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**Advancing the Business & Human Rights Agenda:
Dialogue, Empowerment and Constructive Engagement**

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Abstract

As corporations are going global, they are increasingly confronted with human rights challenges. As such, new ways to deal with human rights challenges in corporate operations must be developed as traditional governance mechanisms are not always able to tackle them. This article presents five different views on innovative solutions for the relationships between business and human rights that all build on empowerment, dialogue and constructive engagement. The different approaches highlight an emerging trend towards a more active role for corporations in the protection of human rights. The first examines the need for enhanced dialogue between corporations and their stakeholders. The next three each examine a different facet of empowerment, a critical factor for the respect and protection of human rights: empowerment of the poor, of communities and of consumers. The final section presents a case study of constructive corporate engagement in Myanmar (Burma). Altogether, these research projects provide insight into the complex relationships between corporate operations and human rights, by highlighting the importance of stakeholder dialogue and empowerment. All five projects were presented during the Second Swiss Master Class in Corporate Social Responsibility (CSR), held in Lausanne, Switzerland on December 12, 2008. The audience for this conference, which examined business & human rights, was composed of researchers, governmental representatives, and business and NGO practitioners.

Key Words

Corporate Social Responsibility (CSR), empowerment, constructive engagement, global governance, human rights, stakeholder dialogue

Abbreviations

ALC	alternative learning centers
BOP	bottom(base)-of-the-pyramid
CCE	constructive corporate engagement
CSR	Corporate Social Responsibility
ICESCR	International Covenant on Economic Social and Cultural Rights
ILO	International Labour Organization
NGO	non-governmental organization
NLD	National League for Democracy
OECD	Organization for Economic Co-operation and Development
SEP	socio-economic development program
SME	small and medium enterprise
SSP	school support program
TNC	transnational corporation
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UNGC	United Nations Global Compact
USDA	Union Solidarity and Development Association
WSHG	women's self-help group

INTRODUCTION

Though the Universal Declaration of Human Rights (UDHR) celebrated its 60th anniversary in 2008, there remains a lack of application and respect of human rights by both public and private actors worldwide. As a side effect of globally expanding markets, more and more corporations get entangled in direct and indirect violations of human rights (Kinley and Nolan, 2008). However, due to civil society pressure and/or organizational values, some of these corporations engage in self-regulation or multi-stakeholder processes to define standards and to manage ethical issues within their operations and supply chains (Ruggie, 2007). This corporate behavior is in line with the UDHR's call that "every individual and every organ of society"ⁱ should engage in the protection of human rights.

Sixty years after the UDHR was proclaimed, the human rights debate is indeed not solely focusing on the role of states. There is an emerging trend that argues for a more active role for corporations in the human rights area. Rather than doing no harm, it is claimed that corporations have a larger responsibility in the protection of human rights. Due to globalization, the increased power of transnational corporations (TNCs), and a lack of leadership and guidance among involved stakeholders with regard to the protection of human rights, there is a need for enhanced cooperation between different actors operating in the international community to deal with arising human rights challenges. Through dialogue, empowerment, constructive engagement and participation in broader mechanisms of global governance, such as multi-stakeholder initiativesⁱⁱ, TNCs can contribute to the protection and promotion of human rights. Moreover, there exists an increased focus on empowerment in helping making people aware of and enabling them to claim their fundamental rights. Contributing to this process of empowerment is both a challenge and an opportunity for corporate enterprises.

As such, this paper, using five different perspectives on the business and human rights interface, examines the need for stakeholder dialogue and empowerment. By focusing on such concepts, corporations can better understand and deal with the human rights challenges they face. The overall research question that the article addresses is how can corporations enhance their contributions to the protection and promotion of human rights. More specifically, the issues addressed include the importance of stakeholder dialogue, the need for empowerment, as well as corporate engagement in regions of weak governance. Before turning to these questions, however, it is necessary to first provide the context of the business and human rights debate and an introduction to the concept of empowerment.

Business & human rights

Historically, human rights protection has primarily been the duty of states, which is translated into many international and national conventions, guidelines and best practices, the UDHR being the most obvious example (Ruggie, 2007). Moreover, human rights regulations were primarily aimed at protecting individuals from *state* abuse of human rights (Cassel, 2001). However, the scope and content of human rights violations is changing, especially with regard to the actors involved: more and more corporations are concerned with human rights problems. This changing of logic encourages the development of new perspectives on human rights protection, as the traditional mechanisms that are focused on states are insufficient to guarantee respect for human rights (Habermas, 2001).

Despite increasing pressure upon states to fulfill their duty to protect their inhabitants from bad corporate activities, a substantial number of governments lack the ability or the willingness to ensure that human rights are adequately respected, especially when the issues at hand occur beyond their national territory (Habermas, 1998 ; Ruggie, 2007). Until today, it remains difficult for states to sue individuals and non-state actors, particularly corporations, for human rights abuses occurring outside national territory (Duruigbo, 2008). This problem

of extra-territorial jurisdiction is part of the reason why certain people are unable to claim redress for human rights violations. Such a human rights ‘vacuum’ is even more stringent in conflict zones and under repressive regimes (see, e.g., the case study of Myanmar in this article).

As a result of the expansion of economic activities and the weak enforcement of international regulatory mechanisms, an increasing number of TNCs are confronted with human rights challenges along their supply chains. These challenges cover a broad range of issues including slave and child labor, corruption, suppression of unions, and collaboration with repressive regimes (Jungk, 2006). In relocating corporate activities to countries where human rights protection is not always guaranteed, companies can avoid (willingly or not) legislation on such issues (Kinley and Nolan, 2008). Due to international communication and increased access to information worldwide, there is also a growing awareness about existing human rights violations by corporations (Kaeb, 2008).

However, corporate human rights abuses are rarely driven by the intention to do harm. The violations often result from a lack of moral imagination, expertise and geopolitical knowledge, as well as from the conviction that human rights protection is the responsibility of governments rather than businesses. Nevertheless, as some governments are unable to uphold human rights standards, corporations have to understand that in a globalizing world, responsibilities are shifting. Sustainable profits depend on the stability of the societal context of business operations. For example, corporations like IBM, GM or Exxon had to withdraw from apartheid South Africa, as they were heavily criticized by NGOs for collaborating with the regime (Spar and La Mure, 2003 ; Teoh et al., 1999). Therefore, corporations should be interested in first respecting and then promoting human rights (Chandler, 2003).

In response to human rights challenges, corporate involvement in governance mechanisms for the protection of human rights has increased, resulting in various means of

filling governance gaps, either by good will or by adhering to NGO demands. Self-regulation has risen, translated by corporate codes of conduct and the acceptance of external control over their respect of human rights in their supply chain and production (Crane and Matten, 2007). In addition, various multi-stakeholder initiatives have been created as attempts to fill the regulatory vacuum by institutionalizing ‘governance with and without government’ mechanisms of self-regulation (Ougaard, 2005). These initiatives can influence the development of sustainable governance mechanisms and increase the implementation of human rights standards in national laws (Gill, 2008).

As such, corporations increasingly take part in formal or informal regulatory activities. This engagement in the protection and promotion of human rights in turn raises new problems, for example, regarding the legitimate role of corporations providing public services. However, in his report on business and human rights to the United Nations (UN), Ruggie (2008a) also aims to achieve a workable balance between governments as the primary guarantor of human rights and corporations as upholders of the standards. There is a broad consensus that corporations must respect human rights; however, this article builds upon the premise that the proposed ‘due diligence’ standard is insufficient to uphold human rights on a global scale. Our complex society requires that companies play a more active role whereby, under certain circumstances, they must also contribute to the protection of human rights.

The role of empowerment

Going beyond the strictly legal realm of human rights, empowerment is a multidimensional concept. It includes meeting the basic needs of the communities in which corporations are operating. Meeting these needs such as food, clean water, sanitation, electricity and health services, can be directly linked to fundamental human rights (articles 11, 12, International Covenant on Economic Social and Cultural Rights (ICESCR), 2002). Empowerment also involves increasing the productivity and income of people; to accomplish

this, it is essential to recognize the right of everyone to education, work and benefit from scientific progress and its applications (articles 13, 6 and 15(b), ISESCR, 2002). In turn, this can lead to an enhanced awareness of their rights, which increases the chance that people are able to claim the protection of these rights (Lindeman, 2006). As such, empowerment has influence on a wide range of human rights.

