

Preface

The internationalisation of Norwegian business and industry means that a growing number of Norwegian enterprises are setting up business activities in countries governed by regimes that do not comply with universal standards for the protection of human rights. As a result, Norwegian enterprises must take a stand on human rights issues today to a far greater extent than ever before.

At the same time as Norwegian enterprises are facing challenges on foreign markets, the Norwegian authorities are calling for companies to take a more conscious, responsible position on human rights. Respecting and promoting human rights is an integral part of Norway's foreign and development co-operation policies. Accordingly, government assistance to Norwegian businesses abroad is based on the assumption that business and industry are willing to undertake this responsibility.

Other parties also have clear expectations regarding the ethical responsibility incumbent upon business and industry when it comes to human rights. Increasingly, companies must deal with "the political consumer", as the general public grows more aware of issues such as human rights and environmental concerns. Consumers prefer to spend their money on products and services manufactured with the best interests of the environment and human rights in mind. In the same way, consumers prefer to patronise businesses that have

developed a conscious position on these issues.

In other words, business and industry must acknowledge that companies bear an ethical responsibility for protecting universal human rights, workers' rights and the environment.

At the same time, it is essential that the authorities and business and industry keep their roles separate.

Direct lobbying activities to promote democracy and human rights in respect of regimes in countries in which Norwegian enterprises have business dealings should be left to the authorities. That being said, Norwegian enterprises bear a clear responsibility for following the same business principles and devoting the same attention to human rights abroad as they do at home. This will enable Norwegian enterprises to influence development trends in the desired direction through their business practices at the local level. The prevalent opinion in the Confederation of Norwegian Business and Industry (NHO) is that companies' presence and dialogue, preferably combined with positive incentives such as government support, will often be more effective than various types of negative sanctions. This is also corroborated by the political debate on the issue. And although there should be a 'division of responsibility' between the authorities and business and

industry, there will never be any absolute boundaries. There will inevitably be grey zones where the players' spheres of responsibility overlap.

Along with growing acceptance for a "general" division of labour, it is expected that business and industry will assume active, independent responsibility for the further follow up of these questions.

In response, NHO has therefore initiated several measures to help those enterprises that seek assistance in this area. One of the measures involves drawing up a "checklist" which companies can consult when faced with challenges related to human rights.

According to NHO, many enterprises will be best served by developing their own strategies in this field. This is crucial if a company is to be optimally prepared to meet the challenges related to human rights. Each individual company must decide exactly how comprehensive the scope of its strategy needs to be. A company's choice of strategy will depend on its size and resources, among other things. However, the most important point is to be proactive, that is, companies should make contingency plans for handling various problems and dilemmas they might encounter abroad.

One of the first steps in developing a strategy should be to learn more about which universal human rights Norway and most of the other

countries in the world have undertaken to respect. One of the main purposes of the checklist is to elicit this information systematically. The checklist is intended to clarify the obligations that business and industry will face in the field of human rights, and to learn more about the questions and dilemmas such obligations may entail for a company.

The checklist raises a number of questions about the various articles in the UN Universal Convention on Human Rights and the ILO conventions. It is crucial to emphasise that neither a checklist of this type nor corporate rules can handle any and all situations that a company or its employees could potentially encounter. Nor is there any clear demarcation to show exactly where a company's responsibility begins and ends, for example, in relation to sub-contractors' possible breaches of human rights. Nor is there any clear answer regarding companies' responsibility to explore such questions. However, NHO recommends that companies take these controversial issues seriously, discussing them within the company and with other parties. Such issues are often extremely complex and they may not have any obvious 'best' solution. However, that in no way mitigates the importance of taking them seriously and exploring the issues involved in order to take a clear position before a problem arises.

The checklist is one of several tools available to companies. NHO has also published a presentation of key NGOs that work in the field of human rights. The common denominator for the organisations presented in that publication, is that they are all interested in engaging in a constructive dialogue with business and industry. By offering their expertise in a variety of fields, they hope to get business and industry more involved in the issues of importance to them.

NHO is responsible for the wording and content of this document. The Confederation has received invaluable assistance from Amnesty International Norway in formulating the facts included in this document as well as in setting out the critical questions companies should consider before taking strategic decisions.

NHO wishes companies the very best of luck in their further efforts to meet the ethical challenges associated with the growing internationalisation of their activities.

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Business and industry's ethical and social responsibility

“We’re in business, not politics” is a refrain chanted again and again when Norwegian companies have come face to face with the ethical and human rights dilemmas that tend to accompany the internationalisation of business and industry. Now, the time has come for Norway’s corporate executives to move a step forward. Towards that end, NHO has published this booklet on the ethical and social responsibility of business and industry to protect human rights.

