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# BRINGING TOGETHER BUSINESS AND HUMAN RIGHTS

## HRIC Interview with Michael Posner

*Sharon Hom talks to Michael Posner, human rights lawyer and the president of Human Rights First, about his experiences with the development of corporate social responsibility.*

### AN EVOLVING FRAMEWORK

**Sharon Hom:** As a human rights lawyer actively bringing together human rights and business concerns for more than 30 years, you're not only a recognized leader in the human rights community, but you are also widely respected in the business community. You've built the credibility, and you have the patience and drive to develop a complex discussion over the long term. This makes a huge difference in how you can really push and move an issue.

How did you get started bringing human rights and business interests together? You're carrying the water both ways: bringing human rights issues to a business constituency, and bringing business approaches and concerns to the human rights community in a way that it can address more effectively. How did you first see this, and what motivated you to begin trying to put the two together?

**Michael Posner:** Let me take this from both directions.

From the human rights perspective, the struggle for several decades has been to create broader international standards or norms, which are susceptible of enforcement and accountability across geographic boundaries, across state lines. The notion initially, say when Amnesty International was created in the 1960s, was very much a government focus—governments torturing people, governments imprisoning without a fair

trial, governments restricting speech and assembly, etc. The almost exclusive focus of the human rights movement was how to make governments more accountable. This is still a central focus.

But it has become clear over time that there are other responsible parties and, in some cases, other parties that can have influence over government conduct. In the 1980s, a more interesting and complex discussion evolved in the context of civil wars and armed conflicts, over what were the responsibilities of non-government entities (like guerillas or insurgencies) that were engaged in fighting. Groups like Human Rights Watch (HRW) and Amnesty International took the lead in developing a human rights approach to these non-governmental entities. They argued that the traditional framework doesn't make sense when you have two sides fighting one another—one is a government and one is not—and you have civilian non-combatants caught in the middle. You want to find a way to establish some responsibility and accountability for both sides.

As the discussion evolved further, it became clear that there were other kinds of human rights issues where there are people or institutions committing violations, or complicit or engaged in violations, that also need to be addressed. So for example, with the issue of violence against women, it's often not the state that is directly responsible: domestic violence is perpetuated by a husband against a wife. But the government still has some obligation to do something about it, even though it occurs outside the context of official action.

It is along this continuum that human rights groups have evolved and have begun to examine what others, not just governments, are doing. In this evolving discussion the role of corporations became more obvious,

and I think it coincided with what we now call globalization. But what we call globalization now has been going on for decades—that is, an increasingly interconnected world where big companies, multinational companies, have growing reach, and are increasingly engaged in enterprises that either reinforce or support government actions that violate rights (or in their own activities violate rights).

As these global companies have grown and become a more important force in the world, it's been clear for 15 years or more that there needs to be a place in the human rights discussion to examine the role of corporations, particularly big, multinational corporations, both in terms of 1) regulating and influencing their conduct, and the conduct of those they interact with on the private side; and also 2) how to channel their influence in more constructive ways, when they have the potential to influence government conduct or behavior.

That is the broad frame to me.

**SH:** Mike, it's helpful to see the issue both thematically and how it expands from very particular developments, regionally and globally.

**MP:** And let's just take it from the other direction really quickly. It's also true that as the field has evolved, the campaigning human rights activist community has struggled to figure out how to have a practical effect on companies and to understand how companies operate, and what both the opportunities and challenges are. In effect, activists seek to carve out a results-oriented agenda that pushes companies to be more open to the human rights discussion, and in fact to internalize human rights in the ways they operate.

There are a couple of challenges here. One is that some campaigning groups in a range of ways have decried the new global economy. "Globalization" is now a pejorative in some circles—the world is now dominated by big American and European companies, and workers and poor people are suffering as a result of their influence and power. That, to me, is too simple a way of looking at it, but it is certainly part of the equation. So in some ways, companies have been demonized and are deemed primarily responsible for a lot of the world's

ills, the inequity in the balance of power between rich and poor.

At the same time, there hasn't been enough of an understanding of how businesses function, or of the dynamics and pressures under which they operate. And there's not enough understanding of how to use those pressures as a way of tailoring campaigns undertaken to force businesses to change. Because of that broader environment, because businesses are essentially driven by the bottom line, and because their culture is so different, businesses have been extremely reticent to engage in these discussions. Often they only have come into these discussions as a reaction to unfavorable publicity and what they perceive to be a threat to their brand reputations. So these discussions generally start in a very awkward way.