The insight and rhetoric that “all human rights are universal, indivisible and interdependent and interrelated” (Para. 5, Vienna Declaration and Programme of Action, 1993) needs to be translated into concrete actions. Bearing in mind that one of the foremost challenges of the current human rights regime is the lack of effective implementation, it is clear that there is a need for innovative combinations of legal, economic and social empowerment (Lindeman, 2006). Resulting from a voluntary approach to CSR, corporations can seek to leverage empowerment in the regions in which they operate, therefore mitigating the risk of human rights violations and enhancing these rights. Moreover, by empowering people, corporations may also gain legitimacy and increase their accountability toward stakeholders. Corporations can contribute to enhance the stability of societies. Empowerment gives weaker groups in society a voice in political processes and thus increase equality of policies (Utting, 2007). There is, however, a fine line between efficient action and green- or blue-washing by TNCs—a corporation’s disingenuous agreement to abide by ecological (“green”) or social (“blue”) standards and policies. To accomplish this balance, civil society must play an active role, even if the legitimacy of their participation is sometimes challenged (Baur, 2008).

Whereas civil society actors within developing countries are still struggling to emerge, Northern NGOs have much more power into ‘naming and shaming’ problematic corporate behavior. NGOs are also needed to monitor those CSR activities by corporations. Such initiatives without control and assessment are often discredited or regarded as being un-

trustworthy. Thus, to effectively implement an empowering CSR framework, corporations must ensure that suitable third-party monitoring is available to have an efficient impact on the ground (Hassel, 2008 ; O'Rourke, 2003). Furthermore, corporations can also engage in multi-stakeholder initiatives and partnerships with governments and NGOs, the inclusion of which will provide control and monitoring, as well as enhance the legitimacy and accountability of the action (Risse, 2004b). Such initiatives gather in general NGOs and corporations in order to solve public issues in a deliberative fashion, most of the time issuing standards (Utting, 2002). Therefore, by focusing on the empowerment of relevant stakeholders, such as women or workers, TNCs may play an active role in closing the human rights vacuum between communities and governments. In so doing, corporations may participate in political processes, enhance existing governance mechanisms and creating new ones.

Young Scholars take the floor

Taking into account the relationship between business, empowerment, and human rights and acknowledging the fact that corporations can discover innovative solutions and engage in the protection and promotion of human rights, the Swiss Master Class in CSR 2008 focused on the human rights challenges of global business operations. The second bi-annual conference took place on December 12, 2008 in Lausanne, Switzerland. It gathered doctoral students, the Young Scholars, from around the world who work on the business and human rights interface. At this conference, the scholars had the privilege to meet with six world-leading experts in human rights research and practice, the Masters. The Master Class concept was taken and adapted from a tradition in classical music: students are given the opportunity to play their instrument in front of the most renowned masters in their field. Students were able to learn both from the masters and their peers, which constituted an outstanding learning experience and provided a high quality of teaching. This principle has easily been transferred to the Swiss Master Class in CSR.

The conference established a dialogue on human rights issues between the academic world, civil society and corporate practice, by bringing together five young researchers (the Young Scholars)ⁱⁱⁱ, six renowned experts on human rights (the Masters)^{iv} from universities, governments, corporations and civil society, and the managers of corporate and non-governmental organizations (NGOs).

The process of the Master Class highlights how the business and human rights debate is now redefined. After the demanding selection process, the innovative ideas of the Young Scholars got an additional reality check through the interaction and discussion with the Masters and the audience. As such, this article presents the ideas raised during this conference by the five Young Scholars and takes into account the remarks, questions and suggestions made by the Masters and the audience. The research projects differ in content and perspective, but each Young Scholar argues for a more active role of TNCs in the protection of human rights. The paper aims at giving new insights into the relationships between corporations and human rights and provides fresh perspectives to a still fragmented trend towards a new thinking in the business and human rights debate. The overarching claim is in favor of a more active role of TNCs in the process of empowerment and constructive engagement. Figure 1 highlights how the five research questions contribute to a common understanding of the role of corporations with regard to human rights.

Fig. 1 here

In the following sections, each Young Scholar will elaborate on the ideas she raised during the Master Class. To begin with, Dorothée Baumann examines the importance and the limitations of stakeholder dialogue in the implementation process of CSR, as dialogue is a necessary step in the process of empowerment and consequently for the respect of human

rights. As such, empowerment, as a driver for human rights, is the focus of the following three Young Scholars: Sara Lindeman discusses business engagement in low-income markets and suggests a human rights-based approach to base-of-the-pyramid business; Marieke de Leede assesses how to empower local communities and particularly women in developing countries through corporate activities; and Lindsay McShane builds upon the role of NGOs at the other side of the value chain, namely their ability to empower and enable consumers. Finally, Nicky Black considers constructive corporate engagement by companies operating in weak governance states, presenting four insights on the dynamics of such engagement drawn from a case study of the oil and gas industry in Myanmar (Burma).

Altogether, the Young Scholars examine the lessons learned from the conference and discuss how to analyze and enhance the role of corporations in the protection and promotion of human rights. The article aims at balancing optimism about dialogue, and about the potential upsides of empowerment and corporate engagement, while recognizing the broader dynamics of exploitation, abuse and the lack of effective accountability and systems of redress.

SHIFTING FROM MONOLOGUE TO DIALOGUE: THE FIRST STEP TO EMPOWERMENT - DOROTHÉE BAUMANN

Based on the observation that corporations increasingly engage in the protection of human rights, the question of how corporations are approaching this new and probably unfamiliar political task is raised. During the Master Class, the Masters pointed out that corporations would actually prefer not to get involved in any ‘political’ issues. Instead, they generally welcome the framework of John Ruggie, which clearly separates political and economic spheres by arguing that it is the *state’s duty to protect* human rights and the *corporate responsibility to respect* human rights (Ruggie, 2008a). Yet, the regulatory gaps on

the global level give many corporations no choice but to also contribute to the protection of human rights or risk losing productivity based on societal instability and corporate legitimacy.

Transnational corporations are confronted with critical human rights situations in their daily operations. For instance, they may lack labor law enforcement in their supply chain, health care programs for their HIV positive workforce, or security issues for female nightshift workers. However, corporations must confront these situations because they often directly affect their business. As such, some major corporations have formally accepted the responsibility to protect human rights and adopted specific human rights policies that outline how to systematically avoid complicity in human rights abuses and violations of human rights, as well as how to ensure the protection of human rights within the corporation's sphere of influence.^v

It would of course be *ideal* if only states and not corporations would provide basic rights and public goods. In the global arena, however, there are a large number of so-called “failed states”, or states with dysfunctional or weak governance (e.g. Bangladesh), and it is unlikely that these states will be able to effectively protect human rights anytime in the near future. Therefore, the political involvement of corporations is necessary during the *transition time*, or the time until state actors or a global regulator are ready to do their job.

The political role of corporations can also be explained theoretically. In the classic economic theory, the freedom of corporations to focus on maximizing profits is bound to the existence of a nation-state, which defines and enforces the regulatory framework. Globalization, however, fundamentally alters the premises of the classical economic theory. In a regulatory vacuum, the role of the corporation as a purely economic actor is no longer valid (Scherer et al., 2006).

The question is thus not whether the political role of corporations in emerging global governance structures is desirable but rather how it can be designed. The engagement of

private actors in the protection of human rights has a number of theoretical and practical implications. In the following subsection, both will be discussed individually, followed by an explanation of why these debates should be addressed together as one.

Theoretical considerations on stakeholder dialogue

On a *conceptual* level, the main issue raised by the involvement of private actors, in particular TNCs, in global governance processes is their legitimacy. Democratic nation-states are generally granted a political legitimacy, as their existence are based on democratic procedures, elections and representation (Risse, 2004a ; Habermas, 1998). Corporations as private actors, in contrast, are not elected by the general public and their contribution to the provision of public goods consequently requires alternative legitimacy strategies.

In the literature, political science concepts have been applied to legitimize the new role of private actors in global governance processes. Palazzo and Scherer (2006), for example, employ the concept of deliberative democracy from Jürgen Habermas (1990) to outline how democratic processes could be implemented at the corporate level. They focus on the communicative character of building legitimacy and stress the role of discourse as the main channel through which the perception of corporate legitimacy is formed. This highlights the significance of exchange with stakeholders to whom corporations, as resource-dependent entities, are ultimately accountable.