Increasingly, Norwegian companies are operating in countries in which human rights are violated and the personal safety and security of individuals is threatened. As a rule, such violations contribute to social instability, engendering uncertainty in the corporate investment arena. Accordingly, it is in companies’ own best interests to foster respect for the principles of constitutional justice and human rights.

The Norwegian authorities and public opinion within the country are becoming increasingly critical of businesses that try to ignore or avoid dealing with issues related to human rights. The respect accorded to enterprises is increasingly becoming a factor of whether and, if so, how they deal with such issues.

The Universal Declaration on Human Rights, adopted by the UN General Assembly on 10 December 1948, is fundamental to the understanding of human rights and the legal and ethical obligations they entail. The Universal Declaration stipulates that each and every organisation and individual bears a responsibility in terms of human rights. The rights laid down in the Universal Declaration may generally be defined as:

“a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive

measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”

The Norwegian authorities are staunch promoters of compliance with the intentions in the Universal Declaration on Human Rights. However, it is becoming more commonly recognised that business and industry also share the responsibility for ensuring compliance with the Universal Declaration. Consequently, Norwegian private and public sector companies alike should take this responsibility into account.

Companies' primary objective is to earn a profit. Yet that does not relieve them of their responsibility to protect and promote human rights. Whether a company is based in Norway or abroad, it must be aware of this responsibility. In certain situations, it can be difficult to determine the exact extent of a company's responsibility to promote and protect human rights. It is also important to bear in mind that the primary responsibility for directly influencing regimes on questions of democracy and human rights will always rest with the Norwegian authorities.

That being said, business and industry not only have a responsibility, but a genuine opportunity to exert positive influence towards ensuring the protection of fundamental human rights. And financial influence opens opportunities for ethical influence.

Norwegian enterprises that operate abroad bear dual responsibilities.

- An ethical responsibility

Companies' primary direct ethical responsibility is to protect the rights of their own employees, and to see to it that corporate activities are conducted in a manner that does not violate human rights. Their operations must comply with internationally recognised human rights standards. Decisions involving the establishment of business activities, investments, personnel policy practices and the enforcement of corporate rules and regulations must therefore ensure the protection of the human rights of all those who work for the company.

- A social responsibility

Business and industry also bear a social responsibility to promote respect for human rights so that they will be generally and effectively recognised and observed in the countries with which Norwegian companies deal. This is a discretionary responsibility. Individuals and

companies alike must decide for themselves when and how to get involved in the efforts to promote human rights.

The social responsibility for human rights is also a collective responsibility. Consequently, it should not be ignored. This is especially true for companies with considerable influence in countries or areas in which human rights are breached systematically and regularly. Under such circumstances, corporate managers bear an independent responsibility to try to improve the human rights situation, either alone or in collaboration with others.

A corporate strategy designed to address the social responsibility for human rights may include:

- 1 *open support for the UN Universal Declaration on Human Rights and the ILO standards;*
- 2 *measures that help raise awareness about internationally recognised human rights standards, including support for educational projects related to human rights;*
- 3 *contact and dialogue with individuals, NGOs, other companies and local and national authorities on the question of how human rights can be protected and violations prevented.*

The companies may also choose to establish a dialogue with the authorities on issues involving specific violations on the part of the authorities. Both companies and individual businesspersons can get involved in defending people whose human rights have been violated, regardless of whether they are victims of torture, random arrests, illegal imprisonment or miscarriages of justice.

Practical implementation of the guidelines

The primary responsibility for ensuring that a company's human rights strategy is observed in actual practice rests with the company's management and owners. Management should ensure that the question of human rights is an integral aspect of the company's planning and decision-making processes, and examine the potential consequences of all important operations from the perspective of human rights. Companies should also have control routines to ensure that their ethical guidelines are being followed.

It is essential that companies provide training for management and employees on human rights issues, possibly by availing themselves of assistance from NGOs.

Companies should develop control mechanisms to determine how their measures are perceived from the outside. Consideration should be given to consulting employer organisations and NGOs that have direct or indirect interests in ensuring that the company's operations comply with international human rights legislation.



Checklist for corporations/enterprises interested in investing strategic efforts in human rights issues

The following checklist is intended to be a tool for companies interested in devising their own strategies for dealing with human rights in accordance with internationally recognised human rights standards. The checklist applies to companies' ethical responsibility for their own operations.