The challenge for all of us that are working in this area is to take advantage of that moment where the company goes, "Oh my god, here's an issue I have to understand," and actually turn it around in a way that makes businesses feel that there is something they can do about it, that there is a way forward for them. The way forward can be consistent with the notion that they're still trying to make a profit, but at the same time be a part of their broader obligations as global citizens. That's where the discussion has been for about the last 10–15 years. The discussion is moving rapidly, but is very much still in an embryonic stage.

### **STRATEGIES: RHETORIC, NARRATIVE, AND FRAMING THE DEBATE**

**SH:** The negative view of the new global economy—globalization as negative—that you referenced reflects an ahistoric tendency and too simple a critique. Frankly, the world has been global for quite a long time. From China's perspective, China has been engaged in global trade, global interactions, and global cultural exchanges for thousands of years. It is just that the scope and speed has rapidly increased, because of technology and transportation, among a number of factors.

An overly simple globalization critique also does not acknowledge how global phenomena and culture and

processes become indigenized, or the ways in which cultural meaning is transformed and produced. McDonald's is a good example: In the United States, it is viewed as fast cheap food; whereas in China, going to McDonald's is often considered special, a meal out for the whole family. So, the whole cultural meaning of a phenomenon can change. Your point about globalization underscores the lack of nuance in these discussions.

Let's tunnel down a little bit about the way you describe the campaigning groups and their approach: How much of that is a strategy choice? Or a function of geographic and structural differences?

For example, many of the large international groups, like HRW and Amnesty, are based in the north. In the late 1980s and early 1990s, many NGOs from the south (and more regional NGOs) voiced criticisms about northern NGOs over both strategies and the issues

raised, and the ways in which they addressed those issues—especially given that it was many of the northern NGOs that took the lead in shaping both the strategies and the debate. To what extent do you think the challenges you've identified in the thematic development of the human rights movement are shaped by or the result of who have been the leading voices in shaping the debate, reflecting, perhaps inevitably, their own situated positioning?

**MP:** Right, there are multiple factors. What you've described is true, and there are other things as well: It's not just the human rights NGO framing, but it's also the way the media portrays these issues, the way (in the manufacturing sector) big Western unions portray the issues. For example, when manufacturing moves from the U.S. and Europe to countries in the south, there is pushback by union members, saying, "What are you doing to protect our jobs?"

**A giant statue of late chairman Mao Zedong stands at the entrance to the military base of Brigade 196 in Tianjin. Photo credits: REUTERS/Andrew Wong.**



So, there are multiple things going on here, but I agree with you that this is part of a long historic progression. And as you said, as a result of enhanced communications, transportation, use of technology, etc., issues become more immediate and focused, much more quickly. And also, the acceleration of these things happened during the decline of the USSR. There was a sense in early 1990s that the entire world was moving to the free market system and a single global economy. This conception is overly simplistic, but that was the way that the media portrayed the globalization debate. The more important question today is, where do we go from here? How do we move the debate beyond rhetoric and nice-sounding declarations of aspiration to things that are actually real in people's lives?

My experience is that if you're on the receiving end—that is, if you're working in a factory or on an oil rig, or you're living in a place where minerals are being extracted, or you're trying to use the Internet in China or India or Nigeria—you're eager to take advantage of this evolution of the global economy. But you also want to be treated fairly, and enjoy the fruits of the new world in a way that is both not undermined by government intrusion and consistent with your own culture. So it is challenging, but I do think the opportunities today are huge, because so much of this is in flux. In fact, most companies know they will have to deal with these issues increasingly in the years ahead, and are just now beginning to think about what it means for them to do so.

**SH:** In terms of the strategic framing of issues, I agree we need to move beyond rhetoric, but there is also a way in which the dominant rhetoric and assumptions of how globalization will play out remains a key part of the challenge. For example, the “Washington Consensus” story asserts the inevitability of openness and democracy flowing from economic growth, reform, and liberalization. This dominant story shapes how the media reports it, how we understand it, and how NGOs think through the strategies. Companies (who often enter these kinds of CSR processes reluctantly as you noted) are also repeating the dominant story—saying yes, there are human rights problems, but once we're there and investing and there is economic growth, it's going to get better. They have absorbed and accepted

the legitimacy of the dominant, rhetorical story. This needs to shift as well, and this is why it's difficult to move from here, because the “here” has already been shaped by a story that has not been shown to be empirically true, and doesn't make much sense normatively either.

