It was noted that this may require skills that need to be nurtured within the company or may require the help of external third parties and experts. Business may also need to provide access to remedy where things have gone wrong in the past to bolster trust in signalling intention to remedy past wrongs. Companies should also establish grievance mechanisms to demonstrate willingness to address potential issues early before they cause significant adverse impacts in the future.

Implementing corporate respect for human rights is a complex undertaking but there are clear steps that can be taken and plenty of support for business committed to acting responsibly.

- Many participants remarked that embarking on a process to know and show that their company respects human rights is a complex undertaking. It can be overwhelming and difficult to know where to start when faced with vast value chains, business relationships, countries of operation and more. Further, one speaker acknowledged that the employees of a company are not often human rights or development experts but are suddenly thrust into managing human rights-related issues.

- A number of speakers throughout the day shared experiences of their company's human rights journeys. Some started with a human rights policy commitment, others started with mapping the company's potential human rights impacts, another started with managing on specific human rights impact and then began looking at a broader range of human rights risks.

- Business speakers and participants shared different ways that they have learned about how to do business with respect for human rights, including through guidance materials (see, for example, page X of the materials pack), using third party experts and consultants, or entering into discussions with groups such as the Voluntary Principles or IPIECA.

Session Overview

JUDGE DENNIS DAVIS

Judge Dennis Davis gave the opening keynote speech, noting the context in which business and human rights in South Africa exists, including the legacy of apartheid. He then spoke about the importance of the UN Guiding Principles on Business and Human Rights in progressing human rights in the country and beyond.

> "In South Africa, a human rights culture has to be brought about not just by the state but by business too … it is about a practice of that culture that we all need to engage with because if we don't, people will say human rights are only there to protect a few wealthy people at the expense of the majority, and that would be the antithesis of what human rights are supposed to do."
>
> **Judge Dennis Davis**

CORPORATE LEADERSHIP AND ACTION

The first panel of the day focused on the need for corporate leadership and action on a range of human rights issues – including community and worker engagement, improved transparency, labour rights in supply chains, and working with government and civil society actors, amongst other topics.

Companies then presented case studies in breakout groups, launching into wider group dialogue on the themes of community engagement, consultation and natural resources and human rights in business relationships. Anglo American Platinum presented their challenges, progress and lessons from a community relocation in Mogalkwena, South Africa; Illovo Sugar presented their work on land rights and the risks of land grabbing; BASF described how they establish Community Advisory Panels surrounding key chemicals plants around the world; the Coca-Cola Company described their work around the challenges of contract labour and employment conditions on farms owned by small holders; and AngloGold Ashanti described how they manage human rights risks associated with security providers.

> "Business needs to claim its place at the table as an architect and as an enthusiastic champion. Thus far transformative polices have helped us achieve what we have because we are required to comply."
>
> **Sipho Pityana, Chair, AngloGold Ashanti**

> "When starting a project or site, you need to engage the communities and learn about their needs. You cannot assume that you know what is needed."
>
> **Arnold Kanyangarara, Workplace Accountability Manager, The Coca-Cola Company**

HOW TOTAL APPROACHES HUMAN RIGHTS

Total commits to respecting human rights in our code of conduct published on our website. When you commit to global human rights you must explain to people what is expected of their companies. We have done this by outlining our three main areas:

1: Human rights in the work place for staff and contract staff and supply chain.

We have 150,000 suppliers. On workplace rights we operate in 10 countries, local law is not always adequate, our minimum benchmark is to apply labour law best practice. Key concerns are around health and safety, child labour, forced labour, discrimination (which is a risk anywhere in the world - we are explicit about different forms of discrimination we do not tolerate) and working conditions.

2: Human rights and security.

We work in many countries with public and private security providers. On human rights and security, the biggest issue is the terms of the use of force, how to implement best practices and manage potential use of force. When we use private security companies, it is important for us to know their history, and have appropriate training and recruitment standards.

3: Human rights and local communities.