The proposals are not intended to be exhaustive. This document is a reference guide for corporate managers who wish to clarify the fundamental ethical values inherent in their company, and to ensure that the company pursues a policy that complies with international human rights conventions and standards. In some cases, the areas addressed will be covered by national legislation. Where such national legislation maintains a higher standard than international legislation for the

protection of human rights, companies should follow the national laws. Where, on the other hand, national legislation does not take sufficient account of human rights, companies should take international human rights standards as the basis for their policies in this area.

Below, please note the verbatim wording of the most relevant articles in the Universal Declaration on Human Rights, followed by checkpoints about how companies should

use these articles in formulating their internal policies and in connection with routine operations. Occasional references are also made to key ILO conventions of relevance to the checklist.

Right to freedom from discrimination



The Universal Declaration, Article 2:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

C h e c k l i s t :

- *Does the company have guidelines that prohibit discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status - and are these guidelines enforced in connection with recruitment, training and promotions?*
- *Has the company drawn up guidelines that comply with ILO Convention No. 111 (1958), which prohibits sexual discrimination?*
- *Does the company have guidelines to ensure that its products and services are accessible to every potential customer, without prejudice on the grounds of personal characteristics or identity?*
- *Does the company have guidelines to prevent sexual harassment at work?*
- *Does the company make efforts to determine whether potential business associates, suppliers and partners have any explicit policy in the above-mentioned areas?*

The right to personal safety and security



The Universal Declaration, Article 3:

“Everyone has the right to life, liberty and security of person.”

C h e c k l i s t :

- *Does the company have guide lines which ensure safe and healthy working conditions for employees, and are the rules observed?*
- *Where the company uses private security guards, have guidelines been drawn up to determine acceptable actions/ courses of action that can be implemented against people who represent a threat to the company's security?*
- *Where the company uses public police or security guards, have guidelines been drawn up to determine exactly when and how they should be used, especially in situations in which one has experienced that the same personnel have represented a threat to the local populace?*
- *Where the company makes goods or services that can potentially be used to violate human rights or for end products that can be used for such violations, have control procedures been instituted to keep the products from falling into the wrong hands?*
- *If management were to learn that the company's products or services had been used to violate people's life, liberty or personal security, does it have rules that can be applied to prevent further business contact with such trading partners?*

Ban on slavery



The Universal Declarations Article 4:

“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”

C h e c k l i s t :

- *Does the company have procedures that prevent slavery, forced child labour or hard labour performed by prisoners?*
- *Does the company have guidelines that prevent col laboration, trade and partner ship with or deliveries from enterprises that use slaves, forced child labour or hard labour performed by prisoners?*
- *Does the company fulfil the standards set out in the UN Convention on the Rights of the Child and ILO Conventions No. 29 (1930) concerning Forced Labour and No. 138 (1973) concerning Minimum Age?*

Ban on torture



The Universal Declaration, Article 5:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

C h e c k l i s t :

- *Does the company have procedures in place to prevent it from dealing with business associates that employ corporal punishment or other forms of physical or mental pressure on their employees?*
- *If the company uses private-sector security guards, has it (or the security company being used) drawn up rules to ensure that the security personnel do not employ methods that might be construed as torture or cruel, inhuman, or degrading treatment or punishment?*
- *Have the security guards received training in compliance with the UN Code of Conduct for Law Enforcement Personnel?*

The right to freedom of opinion and expression



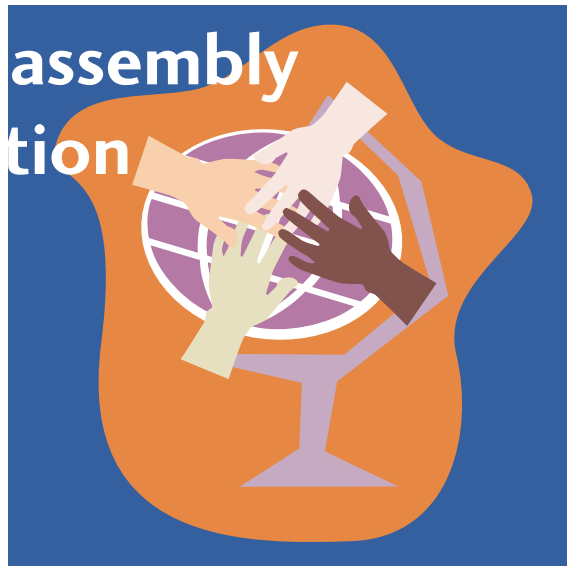
The Universal Declaration, Article 19:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

C h e c k l i s t :

- *Has the company prepared guidelines that recognise and protect employees’ right to freedom of opinion and expression?*
- *Does the company make efforts to determine whether potential business associates, sub-contractors and partners have an explicit policy in this area?*

The right to freedom of peaceful assembly and association



The Universal Declaration, Article 20:

“1) Everyone has the right to freedom of peaceful assembly and association. 2) No one may be compelled to belong to an association.”