**MP:** There are a couple of things embedded in what you just said. One is that companies would like to say that, by and large, their actions are divorced from political process or what government does. They just co-exist in a world where somebody else makes rules. That is too simplistic on two different grounds.

It's too simplified because, in fact, when their economic interests are at stake, companies have the resources to push for their economic self-interest, and they do it all the time. The second ground is that they are deferring and deflecting their own responsibility when they say, this is just all about government, and eventually governments will have to be rights-respecting democracies with the rule of law, and that will solve everything.

Of course, in general, that is where you want to get to, but it doesn't happen by accident, and there are different forces at work internally and externally that contribute to that achievement. And when you have a company as large as a Wal-Mart or Exxon or Google, they're in fact now a part of the mix. You can't have that large of a footprint in the global economy (and with governments) and say, we're just innocent bystanders, and when the sign says walk, we walk. Their role is more complicated than that.

At a minimum, they must be responsible for their own actions. Particularly in the manufacturing sector, responsibility begins within the four walls of the factory. Speaking more broadly, every company that is operating globally has to be responsible for its own actions, and those actions by its supplier/contractor base that basically help them do their business. That's inescapable to me; those are direct responsibilities.

Then beyond that, to the extent that companies influence the environments in which they are operating, they also increasingly have the responsibility to be good corporate citizens. Which means, in part, not just

mouth the platitudes of supporting democracy and the rule of law, and not just when it serves their economic interests, but really thinking about what their responsibilities are as major global actors to help ensure that the world takes a path consistent with those aspirations. Companies are ever-so-slowly moving in that direction. It is becoming increasingly difficult for companies—particularly in the manufacturing sector—to say that they bear no responsibility for products bearing their name. If it has their name on it, they own it. And it is even difficult for the extractive industry to say, “We’re just pumping oil or digging gold, and it’s not our responsibility to figure out how the facilities are protected.” If it’s on their property, and they’re getting economic benefit, then they bear direct responsibility for making sure that the rule of law is in fact followed.

And with the tech companies we’ve been working with [in the CDT-BSR multi-stakeholder initiative on freedom of expression and privacy], there is no question there as well that if their name is on the product, and the product is either disseminating information or keeping track of private information about individuals, they have a direct responsibility for doing everything they can to make sure those responsibilities are fulfilled to the maximum extent possible.

**SH:** Two observations came to mind here. First on your government point, that it is really disingenuous and naïve of businesses to not acknowledge their own intrusive presence in government: it’s not just that they intrude in matters of governance when their economic interests are at stake, but it is also a fact that businesses have very well-resourced lobbying infrastructures—experts, relationships, resources—that are ready to be mobilized.

Second, the interrelationship of companies and government exists on an individual level, where despite ethical guidelines, there continues to be a revolving door. Individuals moving from government to the corporate sector or vice versa carry with them particular interests and worldviews. This is not a bad or good thing by itself, but it does present some of the finer points about the challenges.

## THE EVOLVING CORPORATE SOCIAL RESPONSIBILITY MODEL

**SH:** The responsibilities that you’ve laid out—both the direct responsibilities and that of being a good corporate citizen—also suggest that the corporations require a very different kind of intergenerational thinking as they move forward in pushing, or in collaboration, dialogue, and engagement with, NGOs. This thinking is quite different from short investment horizon and bottom-line thinking. There’s also the challenge for companies of identifying the different stakeholders and how to engage them in different ways. And as NGOs, we’re seeing them explore appropriate roles and ways to communicate in many of these multi-stakeholder processes.

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**MP:** This gives us a path to discuss how all of this relates to the evolving corporate social responsibility (CSR) model. Within a relatively short period of time, 20 years or so, companies have realized that it is in their own economic self-interest to stand for certain values, because their customers and investors care about it, and because they’re afraid of government regulation if they don’t do something about it themselves. We’ve seen this certainly in the environmental area, where there is a growing recognition about some issues (particularly those related to climate change). If a company is not thinking green, it will be outflanked by competitors and/or subjected to much more intrusive government regulation. So they undertake programs of environmental sustainability as part of an effort to, in effect, get ahead of regulators and to improve brand image in a competitive world. We can look also at recent changes on issues like racial diversity or the role of women in a corporation.