Practical considerations on stakeholder dialogue

On a *practical* level, corporations facing human rights challenges must deal with a situation that is entirely new to them. Through the release of their code of conduct and/or the participation in initiatives like the UN Global Compact (UNGC)^{vi}, corporations voluntarily and publicly commit themselves to fill governance gaps through their corporate conduct. Implementing this commitment and meeting the expectations of stakeholders linked herewith,

however, has proven to be very tricky. On the one hand, empirical studies have demonstrated that corporations are not yet very advanced in installing mechanisms which would help to systematically avoid human rights violations (Baumann and Scherer, forthcoming). Most companies are in fact just beginning to address human rights by discussing their relevance in their specific industry context and adjusting organizational structures and procedures. On the other hand, even corporations that are already quite advanced at embedding systems to protect human rights throughout the organization are often failing to satisfy stakeholder demands. For example, Novartis, a Swiss pharmaceutical company, has been awarded by various institutions as a “good practice example” for its implementation of Corporate Citizenship. However, Novartis is still criticized by various stakeholders for its aggressive marketing practices and their patent policy, and it is not given much credit for its exemplary implementation of their code of conduct or their ground-breaking work on the development of a living wage methodology (see for example corpwatch.org). Consequently, even “good” companies seem to lack skills and expertise to take on state-like functions in a way that is perceived as legitimate because their activities are out of sync with the concerns of critical stakeholders.

However, not only skills and expertise matter, given that the nature of social issues, such as human rights, is fundamentally different to environmental issues with predominantly quantitative performance indicators and objective assessment criteria. In contrast to environmental issues, engaging in social issues requires corporate managers to make judgment calls. When dealing with the protection of human rights, managers are unable to tackle all potential issues at once and instead must prioritize their activities and determine the limits of their responsibility. Additionally, because human rights issues are rarely black and white, they must interpret ambivalent situations in which the code cannot easily be applied.

Finally, they must make decisions on controversial issues for which the abstract commitment to respecting and protecting human rights itself does not provide guidance.

Thus, social issues require communicative processes for their resolution. Particularly if stakeholders request greater oversight and participation in the corporate solution of human rights issues, their integration should be taken into consideration. Maintaining corporate legitimacy is critical for the flow of resources, and since legitimacy is based on perceptions, accommodating requests to discuss potential human rights issues is indispensable for effectively managing corporate legitimacy. Thus, due to increasing stakeholder power corporate legitimacy has become a driving factor for corporations to engage with stakeholders and assume responsibility for human rights issues.

Engaging with stakeholders regularly may also facilitate the choice over priorities and help to determine the direction of controversial decisions. Until now, however, the combination of ill-designed organizational structures and procedures and the corporate inability to pick up and address the most urgent societal trends and concerns has led to an unsatisfactory approach to the implementation of human rights, which reflects rather negatively on corporations (see e.g. reprisk.com).

Shifting from monologue to dialogue

Consequently, both the practical and theoretical perspectives point out that installing some form of regular dialogue between TNCs and stakeholders is essential for maintaining or restoring corporate legitimacy and dealing with issues such as human rights. Up to now, however, corporations have often approached human rights challenges alone, thereby failing to rectify these situations in a manner perceived as legitimate. For example, corporations have released human rights policies without prior consultation of expert stakeholder groups and often without a strategy that outlines concrete activities and monitoring (see e.g. UBS, 2007).

Even if corporations reach out to others, they tend to prefer to work with their peers than with critical stakeholder groups (see e.g. Business for Social Responsibility, 2009).

Such exclusive approaches, however, cause suspicion regarding whether these human rights commitments are actually implemented. Stakeholders, therefore, demand greater transparency and oversight over corporate policies. Managers, on the other hand, are often completely unaware of stakeholder opinions, or if they are aware, the opinions are often prematurely dismissed because they appear incompatible with corporate goals. In addition to these mutual trust issues, establishing a stakeholder dialogue can be costly and time-consuming. Corporations cannot engage in a dialogue over every potential issue without undermining its primary economic role. Instead, the corporation must develop sensitive antennas to assess the issue's maturity and the urgency and consistency of stakeholder demands so that it may decide whether a dialogue is needed to solve issues (Scherer et al., 2008).

Dialogue may be most useful when stakeholder demands are consistent, but the cost of abiding by stakeholder demands is high. Dialogue may then provide a platform to explain mutual positions and work out a compromise. Likewise, dialogue can provide clarity when issues are emerging, if they are urgent or highly controversial. If issues are emerging, their importance will likely grow in the future. Being proactive before the issues arise makes it easier to deal with them later when they are already institutionalized and have become much harder to resolve. If issues are urgent, discourse may provide the quickest way to exchange information, rectify facts, find overlapping interests and come up with possible solutions. If issues are highly controversial, abiding by the demands of one group of stakeholders will not satisfy other groups of stakeholders. In this case, a compromise is needed and setting a comprehensive discursive arena may be a good solution to reach a compromise.

However, even in these situations, there are a number of additional challenges that corporations may encounter when they set out to establish a stakeholder dialogue. First, corporations sometimes find it difficult to identify stakeholders, particularly in repressive regimes with a weak civil society where stakeholders often lack institutionalization and voice. Second, stakeholders may not have sufficient resources, be it financial or merely time, to engage in discourse. NGOs, for example, are chronically understaffed and might simply lack the human resources necessary to engage with individual companies. Third, it is typically assumed that stakeholders are actually willing to participate in discourse with companies. Yet, due to negative experiences with less sincere companies and in order to protect credibility and legitimacy with their constituents, some stakeholders refuse to engage with companies (see e.g. Hilhorst, 2003). Finally, it is assumed that integrating stakeholders publicly contributes to a better public understanding of corporate policies and raises awareness for stakeholder demands. However, publicity may also undermine these purposes of stakeholder exchanges. If stakeholder dialogues become PR-instruments to further organizational goals and if tactics dominate any constructive problem-solving effort, then it may be better to start off a stakeholder relationship in a non-public, private setting. Nestlé, for example, reported that they are engaging with stakeholders regularly but refuses to publish the agenda of these talks in order to avoid the typical media hype which often develops around such encounters (Frutiger, 2007, personal communication^{vii}).

Organizing some parts of the dialogue on an industry level, through multi-stakeholder initiatives, for example, and committing to a long-term engagement (see discussion below by Marieke de Leede) may offset some of the counter-arguments of stakeholders, such as resource restrictions or trust issues. The problem of under-representation of stakeholders, however, is more complicated. The following subsections show that corporations can leverage this problem by focusing on stakeholder empowerment. When corporations empower the poor

and local communities, these communities are given the means to raise their voice, participate in stakeholder dialogues, and reduce human rights violations, ultimately leading to a more comprehensive and systematic respect of human rights in corporate operations.

BUSINESS ENGAGEMENT IN LOW-INCOME MARKETS: THE NEED FOR A HUMAN RIGHTS PERSPECTIVE - SARA LINDEMAN

The Bottom/Base-of-the-Pyramid (BOP) proposition presented by business strategists in the early 2000s argues that, by traditionally focusing on serving the well-off at the top of the economic pyramid, companies have been blind to the vast possibilities for win-win business opportunities in the markets of low-income people (Prahalad and Hammond, 2002 ; Prahalad, 2005). Numerous case studies show that innovative entrepreneurial solutions can create value for both the poor and the involved companies (Prahalad, 2005 ; World Business Council for Sustainable Development, 2005 ; UNDP, 2008). An increasing number of practitioners and academics are realizing the potential of this new approach and a multidisciplinary discussion is taking place.

However, a human rights perspective has been lacking in this debate. This might be due to the tendency to see the role of business with regards to human rights as passive or negative. In practical terms this means ‘doing no harm’ or avoiding complicity in human rights violations. Human rights terminology makes a distinction between negative obligations that are ‘do no harm’ duties versus positive obligations to actively fulfill human rights (Alston and Robson, 2005). Nevertheless, more companies are taking an active role in low income markets and indirectly fulfilling human rights. This section of the article argues for a broader view on the business and human rights agenda where business engagement in low-income markets is addressed.