This is essential, we have communities around industrial sites and service stations. As far as local communities are concerned, we must look at land and water – we must acquire these responsibly, ensure people are correctly compensated and that we are managing access to water and resources adequately. Negative impacts must be managed and mitigated adequately.

These are our three main issues which we communicate to staff and then they must identify what is key to their business section. So, we look at what does it mean for all departments – legal, safety, joint ventures etc.? How do we breakdown the need to comply with the UNGPs in concrete action? We looked at security, it resulted in a comprehensive training plan which was rolled out on a risk assessment basis. If you take procurement, we have a responsible procurement task force where we look at categories and high-risk countries and working with suppliers to get answers to questions and doing audits. There is 3-year work programme, some departments were specifically involved in the work programme and now we look at outstanding tasks and set goals for next 3 years. A big area is supply chain and doing more assessments.

Philip Jordan, Chairman of the Ethics Committee, Total

"We, as companies, need to be engaging with civil society and NGOs. We need to be sitting around the table, not across the table."

Kate Mathias, Development Consultant, Illovo Sugar

ON HOW ANGLOGOLD ASHANTI APPROACHES HUMAN RIGHTS

At AngloGold Ashanti, we have a framework of policies to deal with issues such as health and safety, labour relations, community engagement and employment. It is important to act in a way that signals where you stand and what is important. I start my board meetings not, as some do, with a prayer or by looking at our top 10 risks. They start with what is fundamental in South African mining, they start with safety. If there has been an incident, the general management knows that the board will get a detailed report. That sends signals about the centrality of the right to life and the importance of safety.

Secondly, we subscribe to the UNGPs and we have developed and implemented a sustainability reporting unit in our own enterprise, looking at UNGPs for business and human rights. We did a comprehensive review of how we measure against these standards. We found we are 70% compliant, and now we work to be fully compliant.

We make the case that human rights is a commercial imperative. If you look at the value of a safe work environment, an unsafe environment is costly to enterprises because they are inefficient and costly. Discriminatory environments expose you to circumstances where you don't use your human capital optimally – it does not reflect competency. To capitalise on labour, you must look at getting the best skills you can find. It is about the enhancement of enterprise. An enterprise that does not invest and appreciate shared value between the enterprise itself, communities and other stakeholders, alienates itself and will earn a negative reputation. Our responsibility is to look beyond a favourable bottom line.

Sipho Pityana, Chairman, AngloGold Ashanti

COCA-COLA ON SUPPLY CHAIN AND BUSINESS RELATIONSHIPS

If you look at what the Coca-Cola Company faces across our entire value chain, it's huge. So, we have our own **human rights policy** based on the UN Guiding Principles and we expect our own operations to comply with this policy. It focuses on law but goes beyond law. Then, we expect our bottling partners to meet our **Supplier Guiding Principles**, and as a baseline expect them to meet local law requirements.

The challenge we face is the issue of what happens deep within the supply chain. Issues faced by other companies in our supply chain like child labour or land issues. If companies in our supply chain do not address them they end up with us, on our desks. We like to look at human rights from this perspective - let's shift from a traditional focus on risk to the business to risk to people. If you ignore this you will have legal issues with your business. We encourage our suppliers and bottlers to practice best practices and we have inspections to identify non-compliances.

We have a programme to evaluate suppliers and bottlers and we get suppliers and bottlers to close expectation-performance gaps. We use our leverage as a franchiser and a big customer to push for compliance against our expectations. If we do not use that leverage it is going to become our business and end up on our desks. We are the most famous brand in the world, you can imagine the complexities that we face. We face many challenges because of our footprint around the world but we are working hard to solve problems and be a responsible company.

Arnold Kanyangarara, Workplace Accountability Manager, the Coca-Cola Company

In the afternoon, participants focused on two key case studies on complex social and human rights issues in South Africa. The first case study provided an overview of the tragic events that unfolded in August 2012 at Marikana. This was the first time that Lonmin had provided a comprehensive response to what happened, presented by Lerato Molebatsi, Executive Vice President, Communications and Public Affairs. She provided an overview from Lonmin's perspective, how the company responded in the short- and medium- term and what still needs to be done and lessons learned to safeguard non-repetition. Following the conference, Lerato noted:

"The challenges facing the industry are complex and multi-faceted. Through collaboration and bold action, the mining industry can achieve the level of transformation it sorely needs."

