

# **International Business, Human Rights, and Moral Complicity: A Call for a Declaration on the Universal Rights and Duties of Business**

*W. MICHAEL HOFFMAN AND ROBERT E. MCNULTY*

## **ABSTRACT**

The purpose of this article is to call for the formulation and adoption of a declaration on the universal rights and duties of business. We do not attempt to define the specific contents of such a declaration, but rather attempt to explain why such a declaration is needed and what would be some of its general characteristics. The catalyst for this call was the recognition that even under optimal conditions, good companies sometimes are susceptible to moral lapses, and when companies undertake ventures in authoritarian countries with poor human rights records, even those with the best intentions may find themselves drawn into complicity in human rights abuses. There, market exigencies may persuade them to leave their codes of ethics and commitments to human rights at home. Pragmatism, it would seem, requires that

---

W. Michael Hoffman, PhD, is the executive director of the Center for Business Ethics at Bentley University and the Hieken Professor of Business and Professional Ethics. E-mail: mhoffman@bentley.edu. Robert E. McNulty, PhD, is the director of programs at the Center for Business Ethics at Bentley University. E-mail: rmcnulty@bentley.edu.

they accept the ethical inconsistencies that follow from a “When in Rome, do as they Romans do” outlook. When facing the moral dilemma about whether or not to invest in human rights abusing countries, companies are offered two alternatives: they can operate in those countries and accept potential complicity or they can stay away. We suggest, however, that a preferable option is to address the underlying problem, and to this end we advocate the promulgation of a declaration for business that is comparable to the Universal Declaration of Human Rights. Our proposed name for this is the “Declaration on the Universal Rights and Duties of Business.” To be effective, such a declaration would require enforcement mechanisms. To illustrate this issue, we focus on China, not because China is unique in its human rights abuses, but because China occupies such a central place in the globalization efforts of the major companies from around the world. A robust international declaration is needed to provide a common framework for the practice of consistent and fair business competition everywhere.

## INTRODUCTION

One of the difficulties companies face when moving overseas is recognizing when corporate actions cross a line from respecting local customs and traditions to participating in acts that are ethically unacceptable. This distinction is particularly important now that globalization is the norm and businesses often need to create policies that apply to employee comportment in offices around the world. In this article, we will argue, that business ethics, unlike compliance, requires a universality that links it closely to the principles of universal human rights. And yet, while it is appropriate and laudable for businesses to commit themselves to such principles, given the competitive nature of capitalism, adherence to ethical policies can put a firm at a disadvantage if others are not playing by the same rules. The price of ethical behavior may be particularly high for

firms that act according to policies that are generally respectful of human rights at home, but are not feasible when operating in countries with poor records of human rights. We may admire a company that passes up a financial opportunity in order to avoid participation in unacceptable actions. And yet, however laudable such actions may be, they leave the problem intact. What is needed is a solution. Such a solution, we will argue, may be found by formulating and adopting a Declaration on the Universal Rights and Duties of Business (or “the Declaration”) that is sufficiently robust to provide unambiguous guidance in policy formulation and implementation to all companies wherever they may be operating.

### **YAHOO’S CANARY IN CHINA**

In November, 2007, Rep. Tom Lantos, then the Chairman of the House Foreign Affairs Committee, publicly excoriated Yahoo’s CEO, Jerry Yang: “While technologically and financially you are giants, morally you are pygmies.”<sup>1</sup> The basis for Lantos’s lashing was Yahoo’s role in cooperating with the Chinese police against a local journalist, Shi Tao, who was jailed for 10 years for using the Internet to advance pro-democracy views. Yahoo’s actions were not a violation of Chinese law. To the contrary, Yahoo conformed to Chinese law and that is the problem. Yahoo was complicit in cooperating with a legal system that clearly violates basic principles of human rights, including those of free speech and the peaceful participation in the political processes of one’s community. Judging from the perspective of well-established principles of human rights, such as those expressed in the Universal Declaration of Human Rights (UDHR),<sup>2</sup> Shi Tao was a victim of an unjust regime. As for Yahoo, the situation is not so straightforward: by Yahoo’s own admissions, it was complicit in a serious injustice. And yet, Yahoo was, in important respects, a victim as well—it was forced to comply with laws it knew to be unjust, but to which it was bound if it were to continue operating in one of the world’s most important markets. It was in a no-win situation: if it complied with the Chinese authorities, it would be complicit in the injustice perpetrated on Shi Tao. If it refused, its own employees

and its business operations would be put at risk. Yahoo chose the path of legal compliance and its international reputation suffered as a result.

In this article we will examine what we are calling the “Complicity Problem” and propose a solution in the form of the Declaration. To clarify, by the Complicity Problem, we mean that which occurs when multinational corporations—willingly or under legal or political pressure—provide direct or indirect support to governmental policies that violate human rights. While the companies may not be the direct perpetrators of the offense, by cooperating with unjust governmental policies, they are complicit. It is not enough to criticize companies for a lack of “moral fiber.” What is needed is a robust global declaration that will provide companies with both guidance in policy making and protection when they refuse to comply with unjust policies.

Referring back to Yahoo, actions such as these are neither unique nor rare. They are common. It fell to Yahoo, however, to be the canary in China’s human rights coal mine. It was a harbinger of the widespread but nearly invisible problem associated with globalization. The complicity of technology companies may be particularly obvious since they provide the tools with which authoritarian regimes maintain their control over politically sensitive communications. But while the problems of complicity may be less obvious for the manufacturing sector, they are no less significant. The denial of the right to freedom of speech or free association is as absent on the floors of Intel’s China factories as it is in Yahoo’s blogosphere. Human rights are neither sector nor country specific, and for this reason this should be an especially strong concern when any firm plans to operate in countries with poor human rights records.

Globalization is blurring the distinction between what is foreign and domestic. However, we now find ourselves in an in-between period where the spread of norms of justice have not kept pace with economic integration. China is an important case in point. Given the size of its economy and the speed of its growth, over the past few decades China has emerged as one of the most important players in the global economy. Will this be the “China Century” as many have predicted? Maybe not. China’s growth has only been possible with the massive support of multinational corporations based primarily in Western and Asian democracies. Most of these

companies have adopted codes of conduct that are consistent with widely recognized norms of human rights—rights denied in China. However, even when these MNCs do not directly engage in violations of human rights, they are often enablers, and as such they are morally complicit. The *Complicity Problem* is as pervasive as it is pervasively ignored. Cases such as Yahoo's have cast a bright light on the Complicity Problem and in so doing we are forced to take a stand—either by ignoring this problem or addressing it directly. If we ignore it, then we are turning our back on human rights and purging business ethics of any credibility. If we address this, we will have to rethink the nature of international business especially as it pertains to operations in countries with poor human rights records. If we were to say that Yahoo's actions are unacceptable, then we could extend our criticism to virtually every other international company operating in China and other countries with comparably poor human rights records, and in so doing we are casting doubt on the legitimacy of a large portion of international business. The fundamental question, therefore, is this: if international businesses are not rule-makers, what options do they have if they seek to operate in countries with poor human rights records like China? We will suggest that businesses are not without options; the way forward depends on establishing recognized and authoritative norms.