In the labor arena, if you look at issues of forced labor and child labor, those are very emotionally evocative issues. Companies make a business calculation to adopt a company policy on those issues to demonstrate good corporate citizenship. And this is a good thing: these issues act as door openers to the larger and more complicated discussions on a range of other issues. And these discussions eventually move down the supply chain; we're just beginning to have those discussions, and the Fair Labor Association (FLA) and others are starting to take the baby steps, embryonic steps.

But I think there is now a danger in the way that the CSR box is painted too narrowly, and doesn't really embrace a broader notion of a set of sustainable human rights policies that cut across the entire company or industry. In an incremental way, we're trying to build the pieces of that to create a model that works and gets results so that it becomes more difficult for companies to say, "This is beyond what we can do, beyond what we know how to do, and there are no models of real companies doing this."

In each of these endeavors, whether the Voluntary Principles in the extractive industry, the FLA in manufacturing, or the CDT process looking at issues of freedom of expression and privacy in the Internet and communications technology industry, we're building blocks towards a broader notion of human rights policies for companies. Down the road, we ought to be in the place where companies embrace the notion that whatever they're doing has to be guided by a set of fundamental global human rights standards to which they're obligated. This notion applies both in the business itself and to those with whom that business deals commercially, and in some important ways guides their relationships with governments.

**SH:** The way you describe this CSR model—do you think this describes CSR primarily for U.S. companies? Do you think that there is a difference in the trajectory that European companies are taking in developing a model for CSR?

**MP:** There are some differences but there's not a simple way to describe them. On one level, there's a more advanced ethical discussion in Europe, and a consumer

culture that has been more historically demanding on some of these issues, which has pushed some companies to do more. On the other hand, there is a more aggressive regulatory- and accountability-oriented model that has come out of the U.S., though more so in some industries (manufacturing) than others. Certainly in the manufacturing sector, it has in fact been the U.S. companies and NGOs that are driving the debate more so than the Europeans, in terms of actual systems of transparency and accountability that companies don't control.

**And there is a quite interesting dynamic among a number of southern companies that are coming into these discussions, who have their own interests in trying to be seen locally as leaders, or are feeling incredible competitive pressures (including from global brands) and feeling much less strong in their ability to stand up to their own governments.**

Companies in any industry, and wherever they're based, want as much control as they can get. They're nervous about any kind of external intrusion or evaluation at all, particularly if it is accompanied by some measure of transparency that makes them look bad. Again, the greatest fear companies have is that they'll be exposed for violating some core standard by people outside of their control, with the result that they will look bad, both to the public and vis-à-vis their competitors. So yes, there are differences. And there is growing discussion and collaboration between the European- and U.S.-based advocacy groups.

And there is a quite interesting dynamic among a number of southern companies that are coming into these discussions, who have their own interests in trying to be seen locally as leaders, or are feeling incredible competitive pressures (including from global brands) and feeling much less strong in their ability to stand up to their own governments. This happens certainly in places like China, but in many other areas as well. It's daunting for

such companies to say, we're going to impose a different standard than our own government wants us to.

## CORPORATE SOCIAL RESPONSIBILITY IN CHINA

**SH:** Can you focus a bit on China in the context of our discussion about globalization? Over the last 15–20 years, China has arrived at a much more influential global economic leadership position. How do you see the China piece fitting into the developing trends—both in ethical developments in Europe and regulatory developments in the U.S.? There seem to be three different parts to it: 1) the Chinese government; 2) foreign companies in China; and 3) Chinese companies abroad.

**MP:** I would also add a fourth element: Chinese workers and citizens, and where they fit in.

On the government side, the Chinese government's effectiveness in pushing very rapid economic growth is extraordinary and maybe unprecedented, both in pace and the scope of change. The government is trying to do that using a model that has worked in a tiny place like Singapore, but not exactly tested in any larger kind of society—namely a very centralized, government-controlled political structure that is wary of dissent, but at the same time is trying to modernize and build an economic machine that demands a certain amount of flexibility and freedom, and also some degree of regulation and predictability. This is a daunting thing to do and it's not at all clear that this model can be sustained.