Lerato Molebatsi, Executive Vice President, Communications and Public Affairs, Lonmin

The second case study focused on how multiple stakeholders can come together and collaborate to solve complex problems at a local level. The case study focused on how companies, communities, local government and an independent third party have worked together. The case involved an alliance between two gold mining companies and other stakeholders to resolve structural challenges, reduce conflict and build a sustainable local economy and business operating environment for the benefit of all stakeholders. Experiences were shared by Gavin Andersson, Seriti Institute who convened these actors as well as the companies engaged and a community representative. Sayi Nindi, Legal Resources Centre and Salil Tripathi, Institute for Human Rights and Business provided expert closing reflections.

CASE STUDY: INNOVATIVE SOLUTIONS IN WESTONARIA

Westonaria was referred to by many as the protest centre of South Africa after years of service delivery protest, which also saw government buildings burnt down. Westonaria has exceptionally high unemployment, especially amongst youth. There was simmering discontent and many grievances.

So, the mines took a visionary step. Although they were meeting obligations in terms of negotiations with unions and the Social and Labour plans (SLPs), they could not claim to be doing well unless they paid attention to this community and tried to respond to its needs. The gold mines will be gone in a few years with huge impacts on the community, including fewer available jobs. So Sibanye Gold and Goldfields formed an alliance for development (and this doesn't happen often in southern Africa.) After shared planning exercises two long-term outcomes were agreed upon: first the creation of a dialogue platform for three-way communication between mining houses, community organisations and the municipality; second the creation of a parallel economy in agriculture.

The process was initiated by a community mapping exercise facilitated by the Seriti Institute. Amongst other things this involved deep conversations with many actors about what would they would regard as worthwhile goals for community organization. These amount to dignity, work and securing basic rights, social cohesion, youth and childhood development programmes and the ability to live a decent life. In the Westonaria Organization Workshop (WOW) which followed the mapping and participatory planning, no less than 411 people worked together for 6 weeks to create social and economic enterprises.

The mining houses actions were in one way very courageous. Where the biggest threat had been seen as a militant community, they embraced the idea of encouraging community agency, where active citizens work to forge community enterprise.

Gavin Andersson, CEO, Seriti Institute

The final session of the day, brought together a number of leading individuals working on implementing corporate respect for human rights in their companies, including representatives from ABB, Anglo American, Total and Vale. This session emphasised the value of the UN Guiding Principles on Business and Human Rights – and how they can provide a holistic approach to managing all human rights risks. The benefits of this were emphasised in moving away from issue- or crisis- management to proactively identifying, assessing and responding to human rights risks.

ANGLOAMERICAN ON ESTABLISHING HUMAN RIGHTS POLICY

In 2013, we started working with external experts to do a mapping exercise regarding how well we were doing against our commitments. Looking at policies and procedures was complemented by extensive interviews with experts across functions, which was strongly supported by our leadership. Our current CEO had gone through a similar exercise previously so we had buy in from the top. There was a clear mandate which translated into internal collaboration.

Once we had this gap analysis we convened a workshop with various business units and people from external organisations in UK and the Institute of Human Rights and Business to set the scene. Very often people inside the company believe people from the outside may know more. So, we workshopped all the various gap analysis, there were about 20 gaps, and tried to prioritise them.

We developed a human rights policy and many of the elements of human rights had been covered by what was around in our existing policy but the expectation is for companies to have human rights policies and to build them into management to and address training and reporting on what we are actually doing.

We turned to trends in the outside world and looked at what will come in years to follow. The human rights policy many of you are familiar with can be written in an hour or you can use it to engage internally and externally and cause awareness. So, we took 8 – 10 months to draft a policy with internal consultation and we then bounced that policy off 30 – 40 external experts, business partners and academics, especially as it has a lot to do with supply chain and business partners.