Before proceeding, however, let us respond to the question, "Why China?" Might we not just as well focus on Venezuela, Belarus, or Yemen? Yes, we could focus on these or many other countries, and yet the Complicity Problem as it pertains to China is particularly significant due to China's market size and because of the indispensable role the industrialized democracies have had in contributing to China's astonishing growth without contributing to a parallel development in the area of human rights. A solution to the Complicity Problem with China will contribute significantly to a resolution of the problem globally. On the other hand, if China fails to respond adequately to this problem, multinational corporations (MNCs) should expect to come under increasingly strong scrutiny for their complicity in the violation of human rights. Eventually, as this problem becomes more widely recognized, we would expect that companies will find themselves increasingly vulnerable to attacks on their reputation, as well as lawsuits and other punitive responses.

## **THE OUTSOURCING OF HUMAN RIGHTS VIOLATIONS**

Although this is not the place to review the various arguments for and against globalization, it is safe to say that globalization has spread rapidly because, despite the problems, it does bring some advantages both to the foreign investors and the host countries. We would argue, however, that critics of globalization have missed the mark by focusing on obvious examples of corporate malfeasance while remaining relatively mute with respects to the more pervasive and significant problem, which is business's complicity in providing direct or indirect support to authoritarian regimes involved in human rights abuses. By serving as the enablers of such abuses, global companies are not only outsourcing production, they are, in effect, outsourcing the human rights violations associated with their business.

The Complicity Problem is not simply a problem of business; governments have had an important role in contributing to this problem as well. The case of U.S. relations with China is illustrative. For example, during the period since the reestablishment of U.S.-China diplomatic relations under the Carter Administration in 1979, trade and investment flows have grown dramatically and steadily except for a brief period following the Tiananmen Square massacre in 1989. However, during its earliest days, U.S.-China economic relations were regularly punctuated by the annual debates on Capitol Hill pertaining to whether the United States should accord Most Favored Nation trading status to China despite its poor record on human rights.

Many argued that the annual debate was simply an irritant, and that the best way to encourage democratization, political openness and a commitment to human rights in China was through economic engagement.<sup>3</sup> In the end, this view prevailed as the United States put to the side its political reservations, and on January 1, 2002 conferred Permanent Normal Trade Relations (PNTR) with China. In so doing, it opened the door to China's admission to the World Trade Organization (WTO). Given the size and importance of China's economy, the change in policy was quickly and widely embraced and there has since been no significant pressure on Capitol Hill or elsewhere to redefine U.S.-China trade relations as anything other than normal. However, while something was gained in the normalization of trade relations,

something was lost. The gains in economic terms were clear: U.S.–China trade increased from \$94.9 billion in 1999 to \$386.7 billion in 2007.<sup>4</sup> What was lost was the dogged attention that had previously been given to China's unacceptable human rights policies. By conferring PNTR to China, even the slender connection between economic relations and human rights was severed. Despite the compellingly pragmatic justifications for the normalization of U.S.–China trade relations, the message conveyed by the change in trade policy was that the United States would not let China's human rights violations serve as an impediment to its economic interests. By decoupling the relationship between human rights and economic relations, the United States was, in effect, absolving U.S. companies from the Complicity Problem.

In the years following the normalization of U.S.–China trade relations, there was a widespread expectation that as China developed economically, its growing middle class would demand political empowerment, and this would lead to a peaceful transition to democracy. This theory has not been borne out. Those who claimed that there is a strong correlation between economic development and democratization have found confirmation in the fact that the leading economies in the latter half of the twentieth century were all democracies. This, however, has not always been the case. As Azar Gat notes, the link between economic development and liberal democracy is weak. It was not long ago that two of the world's strongest economies were imperial Japan and Nazi Germany.<sup>5</sup> Their defeat in war should not be equated with an inherent economic weakness associated with authoritarianism. Indeed, China's rulers have been particularly adroit in managing the economy in such a way as to foster economic growth while reinforcing the Communist Party's authoritarian hold on political power. At present, rather than demanding change, it may be that China's middle class has gained too much economically to risk politically inspired disruptions.

The balance between authoritarianism and economic dynamism was simpler before the age of globalization: domestic companies were ruled by domestic regulations. When companies invest overseas, however, tensions arise. In part, the tension may be simply a function of a difference in culture and customs. Where the tension is indicative of a more serious problem is when domestic policies violate principles of ethics such as those

expressed in the Universal Declaration of Human Rights. In such cases, the adage “When in Rome, do as the Romans do,” simply does not hold. This is what Yahoo found out the hard way when its CEO sat before a Congressional committee.

Regarding the issue of the place of the Internet in the freedom of political expression, Yahoo was not alone in complying with Beijing’s restrictions. Indeed, based on Yang’s testimony before Congress, it appears as if Yahoo may have exercised more effort than many other foreign firms in trying to resist participating in human rights abuses. For example, so as to placate China’s censors, Google China truncates the search results of Google.cn and informs the users of what happened.<sup>6</sup> Similarly, in the name of compliance with local Chinese laws, Microsoft has actively engaged in censoring blogs and web search results for words like “freedom” and “democracy.”<sup>7</sup> Microsoft and Google’s complicity has taken a different form from that of Yahoo, but it is no less serious.

The difference in treatment showed to Yahoo, Google, and Microsoft is indicative of a general lack of consistency in the response to corporate complicity. Moreover, Yahoo has been among those companies that have openly advocated that the U.S. government take an active role in addressing this problem.<sup>8</sup> Thus, Congressman Lantos’s excoriation of Yahoo—while following from a valid intolerance of injustice—amounts to little more than the fickle outburst of a mercurial parent. Why? Because there are no clear and consistent guidelines on the universal rights and duties of businesses and this implies that human rights are either arbitrary or optional. This is not simply a problem for business, it is a problem for human rights generally, and as a result, we are losing important opportunities for advancing economic justice for all.

Moreover, this is not simply a problem that pertains to the Internet. It is equally problematic when Cisco, Oracle, and other Western technology companies sell their products to China’s security agencies that are directly involved in keeping advocates of democracy under control.<sup>9</sup> Moreover, there is no reason to confine our attention to technology companies. Little attention is given to the fact that employees in the manufacturing sector have their freedom of assembly and speech severely curtailed, thereby preventing employees from engaging in whistle-blowing or collective



bargaining. Do not Wal-Mart, General Electric, and other manufacturers share in the Complicity Problem? We would argue that they do, and that without significant reform, it will be difficult or impossible for foreign companies to engage in business in China and other such human rights abusing countries without being complicit in the systemic denial of essential human rights. Foreign corporations that want to act responsibly are being forced to choose between adhering to their codes of conduct and gaining access to the China market. This is a no-win situation for the foreign corporations and the human rights abusing countries.