**SH:** Yes, it's also that the Chinese government is focusing on growth (which is part of the model) without supporting the underpinning institutions that could support sustainable growth. The second thing that's really missing is that a growth model alone is just not sustainable unless it also addresses distributive issues. And then finally, the third piece is, of course, the massive corruption. Pei Minxin has suggested the direct costs of corruption is as high as US \$86 billion a year.<sup>1</sup>

**MP:** There are multiple pieces here: corruption, environmental costs of growth without regulation, the resistance and upheaval among workers in substandard

conditions (who, as they become more aware of what's going on in the world, increasingly recognize that there are alternative ways to do things), attempts to restrict access to information, and government attempts to impose very rigid central control over political participation. Together these things create a combustible mix. We're all just watching to see it evolve.

One interesting thing is the extent to which the government has begun to show a recognition (certainly on the environmental side) that it can't sustain what it's doing. And even on the labor side, where there's been this notion of a central Party union as the only organizing force in a government-controlled labor sector, and also very *de minimis* labor laws or enforcement as one feature of competitiveness in the global economy—all of that is now coming into question. The new Chinese Labor Law is, in some ways, one recognition of the demands of workers on the ground, and of some in government, that the system needs to be modified to be sustainable.

There are huge challenges with the Chinese government, but there are still many opportunities. If we're having this discussion in ten years, it will be a much different place and a much different environment where there are likely to be many new possibilities.

**SH:** The measure of how terribly different it is will be whether we'll have that conversation sitting in a café in Beijing.

**MP:** Yes, exactly, and I think that inevitably we will, because there are just too many forces working internally and externally for them to stay the course in what they're doing. I can't predict how things will turn out, but by constitution, I'm an optimist. There are enough affirmative forces here, both within China (people living in China, traveling, studying abroad, and going back) and the range of external actors—almost inevitably, there will be a push to open the process enough to provide opportunities for human rights to operate. I may be unduly optimistic, but certainly that's what I would like to see happen.

**SH:** In a recent interview, a reporter commented [to me], "You're such an optimist, how can you be so

optimistic?” And I said, look, there’s no room in the human rights business for pessimists. We have to be a pessimist of the intellect, but an optimist of the will.

**MP:** It’s the only way to keep going everyday. And you know, in a way, the Olympics is the perfect symbol of that. The Chinese government and the Chinese people are so keen to be part of the bigger world, to be recognized as the power that they are. One of the credentials or stations along the road is to host global events like the Olympics. That’s a great opportunity for China.

On the other hand, it also throws open the society to a range of external and internal pressures and evaluations, scrutiny, engagement, and contact, which are all inevitably part of the change process. Some Chinese officials took a calculated risk that the prestige and value of the Olympics to China in its current form overcomes the risks of subjecting the Chinese government to the kind of public scrutiny and contact that it’s going to have over the next six months. Ultimately, events like the Olympics are going to hasten the process of change, hopefully in a positive way. And we don’t have to wait ten years; we can have that discussion a year from now, asking what was the effect of all this.

**Even though there are things that are in fact doable, the collective wisdom seems to be that if you even hint at doing something a little bolder on human rights, then you risk being ostracized, being kicked out of the country, or losing valuable contracts, etc. There’s a kind of collective paralysis as a result, a group-think that is dominated by the lowest common denominator.**

Just to go to your other two points, the role of global companies is threefold: One is not to stand in the way, and in fact to reinforce the government’s best intentions. An example would be the new Labor Law, or the government initiatives on the environment. If the Chinese government is willing to put itself forward to make change,

it is incumbent on global companies to reinforce it and certainly not try to block it. Inevitably, it will make the cost of business go up, and that’s going to create a range of challenges for global companies, particularly for those in manufacturing that have come there because they can produce quality products for low cost. One of the challenges for these companies is to recognize that China is going to change, and to the extent that the government is trying to increase standards on the environment and workers’ rights and the like, it’s incumbent on global companies to not stand in the way, and in fact to reinforce those efforts. That’s the first obligation.