Broadening the business and human rights agenda

Human rights protection and promotion in a business context can be achieved through three different types of activities: Compliance, Charity and Co-creation (Halme and Lindeman, 2009 ; Lindeman, 2006). Most of the business and human right debate has focused on compliance, which spans a variety of activities aimed to enhance corporate self-regulation and compliance to international standards. These tactics include reporting on social performance, monitoring labor conditions, human rights risk assessments and embedding human rights into the overall business (Sullivan, 2003). An increasing number of companies are adhering to responsible practices and making efforts to comply with codes of conduct and global initiatives such as the UNGC. Corporate charity has a long history and tradition in some cultures and can refer to donations to various causes or organizations as well as community developmental initiatives, such as building schools and hospitals in areas affected by business operations (Lindeman, 2006).

The focus of this section, however, is on the third type of corporate action toward human rights: the co-creation approach. It draws on the Base-of-the Pyramid discussion and refers to companies engaging in business relationships with the low-income communities to, together with them, create mutually beneficial solutions to the challenges they face.

The term co-creation is used to emphasize the business logic necessary to successful business engagement in low-income markets. Co-creation business logic implies that the most competitive business model will emerge from a deep understanding and dialogue with front-end users or producers, and this requires trustful and long-term relationships (Normann, 2001 ; Grönroos, 2000). Based on this insight, complex, unique and innovative solutions to problems faced by the front-end user or producer can be created by a network of actors. This business logic is different from that of pushing products to mass markets through aggressive

marketing with the prime purpose of increasing profits and less concern about whether the product or service is actually beneficial for the end user.

In the compliance approach, the main challenge has been embedding human rights into the overall business structure. Charity tends to be detached from the rest of the company and encounters problems with dependence on donations. The advantage of co-creation approach is that it is embedded; it is entrepreneurial, based on company core competences, aims for self-sustaining market driven business activities and is not only an activity of a CSR department (Lindeman, 2006).

Table 1 here

Compliance, charity and co-creation are not mutually exclusive approaches and many companies carry them out simultaneously. Warhust (2005, p. 153) suggests that companies should “get their own house in order before taking on wider societal issues”, and along these lines implies that a certain level of compliance to international standards should precede co-creation engagement. Thereafter, the allocation of corporate resources across the three approaches should be based on an evaluation of the on-the-ground human rights improvements (Lindeman, 2006).

Linking human rights and BOP business

The co-creation business approach in low income market can facilitate development and thus fulfill human rights. The benefits for the poor include meeting basic needs, enabling the poor to become more productive, increasing income and empowering the poor (UNDP, 2008). The United Nations Development Program (UNDP) has embraced the idea of business solutions to poverty under the broader term *inclusive business* (UNDP, 2008). It emphasizes the need to include the poor in the global economy and thereby more evenly distribute the

benefits of the globalization process. The initial BOP proposition has been criticized for focusing only on multinational corporations selling to the poor (Karnani, 2007b). However, business engagement in low-income markets must be understood more broadly because it is relevant for both large and small companies across all industries and includes production, franchising and selling of goods and services (UNDP, 2008).

On a theoretical level, the link between human rights, poverty and mutually beneficial business in low-income markets can be conceptualized with the help of Amartya Sen's capabilities approach to poverty. When Sen discusses the constraints and difficulties the poor face, he refers to them as 'unfreedoms': a systematic lack of opportunities, poor health and premature death (Sen, 1999). He points out that we must learn to identify and remove the constraints that prevent those in poverty from realizing their full potential. Most human rights are concerned with a person's right to fundamental freedoms, such as freedom from hunger, disease and illiteracy. By empowering individuals in giving them rights, they can then claim their aspiration to freedoms. Thus Hunt et al. (2004) point out that there is a natural transition from capabilities to rights such as the right to food, water, shelter, health and education.

From a business point of view, some of these constraints can be considered as business opportunities, since there may be ways to create more efficient and competitive solutions to the problems of the poor. There is often a poverty penalty on services and commodities such as credit, water, communication services, diarrhea medicine or rice as a result of local monopolies, inadequate access, poor distribution and strong traditions of using intermediaries (Prahalad, 2005). In addition, governments often fail to live up to their international obligations and their national promises to provide basic services.

For companies, operating in these markets is challenging and fundamentally different from operating in developed markets due to multiple constraints, such as limited market information and lack of physical infrastructure (UNDP, 2008). Mutually beneficial business

models represent innovative ways of overcoming these contextual constraints. Local partners, such as NGOs, government authorities and community organizations are important because they have in-depth understanding of the local community. Reaching profitability and affordability through technological and business model innovation is another key factor in these markets.

There are already many examples of mutually beneficial business models in low-income markets. For instance, employees of ABB - a global market leader in industrial electricity solutions – stationed in Ethiopia identified a business opportunity for among the rural poor. Ethiopia is one of the poorest countries in the world however this high altitude country has a huge, largely unexploited hydro power potential (African Press International, 2007). Nevertheless, most Ethiopians live without access to electricity. Although its impact may not be as dramatic as the lack of nutrition or shelter, lack of electricity indirectly influences the lives of the poor in many ways (Halme and Lindeman, 2009). Access to electricity would reduce time spent on gathering firewood and cooking (mostly the duties of women), facilitates storage of food and medicine and enables communication, studying and business development. Providing electricity as an alternative to wood as primary energy source is also urgent from an environmental perspective as deforestation is an acute problem in Ethiopia.

In 2006 ABB started to explore possibilities to develop a scalable business model for locally generated and managed mini-hydro energy for the rural poor, which would complement the state-driven centralized electrification scheme. They cooperate closely with an Ethiopian development organization as well as with various authorities and wants to leverage on several technological innovations to make electricity affordable and reliable. As of spring 2009, the project is in its pilot phase and the final outcome is not yet known.

Nevertheless, the case indicates that business actors are seeing business opportunities in low income markets and are driving efforts for win-win solutions.

A second example concentrates on the importance of local resource mobilization, particularly in the case of production in low-income communities (Polsa and Bonsu, 2009). Arzu is a social enterprise that sells rugs woven by poor women in Afghanistan in the high-end US market. Starting their operations in 2001, they have revitalized the existing skills and know-how of the rug weaving industry in Afghanistan. By the end of 2007, Arzu had enrolled 235 households, or 2,050 people, in their program. The weavers are seen as business partners and empowered professionally and economically with above-market compensation for their crafts, and supported with education and health care. The all-Afghani staff has a trusting relationship with the weavers, and an ongoing dialogue and process of mutual learning facilitate continuous co-creation of the business model. With a reliable income, the Arzu women are able to support their families and educate their children. Following education in reading, writing and basic mathematics, the women are no longer as easily exploited by unscrupulous rug buyers.

Many BOP case studies indicate that economic empowerment of women leads to their higher social status and increased political participation. This shows, at a grassroots level, that “all human rights are universal, indivisible, interdependent and interrelated” (Vienna Declaration and Programme of Action, 1993). The beneficial human rights impact of business solutions to poverty must be understood in terms of this holistic view on human rights and the empowerment process, where the realization of economic, social and cultural rights is intrinsically linked to the realization of civil and political rights and vice versa. The potentially adverse human rights impacts of business in low-income markets will be briefly discussed next.

The need for a human rights based approach to business engagement in low-income markets

Research on BOP markets is still in an early stage and remain fragmented with input from various research fields such as business strategy (Prahalad, 2005 ; Simanis and Hart, 2008), consumer behavior (Viswanayhan, 2007), environmental concerns (Kandachar and Halme, 2008 ; Hart, 2005 ; Dhanda and Hill, 2007) and social entrepreneurship (Seelos and Mair, 2007). The first wave of case studies from 2003 to 2006 served the dual purpose of describing BOP business models as well as convincing readers of the merits. Hence there is a lack of information on less successful initiatives. Furthermore, there is a general lack of knowledge on the social and the environmental impact of business initiatives because there are few empirical studies and because the future scale and outcome of these developments is unknown.

The power and information imbalance between companies and the poor gives rise to a risk of exploitation, e.g. low-income consumers trapped in debt (Williams et al., 2007) and marketing of unsafe products to the poor (Karnani, 2007a). From a human rights perspective, examples of exploitative business behavior in the low-income markets raise concerns regarding the lack of protection of the most vulnerable and the need for accountability mechanisms. In the BOP context, such measures may need to take innovative forms.