### **TAKING BUSINESS ETHICS SERIOUSLY**

After more than three decades of development, business ethics is still not taken seriously by many. Whatever the reason, it is important to see business ethics simply as a manifestation of ethics generally, but applied to the practical affairs of business. It is sometimes claimed that when one engages in business one somehow steps outside of the domain of ethics that applies to life generally.<sup>10</sup> This kind of argument, however, has been little more than an excuse to justify bad business behavior. Business, like all deliberate human activity, is subject to ethical evaluation and in this regard, business ethics is directly related to human rights, which are the special branch of ethics that seeks to identify universal rights of individuals that need to be respected by governments and others. In affirming a commitment to human rights, we are affirming the idea that there are ethical principles that apply not only to all people, but to organizations, such as governments and businesses. The U.S. government recognized that it is not enough to create good regulations; if companies have fundamentally unethical cultures, then they will always be attempting to construe the letter of the law in ways that circumvent the spirit of the law.

Given this, those who think that there is no place in the hardnosed world of business for ethics should be forewarned—such views could land them in jail. According to the U.S. Federal Sentencing Guidelines for Organizations, businesses are expected to have effective ethics and compliance programs that will

“promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law” (§ 8B2.1a1).<sup>11</sup> If companies fail to do so, they and their executives may be dealt with more harshly should they face prosecution.

While businesses operating in multiple countries need to exercise great sensitivity to local customs, the ethical principles that inform corporate codes of conduct presuppose universality. If a company were to adopt different ethical standards in every country in which it operated, then its “standards” would be meaningless and their codes, if not conveying ethical anarchy, would at best, be reducible to legal compliance, that is, a process of adapting to whatever are the rules of the land, irrespective of their ethical content. Ethics, however, is more fundamental than compliance. It is based on a sense of what is right, just, and good irrespective of national boundaries or even periods of history. While rules may vary from place to place, to be *just* they should not override fundamental ethical principles, such as those embodied in the recognized human rights norms expressed in the Universal Declaration. Thus, we can accept that compliance with the rules of driving require that we drive on the right side of the road in the United States whereas we are bound to drive on the left in the United Kingdom. Nevertheless, the underlying ethical principle of safe driving remains consistent and constant irrespective of the laws of the land, and the principle of safe driving is a manifestation of the more basic principle of acting in a way that minimizes the risk of harm to others. If a government were to pass a law that provided different penalties for inflicting road injuries based on the person’s religion or ethnicity, then such a law would be unjust because it would violate the universal ethical principles that require that all people avoid inflicting unjustifiable harm or exercise penalties based on factors that are not relevant to the purported transgression.<sup>12</sup>

In this regard, it is instructive to consider two important parallel developments in our business experience in China over the last three decades. On one hand, the discipline of business ethics was developed, spread, and was widely embraced especially among many major corporations based in democratic economies; on the other hand, business relations with China expanded dramatically in ways that showed little regard for business ethics. China immediately served as a test case for the seriousness with which we take

business ethics in a challenging overseas context. And, when our corporate leaders experienced cognitive dissonance denominated in billions of dollars, the response has not been encouraging. To launch a foreign startup, bribes have frequently been needed, and then many of the principles that would be deemed essential according to basic principles of business ethics and human rights—such as employee rights to expression and assembly—have been systematically denied after the firm was established.

This is exactly where business ethics has always been a mettle tester. Business ethics is founded on the premise that it is inadequate to evaluate business actions solely in terms of the bottom line. Profits are not the issue in business ethics—without profits businesses fail. Rather, business ethics is concerned with *how* profits are made and what values other than profit are driving the company. Business ethics requires that we consider not only how shareholders are affected, but all of the company's stakeholders. This is difficult enough when companies operate in countries in which a tradition of respect for human rights is more firmly established—the difficulty increases enormously when firms move overseas and managers have to determine when differences in local practices are simply expressions of cultural differences or violations of business ethics and human rights.

Those MNCs, which as a matter of policy, are committed to business ethics, may find themselves in a difficult position when they choose to operate in human rights abusing countries. They will need to make tough decisions not only regarding obvious problems such as child labor, but less obvious instances of potential complicity in issues such as freedom of speech, freedom of religion, the right to peaceful assembly, fair access to credit, and nondiscrimination based on factors such as ethnicity or gender.

### **NO-WIN DICHOTOMIES AND THE POVERTY OF OUR MORAL IMAGINATION**

Evaluating business from the perspective of business ethics and human rights, and acknowledging the problem of moral complicity, requires a shift away from the overly simplistic notion of business as a form of economic warfare in which one's success

depends on refusing to be bound by rules, regulations, or “ethical niceties.”<sup>13</sup> The myth is pervasive, false, and deeply corrosive of economic progress. The strongest evidence we have to the contrary is that the advancement of civilization has depended overwhelmingly on trust and cooperation. In this period of history, during which the process of globalization remains strong, its pace and quality will be governed in large part by the extent to which countries around the world can agree not only to investment and trade regulations, but also to principles of business ethics and human rights that can serve as the underlying framework for honorable commerce.

The predicament MNCs face is that even those that are truly committed to conducting business ethically find it virtually impossible to engage in business in authoritarian countries without being tainted to some degree with complicity. Referring again to China to illustrate our point, typically the options available to companies are reducible to the following no-win dichotomy: either companies can ignore the Complicity Problem and participate in what may be the biggest business opportunity in history, or they can miss out on these opportunities and watch from the sidelines. This was precisely the position Google’s chief executive officer, Eric E. Schmidt, took, when he stated, “We had a choice to enter the country and follow the law,” he said. “Or we had a choice not to enter the country.”<sup>14</sup> Schmidt’s defense is indicative of the fact that he recognized the moral quandary, but he decided that legal compliance was sufficient to justify the company’s ethically troubling business practice there.

Senator Christopher Dodd took just the opposite view when speaking to Google employees at their corporate headquarters in 2007.

I challenge you today to stand up for best practices—as a company, but also as individuals. . . . And you can start with this: By telling the Chinese government that Google.cn will no longer censor information with Google’s consent. And should the Chinese government not find that acceptable, Google.cn will be shut down.<sup>15</sup>

In effect, Dodd, like Schmidt, is framing Google’s Complicity Problem as a situation with two options: Google can stay in China and accept the status quo or it can go. Both Schmidt and Dodd

see Google as essentially powerless to influence China, and therefore Dodd takes the opposite position and favors Google's withdrawal from China. The problem with this kind of dichotomous thinking is that it captures just enough truth about the situation to mislead by failing to consider what other options might be available.