The second obligation is that within their own business enterprise (whether technology or manufacturing or retail sales), it is important for companies to say internally, what are the things they need to do to be a global leader on human rights within their own business, and within the businesses of those that they engage with commercially (that is, within the supply chain, contractor base, etc.)? What are the things they need to do to make sure they are upholding the highest human rights standards in any industry they are in?

And then the third piece goes to a notion of broader citizenship: What does it mean to be a global business operating in China? What is a company’s relationship with the government outside of its immediate sphere of influence? And I recognize that this is the hardest for companies, and there’s no formula for what they should or have to do. But just as a U.S. company is engaged in the U.S., there’s always a notion of what are they going to contribute to the well-being of the community, not only with their own employees and customers, but more broadly, how do they fit into the community, and what broader contributions can they make. That seems to be a conversation that is just beginning to happen more globally, but inevitably is going to have to happen. It will lead to all sorts of interesting and complicated questions about companies’ relationship to the Chinese government.

**SH:** It’s interesting though that some companies like General Electric (GE) have been in China for more than a century, while new foreign companies are just breaking into the market. Those questions to ask about a company’s relationship with the government and how



Chinese construction workers protest salaries withheld by their boss in Beijing, on January 25, 2007. The signs read, "Travel thousands of miles to Beijing but without a salary at year's end, where's the justice?" Photo credits: AP Photo/Ng Han Guan.

the company can make a contribution will take on a different tenor depending on the company's history in China, don't you think?

**MP:** Yes, but one thing that unites them is that all the Western companies in China feel like they're walking on eggshells, and they reinforce that among one another. Even though there are things that are in fact doable, the collective wisdom seems to be that if you even hint at doing something a little bolder on human rights, then you risk being ostracized, being kicked out of the country, or losing valuable contracts, etc. There's a kind of collective paralysis as a result, a group-think that is dominated by the lowest common denominator. Because everyone is looking at what everyone else is doing, the base is very low.

But it doesn't take that many trendsetters to say, "We can do more and we'll be ok. We can actually create an easier environment in which to do business." This might mean it will be more expensive to manufacture or produce

something, but we're going to be engaged in countries like China in a more socially responsible way.

Over time, that's a discussion that companies need to be pushed on. We've seen it in the Internet context, where companies have the notion that if the government asks for something, of course we do it. My reaction to that is, says who? Why should you not have a similar strategy there than what you would have in another place, where you look at the range of options and see how much the load will bear? There's almost a default position that "this is China, it's different, if we push, the government is going to make it impossible for us." Well if you never test that proposition, how do you know if it will always be true?

There's room today to push companies to get a little more backbone, and to individually and collectively be as assertive as they've been in other areas, where their economic interests are at stake. For example, companies have become quite creative and aggressive in areas like

intellectual property, where people in China are pirating DVDs and government enforcement activities have not been sufficiently robust. But in other areas like human rights, companies have responded as if this subject is the third rail, so you just don't go there. We have to develop the same kind of incentives with respect to human rights issues as companies feel regarding their own economic interests, such as when they're fighting piracy.

Third, for the Chinese companies, there are many opportunities we're not exploring. The assumption is that Chinese companies are always the least compliant and the least interested in compliance with human rights standards, and I don't believe that for a minute. What I see on the manufacturing side is that in fact a lot of local suppliers and factory owners feel enormous competitive pressure imposed by global companies that come in with unreasonable demands, because the global market is built on this notion that we're going to go to the cheapest supplier of our product. Global companies in fact often are pushing local Chinese companies to behave badly.

Part of what we need to do on a global scale is to force that discussion between local suppliers and manufacturers and their global customers (that is, brands and big global companies), and create a more honest dialogue outside of a negotiations setting, where some of these issues can be raised. We can then start to develop some standards on appropriate behavior. So when you have, for example, orders that are unreasonable in terms of time or a price structure that forces a local company to work people overtime without paying them—there is some responsibility for these problems among the various parties. I think that local Chinese suppliers and factory owners would welcome a more honest discussion of how the global supply chain works. There are opportunities there. This does not mean that everybody has a copy of the Universal Declaration of Human Rights in their back pocket, and uses international human rights standards as their reference point, I don't expect that. But I do believe it's a more complicated discussion than it's sometimes painted to be.