Checklist:

- *Has the company considered, or possibly prepared procedures to prevent the authorities from intervening in employees' right to freedom of peaceful assembly and association? How would the company respond if an order were issued to dissolve the trade unions, and threats were made to imprison company employees?*
- *Has the company drawn up guidelines that forbid it from intervening in employees' freedom of association and their right to organise, for example, through threats of termination on the grounds of trade union activism?*
- *Has the company familiarised its employees with the international ILO regulations concerning the protection of the right of assembly and association, particularly ILO Conventions No. 87 (1948) and No. 98 (1949)?*
- *Does the company make efforts to determine whether potential business associates, sub-contractors and partners have a comparable policy in respect of these rights?*

The right to free participation in political life



The Universal Declaration, Article 21:

”1) Everyone has the right to take part in the government of his/her country, directly or through freely chosen representatives.

2) Everyone has the right to equal access to public service in his/her country.

3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.”

C h e c k l i s t :

- *Has the company drawn up guidelines that prohibit intervention into or a reduction of employees’ right to participate freely in their country’s government or to equal access to public service in their country?*
- *Does the corporation/company make efforts to determine whether business associates, partners or sub-contractors have guidelines in this area?*

The right to work



The Universal Declaration, Article 23:

- “1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- 2) Everyone, without any discrimination, has the right to equal pay for equal work.
- 3) Everyone who works has the right to just and favourable remuneration, ensuring for him/herself and his/her family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- 4) Everyone has the right to form and to join trade unions for the protection of his/her interests.”

Checklist:

- Has the company drawn up guidelines that help ensure the right of employees and future employees to free choice of employment, to just and favourable conditions of work, and to protection against arbitrary or unjust unemployment?
- Has the company drawn up guidelines to prevent discrimination in connection with hiring on the grounds of ethnic background, nationality, philosophy of life, religion, cultural characteristics or political views?
- Does the company have guidelines that guarantee equal pay for equal work?
- Does the company have guidelines that prohibit intervention in employees' right to freely form or join trade unions to protect their interests?
- Does the company have guidelines that ensure employees' right to enter into collective agreements, including their right to strike?
- Is it important to the company that partners and suppliers do not have discriminatory hiring practices and that they do what they can to ensure a safe, healthy environment for their employees?

The right to rest and leisure



The Universal Declaration, Article 24:

“Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

C h e c k l i s t :

- *Has the company drawn up guidelines that ensure employees' right to rest and leisure?*
- *Does the company have regular working hours that ensure employees a reasonable limit on their working hours?*
- *Does the company make efforts to determine whether potential business associates, partners, and suppliers have similar guidelines in this area?*

The right to an adequate standard of living



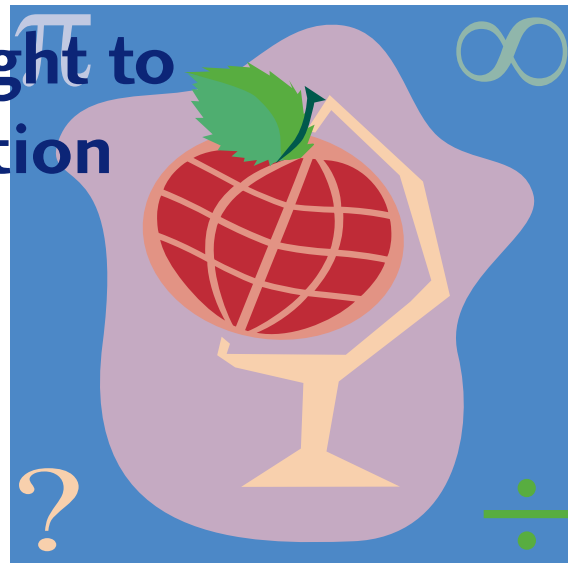
The Universal Declaration, Article 25:

- “1) Everyone has the right to a standard of living adequate for the health and well-being of him/herself and of his/her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his/her control.
- 2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

C h e c k l i s t :

- *Has the company devised guidelines and schemes to help ensure the survival of employees who have had to resign due to circumstances beyond their control? The phrase ‘such schemes’ refers, e.g., to pension schemes, health and retirement insurance, rental housing, emergency contingency schemes, etc.*
- *Has the company drawn up guidelines and schemes that permit absence due to the illness of children without this having any effect on the employment situation?*
- *Does the company make efforts to determine whether business associates, partners and suppliers have developed similar arrangements for their employees?*

The right to education



The Universal Declaration, Article 26:

“ Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.”