We admire both Mr. Schmidt's business acumen and Sen. Dodd's personal integrity. What we find unsatisfactory in both positions is that if Google were to adhere to either, the fundamental underlying problem would remain intact.<sup>16</sup> What is needed is a *commitment to correct the problem*—China's unacceptable policies. What is lacking in this kind of dichotomous thinking is not an appropriate moral sense, but moral imagination. Google might object that it cannot determine what policies China should hold. That's true, but when Google and others insist on adherence to business policies that follow from business ethics grounded in universal principles of human rights, it is recognizing principles of justice that belong to no company or country, but to our shared humanity. Justice will prevail eventually because it is in humanity's best interest; progress, however, will be more quickly achieved if governments and businesses work together to see that such principles are adopted.

### **BREAKING THE CYCLE OF DYSFUNCTION: LEARNING FROM OUR PAST**

Over the last 30 years, the field of business ethics has developed a growing body of case studies that can provide guidance in understanding and maneuvering difficult business ethics problems. In reference to the Complicity Problem, there are two examples that come to mind that are instructive. One case demonstrates the futility of companies in trying to resist the weight of public opinion when their actions are recognized as unethical, while the other applies the same lesson to a country.

During the late 1970s and early 1980s, the Nestlé Corporation faced considerable controversy for its sale of infant formula to women in developing countries. The product was marketed in a way that led these women to believe that formula was better for

the health of their children than breastfeeding. In fact, due to unsanitary conditions and costs, the formula was often not prepared properly and was harmful and sometimes fatal to infants. Moreover, when mothers used formula instead of breastfeeding, they typically stopped lactating, thereby creating a dependence on the continued use of formula. When consumer groups tried to force Nestlé to abandon the marketing of this product in the developing world, it balked. Nestlé, as one of the world's largest companies, acted as if it were invulnerable to the emerging public outrage and this served to further enflame public reaction and led to well-publicized Congressional hearings in the United States and an international consumer boycott. Eventually, Nestlé capitulated, but not before it had seriously damaged its reputation internationally.<sup>17</sup> Nestlé has spent over two decades in a slow and costly process of restoring its reputation. Today, it commits a considerable amount of its resources to demonstrate its firm commitment to social justice.<sup>18</sup> It learned the hard way that being perceived to be on the wrong side of business ethics and human rights can be unbearably costly.

Similarly, like corporations, countries are also judged on their perceived human rights record: the case of South Africa under apartheid is apt. MNCs invested there found themselves grappling with the Complicity Problem with respect to that country's apartheid policies, especially during the 1970s and 1980s. Unlike China, however, the size of foreign investments was relatively small. According to U.S. Department of Commerce estimates, in the mid-1970s, U.S. investments in South Africa amounted to \$1.7 billion, and for those who were there, South Africa represented about 1 percent or less of their sales.<sup>19</sup> One of the leading U.S. technology companies at that time was the Polaroid Corporation, which had over one billion in sales in South Africa. Economics apart, Polaroid executives had compelling reasons to stay put—unlike South Africa's domestic companies, Polaroid offered far better job opportunities to the black South African population and instituted policies forbidding the sale of its products to the South African government. In other words, Polaroid was keenly aware of the Complicity Problem and went to lengths to avoid contributing to the human rights abuses associated with the apartheid regime. Despite good faith efforts, when the company discovered that its local distributor had violated corporate policy

and sold its products to the South African government, the company immediately withdrew from the country.

Polaroid was not alone. The 1980s saw increasing corporate flight and growing international pressure on South Africa from Western governments, most notably the United States and the United Kingdom, as well as the United Nations. This, together with internal pressures by South Africa's black population, led to South Africa's president, F. W. de Klerk, to announce in 1990 that the country would abandon apartheid.

No one would claim that Polaroid's action led to the end of apartheid. However, when conjoined with similar actions from other companies and governments, the message was communicated unequivocally that South Africa's human rights abuses were an anathema to the world community and only a reversal of these policies could remedy the situation.

The relevant lesson to be learned from South Africa is this: the pain that was inflicted from the exodus of foreign investment was not merely economic. The global response was a strong expression of moral outrage for South Africa's human rights violations. In the end, South Africa had too much at stake to allow itself to be relegated to pariah status. Its only option was to forsake its corrupt governmental system.

To learn valid lessons from the Nestlé infant formula boycott and the international reaction to apartheid South Africa, we need to recognize the significant differences where the analogies with China break down. Specifically, despite the fact that China's poor record on human rights is well known, it has been spared the kind of pain and penalties that South Africa experienced. And yet, because businesses and governments around the world have counted on market liberalization to lead to political freedoms and respect for human rights,<sup>20</sup> we have failed to see that through our intensive economic relations we have provided China with the moral cover it needs to sustain its oppressive political policies. This is the salient difference between China and South Africa. Since virtually every major economic actor in the world has a significant stake in the Chinese market, it is unrealistic to expect multinational corporations to withdraw from China in the way they did with South Africa. A different approach is needed. As we shall propose, we believe that the most effective approach will be by crafting a robust international declaration that can serve as a

supranational standard to which benefits would accrue to national adherents in ways analogous to the place the World Trade Organization has had in contributing to the regulation of global trade.

So far, the public reaction to the Complicity Problem with respect to human rights abuses in China has been muted, but the risks to MNCs operating there are considerable. Both from an ethical and a business perspective, we would advise that such companies take a proactive position in addressing this vulnerability rather than waiting for a crisis to erupt.

### **ADVANCING A HUMAN RIGHTS FRAMEWORK FOR GLOBAL COMMERCE**

The principles that were at work in responding to the problem of infant formula marketing in the developing world and apartheid in South Africa are relevant to the Complicity Problem with China. It is highly unlikely that without much more pressure, we will see any substantial disengagement by international corporations from China. Moreover, the competitive nature of the capitalist system deters companies from seeking alliances. Likewise, in order to secure China's cooperation in other fronts, the United States has sought to minimize conflicts over matters of human rights. For similar reasons, other democracies have treaded lightly on this topic. These circumstances have conspired to diminish calls for reform.

Although China seems to have the West over a barrel and the status quo seems firmly secured, it is highly probable that the forces in favor of the advancement of human rights will ultimately succeed because they follow from principles of justice that the people of China will demand and because businesses have the best opportunities to flourish when they are allowed to operate under parameters of fairness. The lesson we should take from both the Nestlé and South Africa cases is that human rights provide a kind of Archimedean point for leveraging change. Rather than relying simply on withdrawal or the threat thereof, we need to empower companies to resist the pressure to comply with policies that violate human rights principles. What is needed is a global strategic alliance among the major companies, countries, and organizations for the promulgation of a declaration on the rights



and duties of international businesses that follows from principles of human rights and business ethics. Such a declaration would permit Google, Yahoo, MSN, and MNCs everywhere to abide by common human rights standards and not to be coerced through competition to succumb to the pressures that lead to moral complicity.