What does the policy translate into? How does it trickle through? One important comment we got is, where is your policy? Where is your work anchored in the company? So, we started to think about a framework with values and business principles under which a human rights policy sits and then what we tried to do in that framework is address risk and issues (such as safety, resettlement, security etc.) and look at what impacts actually are and which policy and management processes deal with those risk areas.

Jan Klawitter, Government Relations Manager, AngloAmerican

VALE ON GRIEVANCE MECHANISMS

 First of all, we must understand the importance of a good grievance mechanism. Whatever was not captured in risk analysis is captured by grievance mechanisms. Grievance mechanisms help you to resolve problems when they are still small and contained and you can give a response and not let issues run away with you. Then we have to put in place a group responsible for people to raise complaint and deal with impacts be it on employees or communities.

You must look for a group of activities. It is a process of continuous improvements and feedback. As soon as you have that in your implementation phase, communities must face no obstacles in grievance mechanisms. You must find ways to build trust. People must know that they will be heard and that there will be solution. You must create an organisation or governance structure that these issues are overcome. Issues must reach the top and if they cannot be dealt with, to get budget or mandate. There must be a formal governance structure. There must be confidentiality when needed.

A policy that ensures that complaints are free of fear, they must be anonymous. An important aspect is to promote the external awareness of channels. People must become aware that this channel exists. Then you have to have a log system to log old complaints so that they are incorporated in the company. There is people turn over and people change. Those systems and progress will be lost without a forecast or an adequate system.

In Mozambique, we are developing railways and we need a strong grievance mechanism, so we communicate in Portuguese and dialects and they must be available all hours of the week and accessed by landlines etc. there are different numbers per regions. We have a strong social team and they commit to and conduct social dialogue.

Many problems can be solved by direct and daily contact with communities. Community relations teams are essential. Surface officers and offices that are dedicated to complaint registration and dealing with issues. It is not at all perfect, and it needs attention and constant improvement to be validated by communities.

If you don't have a grievance mechanism, you don't have complaints. So, you will go from 0 to 1000 complaints and many don't want to deal with that and the important thing is the more complaints the better. The more trustworthy your channel is, the more you can deal with conflict and issues at a community level. They are our friend. Governance structures, can't just be on an operational level, you must be able to give visibility to issues. .

Liesel Filgueras, General Manager of Human Rights and Sustainability Themes, Vale

Many companies remarked on how the conference was a remarkable opportunity to hear from peers and to discuss real-life challenges in a safe space context. The organisers are interested to hear from participants and others on what may be useful moving forwards.

Access the full pack of conference materials here and the full agenda here.

About the Partners

GLOBAL BUSINESS INITIATIVE
ON HUMAN RIGHTS

The Global Business Initiative on Human Rights (GBI)

The Global Business Initiative on Human Rights (GBI) exists to advance human rights in a business context around the world. The underlying vision is a global community of corporations from all sectors knowing and showing that they respect the dignity and rights of the people they impact and interact with. From a business perspective this supports an enhanced approach to global leadership and risk management, and can provide access to markets, customers and capital. GBI is led by a core group of major corporations (below) headquartered in Asia, Europe, Latin America, Middle East, North Africa and North America.

www.global-business-initiative.org

Global Compact Network South Africa (GCNSA)

The Global Compact Network South Africa (GCNSA) was launched in 2007 and is governed by a business-led, multi-stakeholder Advisory Committee. The GCNSA has 79 South African signatories and over 25 multi-nationals that are part of the Local Network. The mission of the GCNSA is to: engage proactively with all stakeholders locally and in the rest of the region for a more inclusive economy; facilitate business relations with other societal actors; support and encourage best practice, learning and capacity building on how to implement the 10 Principles.