**SH:** Do you want to say something about Chinese workers and Chinese citizens, your fourth group?

**MP:** Well, what is striking to me is that in a country where government has outlawed independent trade unions, there is still so much activity at the grassroots level, at a factory level, by workers who are essentially taking these matters into their own hands. Also at the grassroots, many groups are operating "unofficially," whether they are unions or NGOs. There is now clearly an evolution in the way in which the relationship between factories and workers is playing out. There is a much more impatient and increasingly empowered group of people living and working in China who are saying, we can and should be doing better. If no one else is helping, we need to figure out how to help ourselves.

And this is also true in the information area, where it's very hard for somebody in China to see that there's a rapidly expanding global infrastructure for information and yet they're not entitled to participate fully in it. There is a growing sense of entitlement (in the most positive way) by a growing number of people in China (maybe not a majority, but a substantial minority) saying that we should be like everyone else: we should have access to information, more robust political processes, more control over our destiny in the workplace, and be able to reclaim all the money that is lost through corruption and official malfeasance.

As those demands escalate, it will be increasingly difficult for the government to keep the lid on. Inevitably, the internal demands within China for change are what is going to change China. And I'm pretty optimistic. It's not everybody, and it's not happening overnight, but there is a clear escalation of demands for greater enjoyment of rights and greater participation in the process that decides how life should be in China. Inevitably, this will lead to positive change.

**SH:** So in some ways, the greater openness, the greater foreign presence, globalization, and economic opening has contributed to these escalating expectations. And perhaps even the empowerment of individuals and groups.

**MP:** Absolutely. Our job is to accelerate that process, to stimulate government to behave better, to stimulate other governments to put pressure on the government. And in this context, to stimulate the global economic

sector, the business community, and say that companies have both a responsibility to do things differently, and a great opportunity to be part of a process that is empowering the people in China to be what they want to be, and ultimately create a more law-based, rights-based democratic state. This is a long term ambition, but it's not going to happen just because everyone is doing business there; it's going to happen because people, including companies, are working to make it happen.

**SH:** That's the answer to the inevitability argument: it is inevitable, *only if* everybody works to make it happen. It's not going to happen purely through the forces of the market.

### BETTER BUSINESS THROUGH HUMAN RIGHTS

**SH:** Just to push you on your comment about need for more incentives: In the intellectual property area, most companies can see that being aggressive about enforcement of their rights has a direct impact on their economic interests. However, the thought experiment that needs to happen is—what if we viewed human rights in the same way? The protection of human rights is also a part of their due diligence, part of creating sustainable business operations, all related to the sustainability thinking. But somehow, that thought experiment is very difficult to push.

**MP:** It is difficult, but it is happening in three ways. The first and most direct way (and also the most negative) is that companies don't want to be caught with their pants down. They don't want to find a *60 Minutes* cameraman inside a factory showing workers being abused, or to be Yahoo! facing a congressional inquiry in the Shi Tao case. These cases get bad publicity, which hurts a brand image, so there is a cost. When a company is sued, or called before a congressional committee, this can affect its share value, etc. That's a risk every company understands. But there are not enough hours on *60 Minutes* to show all the violations in the course of a year, and at a certain point there are diminishing returns in relying solely on these kinds of exposés. They become too routine. This kind of external pressure wakes companies up, but it doesn't sustain change.

The second phase for companies is a recognition that there is affirmative value operating in a more rights oriented way. Again, I'll use the manufacturing sector as an example. Companies have come to realize that a big supply chain where a company doesn't know what's going on and whether workers are being abused, is also probably a supply chain where products are not being delivered on time and they don't have routine quality.

Over time, the most enlightened companies will realize that they can do better and make more money if they have a supply base of companies that respect human rights because these companies will have a stable workforce and create better products in a more timely way. That's the model that a number of apparel and athletic footwear companies in the Fair Labor Association are now internally adopting; the most enlightened companies are telling managers that this is the best model to adopt and it will enhance the bottom line. Now, this may not directly translate to other industries, but it's certainly one that's worth pursuing as a strategy.

The third approach is in some ways related to the first, but not entirely. Some companies have begun to say that it is in their interest (beyond just avoiding an exposé), in terms of who they hire, who they retain, what they do with stockholders, to be able to project themselves affirmatively as a company that makes human rights a priority. They are making the case that it is good for them as a business. It doesn't just make them feel good, but it also brings the kind of people they want into the company, and will ultimately pay dividends as social investment firms and others begin to say, this is a company that's doing the right thing and they're doing it the right way. Companies like GE or Reebok or Adidas are beginning to promote this model as part of their self-image: they view themselves as industry leaders in everything they do. In particular on these issues, they think that they are the kinds of company that over the long term want to be leaders also on social, environmental and human rights issues. This will make them better and more profitable companies.