Taking a human rights-based approach to business engagement in low-income markets involves an acknowledgement that the ultimate responsibility for human rights protection and promotion remains with the government. The role of national government in BOP business seems to have been downplayed in the BOP literature (Halme and Lindeman, 2009), and it is complicated as much of the BOP market is part of the informal economy. The government's role might involve coordinating BOP business to support national poverty reduction policies,

as well as ensuring accountability and redress mechanisms. The many unanswered questions regarding the role of government in BOP business need to be further studied.

With the potential to touch the lives of four billion people (Hammond et al., 2007), the Base-of-the-Pyramid market is by no means a niche market. The importance of the social and environmental impacts of business engagement in low-income market cannot be emphasized enough. Considering the general lack of knowledge in this area and the inherent vulnerability of the poor, a human rights perspective to this new business phenomenon is urgently needed. A human rights perspective to BOP business, leveraging on human rights principles such as participation, accountability and non-discrimination, is likely to enrich the development of BOP business models and enhance their long term sustainability and success, as well as to ensure overall justice and accountability as the business in low-income markets grows.

The following section will continue the discussion on empowerment with a case study that illustrates how a complicated human rights issue—the use of child labor in supply chains—is effectively addressed through community engagement and female empowerment.

COMBATING CHILD LABOR & EMPOWERING LOCAL COMMUNITIES - MARIEKE DE LEEDE

TNCs have generally ignored the poor and developing countries as a market, but they have recognized in them the opportunity of producing at low cost with cheap labor. However, operations in the labor-intensive industry face serious human rights challenges. One of the most controversial and publicized of these challenges is the elimination of child labor. To comply with internationally established standards and to avoid a negative reputation, companies need to ensure respect for human rights (Ruggie, 2008b). The difficulty with combating child labor is that it requires an active approach of the company (de Leede, 2007). Formulating a business code of conduct with the explicit prohibition of child labor appears to

be insufficient to guarantee a supply chain free from child labor for companies operating in communities where this is ingrained in cultural attitudes. Fortunately, good practices demonstrate that it is possible to tackle the problems in the supply chain and contribute to sustainable community development without losing profit. Additionally, it has been demonstrated that, rather than harming the economic purpose of a TNC, a proactive CSR approach can lead to business opportunities and result in additional profits (Ougaard, 2005). The solution seems to relate to the empowerment of local communities, which can make it easier for companies to implement ethical business principles in the supply chain.

Empowerment

A partnership between IKEA, UNICEF and the local government of Uttar Pradesh (India) concerning the fulfillment of child rights and the elimination of child labor demonstrates a possible solution to tackling issues engrained in society. This program emphasizes the importance of education for children and is helping local suppliers with finding alternative approaches for the elimination of child labor. In addition to combating child labor in the carpet belt in Northern India, the focus of the program is on empowerment, which gives the partnership additional strength and increases the opportunities for a sustainable impact on local community development^{viii}.

In the context of this research, meaningful participation and capacity enhancement are the two fundamental features for empowerment that are necessary to make local communities aware of their rights and opportunities and to enable them to effectively claim their rights. Meaningful participation is more than solely being involved in a partnership. Local people should have a voice, an opportunity to express their preferences and be involved in the planning of their own development. This encourages them to perform and avoids the risk that local communities start to rely on the services of the business partners instead of becoming independent (Greenall and Rovere, 1999). Capacity enhancement includes the provision of

training, education and employment in order to enable local people to create a business, trade goods and services and find growth opportunities to establish social and economic development in the community.

Companies that focus on promoting meaningful participation and capacity enhancement contribute to improved leadership and management skills of the local communities, which enable them to influence and initiate new development programs without the support of the multinational partners (Business Partners for Development, 2002). Whereas capacity enhancement is rather easy to establish, meaningful participation is driven by the choice of the right partners at the right level of society. Nevertheless, the participation of local people is indispensable to understanding the social structures in local communities and to formulate objectives for the social and economic development of the community (Warner and Sullivan, 2004). To avoid imposing ‘Western’ ideas and initiatives without understanding the local context, local people must lead their own development projects, build their own institutions and get familiar with problem-solving thinking. Moreover, the projects are more sustainable if local organizations bear responsibility for the implementation of the program (Business Partners for Development, 2002). These aspects of ownership can be achieved through meaningful participation.

Creating empowerment is not an easy and straightforward process; it requires that the mindset in the local culture be changed, takes time, and requires a thoughtful approach. For the effective elimination of child labor, the majority of the community should understand the movement against child labor. Therefore, business principles covering the explicit prohibition of child labor must be implemented and monitored in cooperation and dialogue with all relevant stakeholders, especially the local communities. Not only must factory workers be aware of the International Labour Organization (ILO) standards with regard to child labor (ILO 182, 1999 ; ILO 138, 1999), the parents should also realize that children should attend

school instead of working fulltime. Through dialogue and discussions, the company, in cooperation with local partners, should create awareness about human rights and teach people how to claim these rights.

As mentioned previously, this change of mindset is not possible in a one-way session, but requires interactive sessions in the communities. Rather than ‘forcing’ compliance with newly imposed standards, involved communities must acknowledge that children have the right to attend school instead of working fulltime. The process of empowerment must provide tools to enable communities to make their own choice and decide their own path of development. Companies can assist in this process by providing training in the entire community, working with an onus on community ownership, and implementing social projects in cooperation with other stakeholders. Most likely, this will result in an increased level of compliance with ethical business principles, which creates a business case for companies to foster empowerment.

Empowerment through collaboration: an illustration from IKEA and UNICEF

As women play an important role in the fulfillment of children’s rights, the partnership between IKEA and UNICEF focuses on female empowerment. The two main features in the partnership are the women’s self-help groups (WSHGs) and the alternative learning centers (ALCs).

WSHGs are set up to empower and educate women in an effort to contribute to the elimination of child labor (UNGC, 2007). Women learn how to save money and create their own funds by putting aside small amounts of money. Together, they save money and gather this money in one common bank account. Through an inter-lending system, women can get a loan from this account and pay the money back later. Therefore, women do not have to seek help from unscrupulous moneylenders for medical emergencies or other pressing family needs, which can help break the vicious cycle of debt that forces parents to put their children

to work. Women also become less dependent on their husbands, which enable them to make their own decisions. Additionally, these women have gradually been motivated to take up the responsibility of social and economic development in their villages (UNGC, 2007). This has resulted in, among others, immunization and hygiene-related projects, and in the establishment of small business enterprises.

ALCs are established to fill the gap between the community and the government in places where publicly funded schools are lacking. After several years, ALCs have to merge with public funded schools through a School Support Program (SSP). Well-educated instructors of the ALCs can train teachers at the public schools and increase the quality of education in the region. Indirectly, this capacity enhancement results in a more educated and empowered future generation.

Making it practical: indicators

Empowering local communities is a process that requires several small steps and cannot be achieved in the short term because it requires a change of societal mindset. Although radical changes will probably not be accepted, it is possible to change habits that are ingrained in the culture of a community, such as the acceptance of child labor. To establish progress and to keep faith in the social and economic development of local communities, the process of empowerment must be measured (de Leede, 2007). Therefore, indicators must be formulated to demonstrate the incremental contribution of empowerment to the interests of community development, business and public-sector governance. Indicators can be based on, for example, inputs, activities, outcomes and impact (Andersen and Sano, 2006).

The role of the indicators is not simply to diagnose or describe problems; they must instigate implementation and action by demonstrating how the involved partners can achieve capacity enhancement and empowerment in practice (Andersen and Sano, 2006). Moreover,

indicators must be formulated to increase accountability and to measure progress in the process of empowerment (Inafi International - Oxfam Novib - Ordina, 2007).

This research distinguishes between indicators regarding female empowerment, community empowerment and empowerment of children. All processes of empowerment are interrelated, but the categorizations demonstrate the added value of taking a step-by-step approach. Female empowerment indirectly results in more educated and (financially) independent women, and in a growing awareness among mothers regarding the importance of education and health. As a result, a parent's failure to send her children to school should become an exception rather than the normal standard. More educated children enhance the skills and capabilities of the community to foster social and economic development. The empowerment of women, often seen as important change agents, can provide the foundation for further empowerment in the community (de Leede, 2007).