The GCNSA is hosted by the National Business Initiative (NBI), a voluntary coalition of over 104 national and multi-national companies working towards sustainable development. The Global Compact is an integral part of the NBI's Strategic Framework.

https://www.unglobalcompact.org/engage-locally/africa/south%20africa

The National Business Initiative (NBI)

The National Business Initiative is a voluntary coalition of South African and multinational companies, working towards sustainable growth and development in South Africa and the shaping of a sustainable future through responsible business action. Since our inception in 1995, the NBI has made a distinct impact in the spheres of housing delivery, crime prevention, local economic development, public sector capacity building, Further Education and Training, schooling, public private partnerships, energy efficiency and climate change.

The NBI is a global network partner of the World Business Council for Sustainable Development (WBCSD), the focal point of the United Nations Global Compact (UNGC) Local Network in South Africa and an implementation partner of the CEO Water Mandate, the CDP and We Mean Business.

http://www.nbi.org.za

Appendix

Agenda

08:00 — Arrivals, Registration and Light Breakfast

08:30 — Welcome, Context and Keynote

The day will begin with a welcome from the organisers of the event, Joanne Yawitch, CEO, National Business Initiative and Katryn Wright, Director, Global Business Initiative on Human Rights. They will provide brief contextual remarks to set the scene for the day and explain what to expect from the dialogue.

Judge Dennis Davis will provide the keynote "state of the nation" address. His remarks will contextualise the day's proceedings in the wider socio-economic environment relating to South Africa's post-apartheid transition and current realities. He will touch on South Africa's strong human rights and democratic framework, the (actual and perceived) role of business in society, businesses' role in addressing poverty and inequality and the legacy of business and apartheid as pertinent issues for companies in South Africa grappling with social license to operate, unrest and risk.

09:00 — Session One

Context, evolving expectations and strategic responses

This session will explore the relationship between business and human rights in the South African social and economic context, and how leading companies are responding to emerging expectations and standards.

Panelists will discuss:

- What responsibilities does business have vis-a-vis human rights?

- What are some of the ways in which companies have an impact on human rights, whether positively or negatively?

- What are the risks to business of not paying attention to human rights?

- How do South African legislative and policy frameworks help companies meet their human rights responsibilities (e.g. B-BBE Codes, King Reports, mandatory social and ethics committees, social and labour plans for extractive companies)? Does compliance really lead to societal transformation?

- What frameworks and tools exist that can guide how business should respond to these evolving expectations? What do the UN Guiding Principles on Business and Human Rights (UNGPs) say business should do?

- How are companies responding to evolving human rights expectations and standards, including the UNGPs? What does respecting human rights mean in practice?

- What are the impacts in times of economic and financial stress on implementing corporate respect for human rights?

Panellists:

- Sipho Pityana, Chair, AngloGold Ashanti
- Arnold Kanyangarara, Workplace Accountability Manager, The Coca-Cola Company
- Josua Loots, Project Manager, Business and Human Rights, Centre for Human Rights, University of Pretoria
- Katherine Liao, Deputy Regional Representative, UN Office of the High Commissioner for Human Rights
- Philip Jordan, Chairman of the Ethics Committee, Total (formerly CEO, Total South Africa)

Moderator: Alan Fine, Associate, Russell & Associates

| 10:30 | Break |

| 10:45 | Session Two |

Case study peer learning groups: addressing specific human rights impacts

In breakout groups, participants will explore real case studies and lessons learned presented by prominent businesses. The case studies will outline a recent/current business and human rights case, and then describe how the company has responded, lessons learned, ongoing challenges and next steps. There will then be a facilitated dialogue with the company dealing with challenges and the opportunity for participants to share their experiences in responding to similar human rights issues. Relevant experts will also provide reflections on the cases and discussions.