To those who think that this is unrealistic, we would reply that similar criticisms could be made of those who opposed apartheid, or for that matter, the slave trade. Even an organization as central to international economics as the World Trade Organization is today, would have been inconceivable a little over a half century ago.

In the end we fully expect China and all countries to embrace international standards of human rights because it will be in their interest to do so. For China, progress in terms of human rights should be seen as an opportunity, not a burden. In this way, China can serve as a model to other nations that have been slow on the uptake. The trick is to find a means that can respond to the structural obstacles to change. What follows are some preliminary thoughts.

### ***Learning from the Foreign Corrupt Practices Act***

The United States Foreign Corrupt Practices Act (FCPA) was a revolutionary piece of legislation introduced in 1977. It was unique in being the first piece of legislation in this country and perhaps in the world according to which not only was it illegal for companies to engage in bribery at home, but anywhere in the world. Moreover, the act specifically prohibited companies from hiring overseas “consultants” to do the bribing for them. Led by American chambers of commerce overseas, the response from the business community was one of vociferous *unrighteous* indignation. The FCPA, they claimed, was placing them at such a competitive disadvantage that they would lose virtually all lucrative overseas contracts to bribe-giving foreign companies. U.S. businesses were not crying crocodile tears. Gerald Cavanaugh reports that according to U.S. Department of Commerce estimates, American firms lost some \$11 billion in contracts due to their observance of the FCPA in just the 1994–1997 three-year period.<sup>21</sup> Despite the significant costs and the “peer pressure” defense U.S. firms used to have the FCPA

repealed, the U.S. government recognized that it is an excuse children use every day to justify bad behavior. Wise parents do not buy it, and fortunately, neither did the U.S. government. The FCPA did not lead to the elimination of bribery, nor did the law destroy American competitiveness. What did happen is that eventually many other countries followed the U.S. lead; twenty years later, in 1997, the OECD (which includes the United States) adopted the Anti-Bribery Agreement, which was very similar to the FCPA.<sup>22</sup> According to Lucinda Low and Timothy Trenkle in an American Bar Association publication: “The result [that followed from the passage of the FCPA] has been an almost breathtaking wave of anticorruption activity in the multilateral arena.”<sup>23</sup> In the process, international competition has become more transparent.

There is a lesson here with respect to the Complicity Problem as it pertains to China and other countries. Companies generally have a common interest in responding to the Complicity Problem so long as doing so does not put them at a disadvantage vis-à-vis their competitors. For this reason, while we would encourage the United States to take a leadership role, we are not advocating a “go-it-alone” unilateralism. Anti-complicity forces would be far stronger if a common multilateral response could be formulated. Over the last decade or so, the Europeans, in particular, have been strong advocates of human rights and corporate social responsibility. There should be a natural alliance that could be formed among many companies and governments based in the European Union, North America, Australia, the Asian democracies, and even newly emerging economic powers such as Brazil and South Africa. Not only do all of these countries have significant trade and investment relations with China, it would be in their common interests if they worked together, along with relevant UN agencies, to craft a common position that would take the form of a Declaration on the Universal Rights and Duties of Business.

### ***Pioneering Efforts to Find a Business Ethics Consensus***

In addition to the UDHR, there have been a number of worthy initiatives aimed at articulating ethical standards for business. Some of the most notable examples include the Sullivan Principles, the Caux Roundtable Principles, the Global Compact, ISO 26000, and most recently, the Global Network Initiative (GNI).<sup>24</sup> It

is worth giving a special mention to the GNI as it is the most recent among these programs. This initiative was launched in late 2008 and is headed by Mary Robinson, the former president of Ireland and former United Nations High Commissioner for Human Rights. The focus of GNI's work is on problems associated with the suppression of the right to freedom of expression and privacy in many countries, such as China. However, as with other worthy initiatives, GNI remains at the level of the aspirational and lacks any institutional mechanisms to ensure that its vision will be translated into global policies.<sup>25</sup>

Another noteworthy undertaking took place in April 2008 when John Ruggie of the UN Human Rights Council and Special Representative of the Secretary-General submitted a report that dealt with the problem of business's role in upholding human rights. The report outlined a framework for businesses to "protect and respect" human rights and to take remedial action when transgressions occur. According to this report:

The root cause of the business and human rights predicament today lies in the governance gaps created by globalization—between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation.<sup>26</sup>

The Ruggie report affirms the idea that corporations have a duty to actively uphold human rights and that companies ought to adopt a due diligence process whereby they "not only ensure compliance with national laws but also manage the risk of human rights harm with a view to avoiding it."<sup>27</sup>

This report will certainly be counted as a landmark in recognizing the role of business in upholding human rights. According to *The Economist* magazine, there is a "new consensus" that is "reflected by the lack of serious opposition" to the report.<sup>28</sup> While we are skeptical of the claim that there is a "consensus" on this issue, clearly there has been some movement in the right direction. The Ruggie report is a good start, but needs to go further. Specifically, its focus is mostly on those companies that are actively involved in perpetrating human rights abuses or are complicit in the most direct and egregious forms of human rights

abuses. Where the report needs strengthening is in providing good businesses with the legal and institutional leverage they need so that they have the means that allows them to conduct legitimate business without being drawn into complicity in the human rights abuses of authoritarian regimes.

### ***Envisioning a Declaration on the Universal Rights and Duties of Business***

Let us clarify what we mean by a “declaration,” why we are calling for one, and what such a declaration would look like. To begin, by a “declaration” we are referring to a formal statement made by an authoritative body, such as a government that may lead to a legally binding treaty or some other formal convention. Well-known examples of declarations are the Declaration of Independence and the Universal Declaration of Human Rights. More commonly, wars are launched with a formal declaration. We are calling for a Declaration on the Universal Rights and Duties of Business as an important step in laying the intellectual and legal framework needed for articulating the consensus on the ethical expectations and limits of business as well as the rights and immunities businesses should be accorded in their dealings with governments and other relevant stakeholders.