Empowerment is mainly measured by using qualitative questions aimed at the local community. Measuring empowerment is difficult, however, because it involves nebulous concepts such as feelings and changing perceptions of people. This includes, for example, feelings regarding growth and development, satisfaction, learning and independence, and the self-confidence to arrange one's own businesses, which are all feelings that are not easy and straight-forward to measure.

As female empowerment can be seen as the first step in community empowerment, the set of indicators presented in Table 2 is included to give an indication of how to measure improvement in the process of empowerment. The indicators demonstrate that partners have to take small steps, think locally, and cooperate with local partners.

Table 2 here

The do's and don'ts of eliminating child labor

As problems arise differently across business sectors, it is impossible to find a 'one-size-fits-all' model for tackling challenging human rights issues. Therefore, indicators must always be adapted to the context and the local needs (Greenall and Rovere, 1999).

Based on a multiple case study that compares the approaches of several companies in combating child labor (among others, Monsanto from the cotton seed industry; Archer Daniels Midland from the cocoa production; IKEA from the carpet belt), certain features consistently create prominent drawbacks while others are essential to successfully managing the risks involved. Without suggesting one general approach to combat child labor, there are several do's and don'ts for companies that can be taken from best practices:

Accept responsibilities for human rights violations. As denying responsibilities works counterproductive, companies are stimulated to search for (business) opportunities rather than solely avoiding violations. Moreover, they are encouraged to distinguish public relations reasons with real intentions to contribute.

Be pro-active. Companies should be ahead of problems. Investigating challenges and problems, and trying to understand the local context can help to avoid allegations of human rights abuses.

Embed human rights standards in the corporate strategy. In addition to a business code of conduct with the desirable ethical standards, companies are encouraged to mainstream human rights standards in the complete business strategy.

Empower local communities to have a competent counterpart. To implement human rights standards, companies are stimulated to find appropriate local partners, and to engage in multi-stakeholder partnerships and in additional social projects to ensure compliance with the standards.

Continue dialogue with all relevant stakeholders. Transparency, public reporting, and willingness to renegotiate goals and targets are necessary elements to create trust. For the effective implementation of ethical business principles, companies need this trust. In addition, companies should communicate towards consumers, as they have a role in combating child labor as well.

Review and monitor established goals and indicators. In order to have a sustainable impact on community development, companies must take a long term and rights based approach. In addition, they are encouraged to think in small steps (changing mindsets takes time and cannot be enforced) and to take a holistic approach.

The recommendations described may be adjusted to other human rights challenges in addition to combating child labor. Furthermore, rather than tackling single problems, human rights challenges must be considered in the larger context of community development, and therefore, a holistic approach is encouraged. As such, companies must not only consider employees, workers and the communities in which they operate, but also the other side of the production chain: the consumers. The following section examines the relationships between consumers and human rights problems, as well as the role of NGOs in this regard.

SOCIALLY CONSCIOUS CONSUMERISM: THE ROLE OF NGOS IN ENABLING AND EMPOWERING CONSUMERS - LINDSAY MC SHANE

Corporate social responsibility programs are increasingly part of corporate practice, in large part due to consumer demands for more stringent adherence to ethical business decisions. Despite these demands, several studies suggest that consumers do not expect the same of themselves and instead rely upon corporations to fulfill this social role within the

marketplace (Devinney et al., 2006b). Consumers seem to have shifted the burden of responsibility to corporations which, in turn, has led social responsibility to become simply another marketplace attribute, along with attributes such as cost and convenience, that can be traded-off in the consumption process (Shamir, 2008). This corporate-centric approach to social responsibility is particularly interesting in light of the difficulty that corporations have faced to date in overcoming the inherent challenges associated with trying to decouple their profit-maximizing role from their social role (Laufer, 2003).

Stemming from this assessment, this section examines how consumers might be well-positioned to transform the marketplace and create a more sustainable form of social responsibility by aligning their roles as both social actors and consumers. As such, it aims to re-evaluate social responsibility by assessing the potential role of consumers in advancing the agenda for social responsibility. Consumer social responsibility is defined as “the conscious and deliberate choice to make consumption choices based on personal and moral beliefs” (Devinney et al., 2006b, p. 3). In order to encourage consumers to shoulder responsibility for their consumption decisions, it is critical to assess the current disconnect between consumer attitudes and behavior with respect to socially conscious consumerism (Ethical Consumerism Report, 2007 ; Smith, 2007 ; Vogel, 2005). Specifically, although consumers claim to value socially responsible behavior, their consumption patterns rarely reflect these attitudes and values (Knox and Maklan, 2004). This has resulted in a “disparity between the CSR mandate that many companies feel is coming from consumers and media exposure, and the lack of evidence that most consumers actually care about these issues in their daily lives” (Devinney et al., 2006b, p. 1).

To examine this attitude-behavior misalignment this paper adopts a perspective of bounded moral rationality, which is rooted in the assumption that “individual moral agents lack the information, time, and emotional strength to make perfect judgments consistent with

their moral preferences” (Dunfee, Smith and Ross 1999, p. 18). These perceived constraints, whether associated with lack of finances, time, education, information or communication, may restrict consumers from fulfilling their social role as individual citizens. In the domain of socially conscious consumption the perspective of bounded moral rationality seems particularly relevant given the numerous surveys reporting that, though not always reflected in their behaviors, consumers do care about issues of social responsibility (Ethical Consumerism Report 2007; Smith 2007; Vogel 2005).^{ix}

To enable consumers to overcome the perceived constraints that inhibit socially responsible actions, it is critical to adopt a consumer empowerment and enabling approach to socially responsible behaviors, whereby the goal is “reducing constraints at the individual level” (Thøgersen, 2006, p. 46). As such, steps must first be taken to empower consumers by making them aware of the available consumer options. It then becomes necessary to enable consumers to make ethical consumption decisions by systematically removing both subjective factors (e.g. perceived behavioral barriers) and objective factors (e.g., socio-demographic variables, such as income) (Tanner 1999). In pursuing this dual approach of empowering and enabling, consumers will be better positioned to align their attitudes and behaviors.

To facilitate this dual approach of enabling and empowerment, it is critical to engage NGOs. These entities hold a unique position in society in that they have little conflict between their functional role and their social role and “retain high levels of trust across a broad spectrum of society” (Knox and Maklan, 2004, p. 509). Thus, NGOs are well-suited to encourage consumers to adopt a sense of agency over issues related to socially responsible consumption and, as such, facilitate consumer social responsibility. Specifically, drawing on the literature in social marketing, it seems that NGOs may be well-positioned to engage consumers by “removing barriers to an activity while simultaneously enhancing the activities benefits” (McKenzie-Mohr, 2000, p. 1). This is referred to as a community-based approach to

social marketing. Whereas focusing solely on enhancing an individual's knowledge of the relevant social issue has often led to less than satisfactory results in terms of translating attitudes into behaviors (McKenzie-Mohr and Smith, 1999), the community-based approach facilitate socially desirable behaviors (e.g., ethical consumption, recycling) by making them either more attractive (e.g., aligning self-interests with socially responsible behaviors) or by removing barriers (e.g., making ethical consumption more convenient). Building from this premise, this section examines how NGOs can make socially responsible behaviors more attractive and attainable by (1) empowering consumers through the communication of social attributes and (2) enabling consumers using both framing and commitment techniques.

Empowering consumers

To empower consumers by making them aware of their options, it is critical for NGOs to take a more active role in communicating social attributes of the products to consumers. Currently, though all products necessarily include both social attributes (e.g. working conditions) and functional attributes (e.g. sound quality of a stereo) (Devinney et al., 2006a), corporations focus primarily on functional attributes while only selectively promoting social attributes through their CSR programs. As such, perhaps largely due to this bias in presenting information, consumers have become accustomed to evaluating products based almost entirely on functional attributes.

For example, Devinney et al.'s study (2006a) suggests that while consumers have relatively strong recall for functional attributes, they have a restricted recall of social attributes in the range of just 5–30 percent. This is particularly concerning given that consumers often equate purchasing ethical products with a sacrifice in product quality (Luchs et al., forthcoming). In light of this discrepancy between functional and social attributes, rather than depending on corporations to disseminate biased information related to social attributes, NGOs need to take a more active role in communicating social attributes to

consumers and reassuring consumers of product quality. By creating a connection between social attributes and the consumers' actions, as well as challenging the misconception of social attribute-quality trade-offs, NGOs can move towards empowering consumers with information necessary to ethical forms of consumption.