The different peer learning groups will focus on:

- Group one: community engagement, consultation and natural resources
- Case study one: Anglo American Platinum
- Case study two: Illovo Sugar
- Case study three: BASF

Expert Reflections: Professor Danny Bradlow, University of Pretoria

Moderator: Paul Kapelus, Chair of Human Rights and Business Working Group, Global Compact Network South Africa and Director, Synergy

- Group two: human and labour rights in business relationships
- Case study one: AngloGold Ashanti
- Case study two: The Coca-Cola Company

Expert Reflections: Andrea Shemberg, Lead, LSE Investment and Human Rights Project

Moderator: Achieng Ojwang, Project Manager, Global Compact Network South Africa

| 12:15 | Lunch |

13:00	Session Three

Deep dive discussions on case studies

This two part session will explore case studies from the mining industry (platinum and gold) but will share relevant lessons for businesses in other industries – particularly around corporate governance, worker and community engagement, working with third parties, and engaging with civil society.

13:00	Part one

Marikana – contextual analysis, Lonmin's response and lessons learned

This session will explore the circumstances that led to the events at Marikana in August 2012, Lonmin's response and lessons learned. This will be a unique opportunity to hear Lonmin's analysis of what happened during that week and why, and how the company has responded.

Contextual analysis will be provided using media coverage from the time and interviews with key experts. Lonmin will then share their immediate, medium- and long-term responses to how they dealt with the developments at Marikana. Lonmin will share lessons learned from the crisis and describe steps they have taken to prevent future such tragedies and implement respect for human rights. Participants will have the opportunity to raise questions and share reflections and experiences.

- Speaker
  › Lerato Molebatsi, Executive Vice President, Communications and Public Affairs, Lonmin
- Reflections by:
  › Gerald Pachoud, Manager Partner, Pluto Advisory, formerly Special Adviser to Professor John Ruggie (author of the UN Guiding Principles)

Moderated by: Katryn Wright, Director, GBI

14:15 Part two

Multi-stakeholder collaboration to solve complex problems

This session will explore an innovative response between multiple stakeholders to address complex local-level human rights issues. This in-depth case study exploration will focus on how companies, communities, local government and an independent third party have worked together. The case involves an alliance between two gold mining companies and other stakeholders to resolve structural challenges, reduce conflict and build a sustainable local economy and business operating environment for the benefit of all stakeholders. Experiences will be shared by Gavin Andersson, Seriti Institute who convened these actors as well as the companies engaged, a local government representative and a community representative – with opportunities for questions and to hear experiences and perspectives from the floor.

- Multi-stakeholder example
  - › Gavin Andersson, Executive Director, Seriti Institute
  - › Phillip Jacobs, Vice President Corporate Affairs, Sibanye Gold
  - › Lusindiso Mxutu, Community Representative, Mines and Community Development Enterprise
  - › Thabo Ndlovu, Municipal Manager, Westonaria Municipality
- Reflections by:
  - › Sayi Nindi, Attorney, Legal Resources Centre
  - › Salil Tripathi, Senior Advisor, Institute for Human Rights and Business

Moderator: Paul Kapelus, Chair of Human Rights and Business Working Group, Global Compact Network South Africa and Director, Synergy

15:30 Break

15:45 Session Four

Corporate respect for human rights – implementation and integration

This session will address the practical ways in which companies can and do implement respect for human rights throughout their operations, products and services. The focus will be on different ways that companies are setting strategy and priorities to enable them to implement respect for human rights. The session will address how companies can and do:

- **Understand, identify and address human rights impacts,** including through mapping and impact assessments, and remedy and grievance mechanisms
- **Integrate and embed respect for human rights** through the business, including through training and capacity building
- **Internal organisation and governance** for accounting for human rights in the business system

Panellists:

- Jan Klawitter, Government Relations Manager, Anglo American
- Adebola Ogunlade, Legal Counsel, Group Legal Department, Compliance and Corporate Social Responsibility, Total
- Anders Nordstrom, Group Head of Environment, ABB
- Kasumi Blessing, Global Manager, Corporate Sustainability, Novo Nordisk A/S
- Liesel Filgueiras, General Manager of Human Rights and Sustainability Themes, Vale

Moderated by: Catie Shavin, Director, GBI

17:15	Ways forward and next steps

- Paul Kapelus, Chair of Human Rights and Business Working Group, Global Compact Network South Africa and Director, Synergy
- Achieng Ojwang, Programme Manager, Global Compact Network South Africa

17:30	Close