We are calling for this Declaration as a way to build on the various initiatives we have described and to achieve what they have thus far failed to accomplish—concrete global reform. Initiatives, such as the Global Sullivan Principles, Caux Round Table, Global Network Initiative, etc. are all significant contributions in advancing our understanding of the nature of ethical business. Nevertheless, they all suffer from three shortcomings. First, they are quite general and as such lack the specificity needed to guide the complex operations of many businesses. Second, there is no process to certify adherence to these guidelines. Rather, as stated above, they are aspirational. Businesses may admire the principles and they may claim to be adherents, but without any certification process, it is impossible to know if they are. This leads to the third point, which is that there are no enforcement mechanisms. Therefore, while these initiatives articulate philosophically laudatory positions, there are no predictable consequences for a firm’s adherence or lack thereof.

For the Declaration to have a significant impact it would need to be sufficiently specific to provide tangible guidance to businesses and it needs to have either a certification process, or preferably, enforcement mechanisms. Such a declaration could also lay the foundation for the creation of an authoritative organization to mediate or arbitrate when conflicts arise between businesses and their stakeholders that are covered by the Declaration. This would be analogous to the function of the WTO in adjudicating disputes arising in relation to various international agreements covered under the General Agreement on Tariffs and Trade.

As for the specific content of what we are referring to as the Declaration on the Universal Rights and Duties of Business, more research, discussion, and debate would be needed, but some of the general contours may be found in the well established principles of justice and human rights that are already articulated in the Universal Declaration of Human Rights of 1948. The UDHR has not only stood the test of time, it is the most widely recognized and respected expression of what are understood to be the essential rights of all people, and as such, these rights are foundational to business ethics.

With UDHR as a foundation, the Declaration on the Universal Rights and Duties of Business should map out a common set of ethical and human rights standards for the conduct of business by domestic corporations and MNCs operating anywhere in the world. For example, it should include guidelines on the place in business of essential human rights, including freedom of expression, the right of association and unionization, respect for religious expression, environmental protection, worker safety, safeguards on child labor, guidance on minimum wage, and non-discrimination based on race, ethnicity, or gender. More specific contents will need to be tailored to the needs and conditions relevant to business in ways that are not addressed by the UDHR.

### ***Why a “Robust Declaration”***

To give credibility to the Declaration, we recommend that signatories not be individual businesses, but countries. In adopting it, the Declaration would become part of domestic law, as was the case when the OECD countries adopted the Anti-Bribery Agreement. However, we would recommend that the Declaration also

have a supra-national support agency modeled on the WTO. The value of this model is that while various countries could agree to participate as members, and domestic courts could judge cases that were claimed to be in violation of the Declaration, there would be a higher court of appeal in those cases if a local government were itself a defendant in a legal dispute.

Enforcement mechanisms are more important than certification because if robust enforcement mechanisms are in place, the system can be largely self-policing. As an example, let us imagine scenarios after the Declaration had been established, and Yahoo and Google ran into the issues already discussed. In such a case, if the Chinese government asked Yahoo to divulge the identities of pro-democracy bloggers, Yahoo could opt to lodge an appeal first with the Chinese government based on the Declaration. If that were not successful, they could escalate the appeal to an international governing body associated with the Declaration. For the Google example, an individual user could object to Google's censorship with the national government; if that did not lead to a settlement, the plaintiffs could escalate their case to the international governing body. Like the WTO, the proposed body should have the authority to make a final ruling.

An important characteristic of the proposed Declaration is that it should provide relatively precise descriptions of rights and duties of business as well as a clear expression of the principles of human rights and ethics from which they are derived. For example, it could help to define the accepted limits on freedom of expression in a business context, including such things as the prohibitions against defamation or inciting public disorder.

Finally, there must be clear methods for amending the Declaration in order for it to adapt to unforeseen conditions that are likely to emerge as new technologies and organizational processes are introduced.

## **BUILDING CONSENSUS FOR THE DECLARATION**

From where would we expect to find support for the Declaration and why? The following identifies some of the groups that would likely be its key supporters.

- **Business:** For such a declaration to become enacted, the spur to action may first come from leaders in the private sector. Why would they do so? The Declaration on the Universal Rights and Duties of Business would lead to the creation of a level ethical playing field for all businesses. This would enable business leaders to have a common understanding regarding the opportunities and limitations on businesses operating in foreign countries anywhere in the world. Business should support the promulgation of the Declaration because it is in its interest to do so.
- **Governments,** especially those strongly committed to human rights, should be on the forefront in adopting the proposed Declaration and advocating for its universal acceptance. They should do so, not only out of respect for political and humanitarian reasons, but also for economic reasons. The common ethical framework would facilitate the promulgation of international trade and investment agreements and help to minimize friction caused by inconsistent policies and practices from one country to another.
- **The United Nations:** The Declaration should receive strong UN backing because it is consistent with UN positions on human rights that cut across a variety of agencies and existing treaties, declarations, and conventions including the UDHR and the recommendations issued in the recent Ruggie report on business and human rights.
- **Human Rights Organizations** such as the International Commission of Jurists, Amnesty International, and Human Rights Watch should be strong supporters of the Declaration as it is consistent with the mission of these organizations.<sup>29</sup>
- **Anti-Globalization Activists:** Although the proposed Declaration would neither roll back nor halt the spread of globalization, it would help to ensure that when companies did expand into foreign markets, their corporate behavior would be guided by well-established ethical principles.

With such a Declaration in place, neither governments nor companies could hide behind local laws or regulations to justify a failure for businesses to act in accordance with human rights principles. Both governments and companies would be held to a common standard. Moreover, companies committed to

upholding ethics and human rights standards would find in the proposed Declaration the regulatory shield they need to stand on the side of human rights when their host governments do not.

This Declaration would benefit all organizations except those that engage in human rights abuses. Such organizations would be considerably weakened as mechanisms would be in place to challenge the cover afforded by human rights abusing governments. Moreover, when authoritarian governments see that they must deal not simply with a business, but with a global network of businesses, governments, NGOs, the United Nations, and a WTO-like body dedicated to arbitrating in matters pertaining to the rights and duties of business, they may be more inclined to adopt the human rights reforms that would form the centerpiece of the Declaration rather than be perceived as being on the wrong side of human rights.

### **THE HUMAN RIGHTS CENTURY**

How will people look back on the twenty-first century? From its beginning, this century has been characterized by an astonishing degree of political and economic turmoil. It has often been said that the twentieth century was the American century and that we are entering the China Century. We hope it will be more accurate to say that we are entering the Human Rights Century, and that China will have the opportunity to take a central and leading role in this century in which countries recognize not only the value, but the urgent need to work together to arrive at a consensus on the ethical conduct of business. Although many signs point to this, for this potential to be actualized, business must be freed from the complicity in human rights abuses everywhere, from the United States to China. By clearly formulating a Declaration on the Universal Rights and Duties of Business, governments and businesses will both have a political and legal framework that will help to eliminate the Complicity Problem and will contribute to greater social flourishing by opening the door widely to a world of work conducted in accordance with principles of ethics and human rights.