This type of communication from NGOs will benefit companies that are trying to communicate their ethical practices to consumers and distinguish themselves from companies that are engaging in more surface-level CSR initiatives. Accordingly, given their less partisan role, NGOs can help companies distinguish themselves from the rest and, in turn, help consumers identify these companies. In a sense, socially responsible companies can leverage the more trusting relationship between consumers and NGOs to ensure that consumers are able to identify more socially responsible companies.

Enabling consumers

Recent research suggests that simply raising awareness of social attributes may have little influence on consumer behavior (Devinney et al., 2006a). Thus, it is necessary to supplement this enhanced awareness of social attributes with certain behavior-changing techniques. Accordingly, based on established social marketing techniques, NGOs, in their promotion of social attributes, can help to empower consumers by framing socially responsible behavior as meaningful to consumers and engaging in commitment techniques. Framing techniques, in this context, denotes presenting socially responsible actions in ways that are vivid, personal and concrete (McKenzie-Mohr and Smith, 1999). Accordingly, NGOs can help to alter current consumer behavior by providing a meaningful context for corporate activities. By creating more vivid and concrete messages, NGOs can help frame ethical consumption as a more attractive and perhaps more urgent agenda. Further, NGOs can also make ethical consumerism more attractive by making it more personally relevant to consumers.

Specifically, NGOs can help reconcile the current perceptions that a conflict exists between the overarching goals of citizens “as agents who care about public goods and collective welfare” and consumers as “driven only by narrow forms of self-interest” (Soper, 2004, p. 111). As such, in response to recent research that underscores the need to challenge the assumption that collective interests (i.e. those of citizens) and self interests (i.e. those of consumers) are incongruous (Schultz and Zelezny, 2003), NGOs can help to align self-interest and collective interests. Given that ethical behaviors are motivated by a mixture of self-interest and more general pro-social concerns around other people, other species, and whole ecosystems (Bamberg and Moser, 2007), NGOs can play a critical role in framing ethical consumerism as capable of satisfying the goals of both citizens and consumers.

Also, building on recent findings suggesting that encouraging individuals to engage in commitment techniques is an effective approach to changing behaviors (Katzew and Wang, 1994), it seems NGOs might also be well-positioned to enhance socially conscious consumerism. Specifically, by introducing commitment strategies that ask consumers to formally commit to certain consumption choices, NGOs will be able to encourage consumers to utilize the information provided to align their ethical beliefs and their behavior (McKenzie-Mohr, 2000). For example, NGOs and firms can capitalize on the foot-in-door technique, whereby once an individual agrees to a small request, they are much more likely to agree to subsequent requests that are much more demanding (Freedman and Fraser, 1996). Further examples of effective techniques to secure commitment to the environmental behaviors include: written rather than verbal commitments, public rather than private commitments, group commitments rather than individual commitments and involved commitments rather than passive commitments (McKenzie-Mohr and Smith, 1999).

As such, in light of NGOs’ position within the market as social actors with little ulterior motive (Knox and Maklan, 2004), it seems NGOs can serve an invaluable purpose in

implementing commitment strategies to elicit more ethical forms of consumption. By empowering consumers with information and creating a sense of consumer accountability through commitment strategies, NGOs can help take the first steps towards transforming the passive consumer into a social actor.

Consumer social responsibility as a step toward respecting human rights

While corporations grapple with the complexities of social responsibility, consumers also have the potential to play a significant role in advancing the agenda for social responsibility. The current focus on corporate-centric social responsibility allows consumers to place the burden of social responsibility onto the corporations' shoulders. In this way, they remain disconnected from production end of the supply chain and shielded from having to share a transparent relationship with the people at the production end of the supply chain. As a result, consumers often fail to associate their consumption patterns with the working and living conditions of the laborers, instead viewing social responsibility as simply another marketplace attribute (e.g., cost, convenience) that can be traded-off in the consumption process. In light of this situation, it is necessary to encourage consumers to challenge the notion of social responsibility as simply a marketplace attribute that can be traded off, and instead to promote social responsibility as a necessary, baseline expectation.

NGOs, as trusted institutions, are particularly well-positioned to empower and enable consumers such that consumers are able to challenge the notion of social responsibility as simply a marketplace attribute. By making consumers more aware of the complex social issues (e.g., human rights) surrounding marketplace products and enabling them to enact their role as moral agents, NGOs can lead consumers towards taking a more active stance on ethical consumption. In doing so, NGOs may bring consumer activism to the mainstream consumer so that they can take ownership of their consumption decisions and overcome existing barriers.

This transformation from passive consumer into a social actor stands to benefit corporations and consumers alike by aligning the mandate that many companies feel is coming from consumers with actual consumer behavior. In addition, and perhaps most importantly, because active consumers will hold both themselves and corporations accountable for marketplace transgressions, there will be significant benefits with respect to human rights issues. Broadly speaking, this revised standard for social responsibility will be greatly elevated. Further, this revised standard for social responsibility, necessitating both an emphasis on CSR and consumer social responsibility, stands to redefine consumption. Rather than existing as just another attribute that can be traded off against other attributes, social responsibility will become a baseline expectation of the consumption process.

The previous sections have clearly illustrated the importance of dialogue with and empowerment of different constituencies (consumers, women, the poor in general) in order to lead to increased protection and respect of human rights within corporations' activities. The following case study of Burma will highlight these different approaches to human rights' protection and provide illustrations from existing situations.

REASSESSING CONSTRUCTIVE CORPORATE ENGAGEMENT: INSIGHTS FROM MYANMAR (BURMA) - NICKY BLACK

The impact of TNCs in conflict regions and areas of extensive human rights abuses is contentious. This section offers insights into the practice of constructive corporate engagement (CCE) in weak governance states that was developed through a three-year, seven-country empirical case-study of three joint-venture Exploration and Production projects in the oil and gas industry in Myanmar (Burma). Four aspects of potentially constructive corporate engagement are identified below that set business action on human rights within a broader project of socio-economic development and improved governance mechanisms.

Myanmar: a complex operating environment

Myanmar is a particularly complex operating environment for TNCs. A Southeast Asian country of approximately 57 million people, Myanmar is considered one of the most corrupt (Transparency International, 2008) and least free countries for political rights and civil liberties (Freedom House, 2008 6). Ongoing armed confrontation between the state military and ethnic minority groups exist, fueled by conflicts over governance, identity, and use of the country's rich natural resources (Global Witness, 2003 ; Smith, 1999). Myanmar has also been at a political impasse for much of the last 20 years between the military government and the National League for Democracy (NLD), an opposition party led by the Nobel Peace Prize laureate Aung San Suu Kyi.

Documented human rights violations by the military regime include the use of torture, intimidation, restrictions on movement and freedom of expression, and the systematic use of forced labor (Amnesty International, 2008) . More recently, the regime's violent repression of protests led by Buddhist monks in September 2007 and its obstruction of international humanitarian assistance following Cyclone Nargis in May 2008 have drawn international condemnation (International Crisis Group, 2008).

In response to the actions of the Myanmar authorities, sanctions imposed by foreign governments and/or popular protest have made it either illegal or untenable for most prominent Western companies to consider investment in Myanmar. Advocates pressing for democracy in Myanmar and/or corporate accountability (hereafter 'advocates'), have targeted TNCs in the apparel, beverage, tourism, finance and extractive sectors in international disinvestment and divestment campaigns so effectively that oil and natural gas is one of the few sectors where Western companies remain. As such, France's Total. S.A. (Total) and Chevron Corp. (formerly Unocal) of the USA are targets of ongoing advocacy efforts.

Corporate complicity in human rights abuses – a risk profile

Advocates accuse TNCs operating in Myanmar of complicity in human rights violations by the military regime directly associated with their operations, and through the role of investment and tax revenue in facilitating rights abuses and further entrenching poor governance practices. The complicity of subsidiaries of Total and Unocal in rights violations by the military associated with the Yadana Project has been the subject of court cases in the USA, France and Belgium (Kurlantzick, 2004). The broader responsibility of TNCs for poor governance was stated plainly by the Burma Campaign UK during the September 2007 protests in a warning to British firms invested in Myanmar: “If there is a crackdown and the regime opens fire, you have paid for the bullets” (Judd, 2007).