**LOOKING AHEAD: LESSONS FROM THE FAIR LABOR ASSOCIATION FOR OTHER CSR INITIATIVES**

**SH:** Various insights of yours in our discussion reflect many of your experiences with the FLA. Do you want to foreground that a bit and say what you think are the biggest lessons and take-aways from the FLA process, and how much of that you think is applicable in other areas? You are clearly bringing that wisdom to other processes like the CDT-BSR process [on Internet and communications technology and free expression and privacy] that we’re involved in with you. I can really see you drawing on those experiences, and translating and applying them in a different context. Can you address these lessons in an explicit way?

**MP:** I would highlight three lessons learned thus far in the various multi-stakeholder processes. First, it is very important when you have a group of people around a table representing different parties of interest to acknowledge those differences and negotiate (in the most straightforward way) an agreement of joint participation based on a very explicit discussion about those differences. It does not bode well for these initiatives to pave over those differences, or postpone those differences for another day. You need to be clear what the risks and challenges are to all sides, in particular to the business and NGO sides. Groups need to find the best way possible to reconcile those differences and find a mutually acceptable way of working together and moving forward—both in terms of what the standards are, the means of enforcement and accountability, and the opportunities for collaboration and mutual learning.

Second it is important to establish from the outset the limits of these kinds of processes and what they’re not going to do. There is often a desire to solve mega-problems, and announce grand gestures. I don’t believe in that. It’s fine to say we aspire to do things. But what really makes a difference is a concrete, results-oriented approach that says, these are the things within the realm of the possible, but when we say we are going to make a difference on these issues we really mean it. And so, to move from aspirational to operational and concrete and outcome-oriented, that is what’s really important.

It’s very easy to slide into the “big” discussion, but these usually don’t get you to where you want to go. Our focus should be to identify areas where we can affect real people’s lives in real time

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The final lesson, taken from my experience with the Fair Labor Association, is that there is an inevitable tension between those who favor a big tent, but lower bar approach (having as many participants as possible, but with much lower expectations of them), and those who favor a more rigorous approach that draws more companies in over time, but only those willing to meet the higher standard. I’m in favor of a broad tent, and I certainly believe that it essential to involve non-Western-based companies in these processes—for example, manufacturing companies based in China. But I also believe that we need to be clear from the start that we are developing collaborative initiatives with concrete and meaningful standards, aimed at changing outcomes, and with real mechanisms for evaluation and accountability. If these multi-stakeholder initiatives are going to add value they must have teeth, they must be open and transparent to a significant extent, and for them to succeed companies must be willing to yield some control. Once you build a system with a high enough bar and it works, you then can work hard to bring others into the process. It is never going to work the other way. That is to say, if you start with a broad base of groups and a very low threshold, it’s going to be very, very difficult to raise the bar for everyone later.

There is some desire within the emerging CSR debate to get everyone around the table and hope for the best. This has been our experience with the UN’s Global Compact. And while some good may come from that kind of discussion, I don’t believe it’s the most effective

way to make change. Too often conversation just leads to more conversation.

I believe there is a growing need to support greater rigor and ambition in a genuine multi-stakeholder initiative. To succeed you must set a high but not impossible bar, develop concrete standards, serious accountability or enforcement structures, include a system of public transparency, and for all of this to happen companies must be ready to yield some control. If you build these types of initiatives, then they will come.

## Note

1. “Based on the conservative assumption that ten percent of the land lease revenues, fixed investments, and government spending is stolen or misused, the *direct* costs of corruption in 2003 could be 3 percent of GDP, roughly [US] \$86 billion, an amount exceeding the government’s entire spending on education in 2006.” Minxin Pei, “Corruption Threatens China’s Future,” Carnegie Endowment for International Peace, Policy Brief No. 55, October 2007, [http://www.carnegieendowment.org/files/pb55\\_pei\\_china\\_corruption\\_final.pdf](http://www.carnegieendowment.org/files/pb55_pei_china_corruption_final.pdf).