## NOTES

1. C. Boles, D. Clark, and P.-W. Tam, Yahoo's lashing highlights risk of China market, *Wall Street Journal*, November 7, 2007.

2. "Universal Declaration of Human Rights," United Nations, <http://www.un.org/Overview/rights.html>. Accessed on October 13, 2009.

3. See, for example, the 1994 New York Times article that describes resistance from businesses to accept voluntary codes of conduct in China as proposed by Human Rights Watch. E. A. Gargan, Business Objects to a Code in China, *New York Times* (1994).

4. Based on U.S. International Trade Commission, U.S. Department of Commerce, and U.S. Census Bureau as posted online at <http://www.uschina.org/statistics/tradetable.html>. Accessed June 2, 2008.

5. See A. Gat, "The return of authoritarian great powers," *Foreign Affairs* 86, no. 4, 2007.

6. J. Yardley, "Chief says Google won't fight Chinese censorship," *New York Times*, April 12, 2007.

7. A. Donoghue, "Microsoft censors Chinese blogger," CNet, [http://news.cnet.com/Microsoft-censors-Chinese-blogger/2100-1028\\_3-6017540.html](http://news.cnet.com/Microsoft-censors-Chinese-blogger/2100-1028_3-6017540.html). Accessed on October 13, 2009.

8. For example, Yahoo and Google both thought that censorship should be considered trade barriers. In this regard, a Yahoo spokesperson said, "While companies have an important role to play, we also believe the U.S. government has the most significant leverage through diplomatic avenues on global issues of human rights." J. Politi and R. Waters, "Google and Yahoo Tread Careful Line in China Internet Row," *Financial Times*, August 22, 2008.

9. See B. Einhorn, B. Elgin, and P. Burrows, "Helping Big Brother Go High Tech," *BusinessWeek*, 4001 (2006). It is interesting to note that Google, Cisco, and Oracle were all identified as among the "Most Ethical Companies" in the recently released edition of Ethisphere Magazine. See <http://ethisphere.com/wme2008/>. Accessed on October 13, 2009.

10. For a striking example of this outlook, see A. Z. Carr, "Is Business Bluffing Ethical?," *Harvard Business Review* 46, 1 (1968).

11. Hinojosa et al. *United States Sentencing Commission Guidelines Manual* (Washington, DC: United States Government, 2007), p. 495.

12. Given space limitations we are not examining the complex arguments that could be associated with these ideas. For example, there are qualifications pertaining to the injunctions against harm, such as that which occurs in self-defense or harm that is required for another good, as

is the case when a doctor is forced to amputate a gangrenous limb. Nor is all discrimination unjust: if a person does not possess the qualifications required for a license, such as skill level, it is appropriate that a license not be issued. What is important in such a case is that the requirements for qualification be applied equally to all applicants. Issues of discrimination and fairness in the application of the law are covered in Articles 2 and 7–12 of the Universal Declaration of Human Rights. See “Universal Declaration of Human Rights.” Much more could be said, but this should suffice for the purpose of this article.

13. This is a popular theme, popularized by people with a simplistic or misguided understanding of business. For a few examples, see T. Levitt, “The Dangers of Social Responsibility,” *Harvard Business Review* 36, 5 (1958). W. Roberts, *Leadership Secrets of Attila the Hun* (New York: Warner Books, 1989). J. A. Byrne, *Chainsaw: The Notorious Career of Al Dunlap in the Era of Profit-at-Any-Price* (1st Ed.) (New York: HarperBusiness, 1999). A. J. Dunlap and B. Andelman, *Mean Business: How I Save Bad Companies and Make Good Companies Great* (1st Fireside Ed.) (New York: Simon & Schuster, 1997).

14. Yardley, “Chief says Google won’t fight Chinese censorship.”

15. C. J. Dodd, “Remarks [at Google Headquarters, Mountain View, California],”(2007), <http://chrisdodd.com/blog/text-dodd%2526%2523039%3Bs-speech-google>. Accessed on June 2, 2008.

16. See G. E. Dann and N. Haddow, “Just Doing Business or Doing Just Business: Google, Microsoft, Yahoo! And the Business of Censoring China’s Internet,” *Journal of Business Ethics* 79, 3 (2008). As with us, in this article Dann and Haddow reflect on the ethical compromises made by the large Internet firms, Google, Microsoft, and Yahoo, and agree that their actions were not ethically justified. However, as with Sen. Dodd, they do not offer a viable alternative to these companies other than extricating themselves from the China market. We hold that while their critique is accurate, what is needed is to build on this ethical criticism and seek a solution. We hold that the Declaration on the Universal Rights and Duties of Business could be the solution to this problem.

17. For a good review of this case, see J. E. Post, “The ethics of marketing: Nestle’s infant formula,” in W. M. Hoffman and R. E. Frederick (eds.): *Business Ethics: Readings and Cases in Corporate Morality* (New York: McGraw-Hill, 1995).

18. See for example, Nestle, “The Nestle Creating Shared Value Report,” (Vevey, Switzerland: Nestle, S. A., 2008).

19. D. T. Verma, "Polaroid in South Africa," in W. M. Hoffman (ed.): *Proceedings of the Second National Conference on Business Ethics* (Washington, DC: University Press of America, 1979): 364.

20. Given the recent economic catastrophe, it should be self-evident that not only is there not a direct correlation between economic liberalism and political liberalization, there is not even a correlation between economic liberalization and market strength.

21. G. F. Cavanagh, "Global Business Ethics: Regulation, Code, or Self-Restraint," *Business Ethics Quarterly* 14, 4 (2004): 629.

22. Ibid.

23. L. A. Low and Timothy P. Trenkle, "U.S. Antibribery Law Goes Global: Standards Tightening Up," *ABA Journal Online* (1999), <http://www.abanet.org/buslaw/blt/8-6antibribery.html>. Accessed on October 13, 2009.

24. See for example the following: "The Global Sullivan Principles," Leon H. Sullivan Foundation, <http://www.thesullivanfoundation.org/gsp/principles/gsp/default.asp>. Accessed on October 13, 2009.

Caux Round Table, "Caux Round Table: Charting a New Course for Business," (2003), <http://www.cauxroundtable.org/>. Accessed on October 13, 2009.

United Nations Global Compact, "What Is the UN Global Compact?" <http://www.unglobalcompact.org/AboutTheGC/index.html>. Accessed on October 13, 2009.

"Social Responsibility," ISO (International Organization for Standardization), <http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935096/home.html>. Accessed on October 13, 2009.

For more on the Global Network Initiative, see the next footnote. This list is not exhaustive, but it is a good starting point. For a valuable recent discussion of the place of these and other initiatives in responding to the place of ethics and human rights in the policies of transnational corporations, see, E. F. Carasco and J. B. Singh, "Human Rights in Global Business Ethics Codes," *Business & Society Review* 113, 3 (2008).