Checklist:

- *Has the company drawn up guidelines to prevent child labour when such labour means eliminating or reducing children's right to education?*
- *Has the company devised training and human resources development programmes to enable employees to improve their skills and qualifications?*
- *Does the company make efforts to determine whether potential business associates, partners or suppliers follow similar guidelines?*

The right of minorities and indigenous peoples to protect their identity



The UN Convention on Civil and Political Rights, Article 27:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

Checklist:

- Does the company recognise the right of minorities and indigenous peoples to protect and respect their cultural identity and integrity?
- Does it acknowledge the moral and material interests collateral to this right?
- Has the company drawn up guidelines that specifically ensure employees who belong to minorities the right to practice their own culture, profess and practice their own religion, and use their own language?
- Has the company familiarised its employees with the international ILO regulations on the protection of indigenous peoples, particularly ILO Convention No. 169 (1989)?
- Does the company recognise that employees who belong to minorities or indigenous populations must not be subject to discrimination because they belong to a minority or have indigenous origins?
- Does the company attach importance to whether potential business associates, partners and suppliers follow the same guidelines?

The most important human rights instruments

The concept of human rights is linked to international instruments, with the *UN Universal Declaration on Human Rights of 1948* being a natural point of departure. All States have ratified *the Universal Declaration*; accordingly, the rights defined therein have strong authoritative power. *The Universal Declaration* refers to fundamental values which every system of justice must respect and protect out of consideration for the individual. The document has achieved common law status and its principles have been incorporated into the constitutions of many nations.

In addition to *the Universal Declaration*, companies can refer to a number of global and regional conventions (binding international agreements between States) based on the provisions of *the Universal Declaration*.

Companies should also refer to the *ILO conventions and declarations* which contain comprehensive provisions concerning working conditions and workers' rights.

Global conventions

The International Covenant on Civil and Political Rights, 1966

The International Covenant on Economic, Social and Cultural Rights, 1966

The UN Convention against Racial Discrimination, 1965

The UN Convention against Sexual Discrimination, 1979

The UN Convention against Torture, 1984

The UN Children's Convention, 1989

Regional conventions

The Council of Europe's Human Rights Convention, 1950, with optional protocols
The Council of Europe's Torture Convention, 1987

The American Human Rights Convention, 1978
The African Charter on Human and People's Rights, 1984

ILO conventions /declarations

ILO Convention No. 29 concerning Forced Labour

ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize

ILO Convention No. 98 concerning the Right to Organize and Collective Bargaining

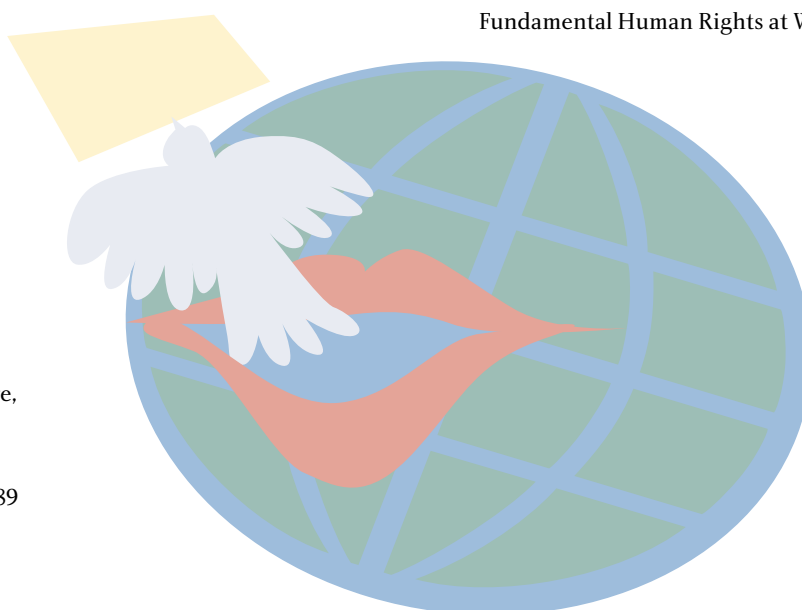
ILO Convention No. 105 concerning the Abolition of Forced Labour

ILO Convention No. 111 concerning Discrimination (Employment and Occupation)

ILO Convention No. 138 concerning Minimum Age

ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Autonomous States

ILO Declaration concerning Fundamental Human Rights at Work.



Y o u r o w n n o t e s :

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