25. For more information, see the GNI website at: "Global Network Initiative," <http://www.globalnetworkinitiative.org/index.php>. Accessed on October 13, 2009. It is worth noting that in a article on the Global Network Initiative that appeared in the *New York Times*, Morton Sklar, the executive director of the World Organization for Human Rights was asked if the principles that are central to the Global Network Initiative would have made any difference in the case of the jailing of the journalist Shi Tao, described earlier in this paper. To this Mr. Sklar said, "My guess

is that it wouldn't have had any effect at all." M. Helft and J. Markoff, "Big Tech Companies Back Global Plan to Shield Online Speech," *New York Times*, October 28, 2008.

26. J. Ruggie, "Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development (the Ruggie Report)," New York: United Nations, 2008, 3.

27. *Ibid.*, p. 9.

28. "Beyond the 'Genocide Olympics,'" *The Economist*, April 7, 2008.

29. A significant three-volume report on the problem of complicity was recently published by the International Commission of Jurists. International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes, *Corporate Complicity & Legal Accountability*, vol. 1-3 (Geneva, Switzerland: International Commission of Jurists, 2008). According to an article that appeared in *The Economist*, however, an alleged shortcoming of this report is "the experts' failure to state unequivocally what companies should and should not do to avoid being held liable for such abuses . . ." See, "Not the Usual Suspects," *The Economist*, September 27, 2008.

## REFERENCES

- "Beyond the 'Genocide Olympics.'" 2008. *The Economist*, April 7, 2008.
- Boles, C., Clark, D., and Tam, P.-W. 2007. "Yahoo's lashing highlights risk of China market." *Wall Street Journal*, November 7, 2007.
- Byrne, J. A. 1999. *Chainsaw: The Notorious Career of Al Dunlap in the Era of Profit-at-Any-Price* (1st Ed.) New York: HarperBusiness.
- Carasco, E. F., and Singh, J. B. 2008. "Human rights in global business ethics codes." *Business & Society Review* 113(3): 347-374.
- Carr, A. Z. 1968. "Is business bluffing ethical?" *Harvard Business Review* 46(1): 143-153.
- Caux Round Table. 2003. "Caux round table: charting a new course for business." <http://www.cauxroundtable.org/>, accessed October 13, 2009.
- Cavanagh, G. F. 2004. "Global business ethics: regulation, code, or self-restraint." *Business Ethics Quarterly* 14(4): 625-642.
- Dann, G. E., and Haddow, N. 2008. "Just doing business or doing just business: Google, Microsoft, Yahoo! And the business of censoring China's Internet." *Journal of Business Ethics* 79(3): 219-234.
- Dodd, C. J. 2007. "Remarks [at Google Headquarters, Mountain View, California]." <http://chrisdodd.com/blog/text-dodd%2526%2523039%3Bs-speech-google>, accessed October 13, 2009.

- Donoghue, Andrew. "Microsoft Censors Chinese Blogger." (2006), [http://news.cnet.com/Microsoft-censors-Chinese-blogger/2100-1028\\_3-6017540.html](http://news.cnet.com/Microsoft-censors-Chinese-blogger/2100-1028_3-6017540.html). Accessed on October 13, 2009.
- Dunlap, A. J., and Andelman, B. 1997. *Mean Business: How I Save Bad Companies and Make Good Companies Great* (1st Fireside Ed) New York: Simon & Schuster.
- Einhorn, B., Elgin, B., and Burrows, P. 2006. "Helping big brother go high tech." *BusinessWeek* 4001: 46–52.
- Gargan, E. A. 1994. "Business objects to a code in China." *New York Times*, May 24, 1994.
- Gat, A. 2007. "The return of authoritarian great powers," *Foreign Affairs* 86, no. 4.
- "Global network initiative." <http://www.globalnetworkinitiative.org/index.php>, accessed October 13, 2009.
- "The global Sullivan principles." Leon H. Sullivan Foundation, <http://www.thesullivanfoundation.org/gsp/default.asp>, accessed October 13, 2009.
- Helft, M., and Markoff, J. 2008. "Big tech companies back global plan to shield online speech." *New York Times*, October 28, 2008.
- Hinojosa, R. H., Castillo R., Sessions, W. K., III, Steer, J. R., Friedrich, D. L., Horowitz, M. E., Howell, B. A., Campbell, B. J., and Reilly, E. F., Jr. 2007. *United States Sentencing Commission Guidelines Manual*. Washington, DC: United States Government.
- International Commission of Jurists Expert Legal Panel on Corporate Complicity in International Crimes. 2008. *Corporate Complicity & Legal Accountability*. Vol. 1–3. Geneva, Switzerland: International Commission of Jurists.
- Levitt, T. 1958. "The dangers of social responsibility." *Harvard Business Review* 36(5): 41–50.
- Low, L. A., and Trenkle, T. P. 1999. "U.S. antibribery law goes global: standards tightening up." *ABA Journal Online*, <http://www.abanet.org/buslaw/blt/8-6antibribery.html>, accessed October 13, 2009.
- Nestle. 2008. *The Nestle Creating Shared Value Report*. 56. Vevey, Switzerland: Nestle, S.A.
- "Not the usual suspects." 2008. *The Economist*, September 27, 2008, 78.
- Politi, J., and Waters, R. 2008. "Google and Yahoo tread careful line in China Internet row." *Financial Times*, August 22, 2008.
- Post, J. E. 1995. "The ethics of marketing: Nestle's infant formula," in W. J. Hoffman, and R. E. Frederick (eds.), *Business Ethics: Readings and Cases in Corporate Morality* (New York: McGraw-Hill, pp. 416–420).
- Roberts, W. 1989. *Leadership Secrets of Attila the Hun*. New York: Warner Books.
- Ruggie, J. 2008. *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development (the Ruggie Report)*. New York: United Nations.

- “Social responsibility.” ISO (International Organization for Standardization), <http://isotc.iso.org/livelink/livelink/fetch/2000/2122/830949/3934883/3935096/home.html>, accessed October 13, 2009.
- United Nations Global Compact. “What is the UN global compact?” <http://www.unglobalcompact.org/AboutTheGC/index.html>, accessed October 13, 2009.
- United Nations. “Universal Declaration of Human Rights.” <http://www.un.org/Overview/rights.html>, accessed October 13, 2009.
- Verma, D. T. 1979. “Polaroid in South Africa,” in W. M. Hoffman, ed., *Proceedings of the Second National Conference on Business Ethics* (Washington, DC: University Press of America).
- Yardley, J. 2007. “Chief says Google won’t fight Chinese censorship.” *New York Times*, April 12, 2007.

Copyright of Business & Society Review (00453609) is the property of Blackwell Publishing Limited and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.