The debate about constructive corporate engagement with Myanmar

Given the risks of complicity with state-sponsored human rights abuses, advocates call on TNCs to divest from Myanmar. In response, Western oil and gas TNCs in Myanmar argue that their operations, associated socio-economic development programs (SEPs), and engagement with the military on broader governance and human rights issues means their overall impact on the country is positive (Jones, 2006 ; Total SA, 2007). TNCs argue that by withdrawing they would be readily substituted by companies without a similar appreciation for ‘corporate social responsibilities’.

Western investment in Sudan, Zimbabwe, China and other politically fraught countries is subject to similar debate yet no satisfactory criteria for assessing a ‘constructive’ corporate contribution exists. Schermerhorn (1999) notes that four terms of global business engagement in ethically challenging environments are possible – unrestricted engagement, constructive engagement, principled non-engagement and sanctioned non-engagement – each reflecting a different ethical framework, social change strategy and cultural orientation. He describes CCE as:

“purpose-driven behavior in which economic contributions by the foreign investor also advance social progress in the host country. The assumption is that with economic development will come desirable social development. The ethical foundations...are utilitarian,... The implied social change strategy is shared power, with dialogue between investors and hosts creating a basis for the latter to examine and perhaps reconstruct core values” (p.424).

This definition was supported in interviews with gas executives who consider their presence in Myanmar ‘constructive’. Schermerhorn’s definition is extended to better understand how economic contributions *and corporate citizenship activities* may advance social progress in weak governance states. Given the limitations of this forum, below I present four insights on the forms of engagement espoused by proponents of CCE as being constructive; work presented elsewhere (Black, 2009) critically evaluates these claims.

1. Corporate engagement with the human rights framework. Executives in Western gas companies interviewed for this study argued that their presence in Myanmar benefited the local community because they provide employment and training opportunities for staff. Beyond employment opportunities, companies associated with the three offshore natural gas projects considered in this study—the Yadana, Yetagun and Shwe projects—each support health, education and economic development programs. Together, these activities are argued by executives to directly support the economic, social and cultural rights of the people affected.

Corporations stress their contributions to economic, social and cultural rights, but two examples from the case study illustrate corporate engagement with the protection and promotion of civil and political rights. In one, Total maintains a direct line of communication with the Myanmar government on the issue of ‘involuntary labor’ within the area of its operations. As a consequence, instances of forced labor within its areas of operation are recognized as being significantly lower than elsewhere in the country (Anderson and Ganson, 2008). In another example, before its divestment in 2002 Premier

Oil ran human rights training workshops for the Myanmar government. The workshops provided training for over 250 officials from across government on human rights, including the relevant international legal system, monitoring and accountability systems, human rights and armed conflict, the use of forced labor and the state's duties in meeting human rights obligations (Hepker, 2004).

These examples illustrate that companies can engage across the human-rights framework in both their core operations and through associated socio-economic programs with potentially constructive outcomes. However, significant challenges are presented by evaluating CCE on human rights.

2. *Corporate engagement to strengthen governance mechanisms.* Corporate action on transparency and corruption exemplifies a potentially constructive corporate action intended to improve governance structures (OECD, 2002), while the design and execution of socio-economic programs is another. In the Myanmar gas industry, Total has worked with NGOs and external assessors in developing the Yadana Project SEP, resulting in extensive consultation with the beneficiaries. This includes the election of representatives to Village Consultative Committees to determine the allocation of SEP funding. This form of engagement has potential impacts beyond the operational context. In reporting on their third visit to the Yadana project, the Collaborative for Development Action noted that “positive experiences with ‘civil society’ mechanisms [...] may enable Total to demonstrate to the Government that [civil society] can exist without being a political threat” (Zandvliet and Fraser, 2004, p. 6).

In comparison, the Shwe Project is working with the Union Solidarity and Development Association (USDA) in delivering its SEP. The USDA is a government-sponsored organization that was implicated in a 2003 ambush of Aung San Suu Kyi in which more than 60 people died (ALTSEAN, 2003). Concerns about government

interference in the use of humanitarian funds for political ends was a reason that many humanitarian organizations withdrew from Myanmar in the 1990s (ALTSEAN, 2002) and companies run similar risks in the design and implementation of their SEPs.

These examples illustrate that the political impacts of SEPs must be considered alongside their intended socio-economic benefits, with more emphasis on the potential role of companies in encouraging responsive governance mechanisms and building the capacities of civil society.

3. *Political aspects of corporate engagement.* Foreign involvement in Myanmar's internal affairs is highly politicized. The movements and activities of international development actors in the country have been restricted, yet companies have enjoyed relatively greater freedom into their socio-economic development activities. The research suggests that TNCs have been influential in: changing the government's position on HIV/AIDS; building the capacity of the health and education ministries when humanitarian actors were unwilling or unable to work with the government (Igboemeka, 2005); and responding to the humanitarian crisis of Cyclone Nargis more rapidly and with greater freedom than foreign humanitarian actors. When commercial operations are considered non-political by those in power, they may be in a better position to engage with development challenges than traditional development actors.

4. *The influence of business leadership.* Companies that constructively engage in fraught contexts model behavior for other organizations through various mechanisms. These include legacy, where a company takes on SEPs through its purchase of another company as was the case for Petronas through its purchase of Premier Oil's stake in the Yetagun project; partnerships, as seen in the development of SEPs in subsequent ventures by companies who were non-operating joint venture partners in a project running a SEP, and collaboration in business associations. Further, a local Myanmar company in a service relationship started a SEP of its own, following the example of a petroleum TNC. Finally, CCE can create

expectations on the part of the state/hub partner in an industry of what best practice SEPs may entail. All of these represent points for leverage and business leadership through which a culture of responsible corporate action could be encouraged and developed.

Re-assessing constructive corporate engagement

Much emphasis has been placed on the ability of stakeholder pressure to drive the development of corporate citizenship, but limits to this strategy exist in a multi-polar globalized world (Tripathi, 2007). The strategy of encouraging divestment from Myanmar and the Western sanctions policy has singularly failed to bring about regime change in the country (International Crisis Group, 2008), primarily due to continuing inward investment by countries in the region, particularly in the energy and extractive sectors (Kolås and Tønnesson, 2006). Advocates attempting to engage new TNCs from emerging economies find they are effectively shielded from global chains of civil-society accountability and advocacy through a domestic constriction of civil society, their status as State-owned Enterprises or as private-equity ventures, and poorly developed home country regulatory infrastructure.

This case study indicates that a range of business-to-business and business-to-government interactions can encourage the adoption of practices which may contribute to the resolution of significant development challenges found in contexts of civil strife and weak governance mechanisms. It suggests that attention should be given to the ways in which corporate engagement may build or undermine civil society and representative governance systems at both the grassroots and government level, and the ways in which it can contribute to the development of a global culture of responsible corporate action. In further exploring these processes and their impact on the social, political and economic conditions in a host country, useful comparative examples could be found in the adoption and impact of the Kimberley Process in the diamond industry, or the development and

impact of the Sullivan and MacBride Principles in South Africa and Northern Ireland, respectively (Bernasek and Porter, 1997 ; McCrudden, 1999 ; Sethi and Williams, 2000).

CONCLUSION

The Swiss Master Class provided a great opportunity for dialogue between research and practice on human rights and for unveiling the promising research projects elaborated upon in this article. Five different, though interrelated, approaches towards the relationships between corporate practice and human rights have been presented herein. As Figure 1 shows, the overarching claim of these perspectives is that corporations should take an active role in the protection of human rights.

It has been argued that constant dialogue with stakeholders, which enhances transparency and corporate legitimacy, is a necessary step toward the respect of human rights by corporations. Moreover, without dialogue, empowerment could not take place as it needs a careful examination of the situation and a comprehensive understanding of possible corporate actions and their consequences. As such, empowerment has been examined from three points of view. First, it was shown that business engagement in low-income communities can lead to empowerment if companies take a co-creation approach in addition to human rights compliance activities. Second, community empowerment has been depicted as a way toward sustainable development and increased respect of human rights. Finally, consumer social responsibility and ways to empower consumers have also been depicted as a complementary approach to traditional human rights' protection by corporations. By empowering consumers, NGOs can put increased pressure on corporations to act upon human rights. The last point of view adopted in this article is the concept of corporate constructive engagement, which has been illustrated by a case study of the oil and gas industry in Burma.

Even if these five perspectives point at encouraging ways for corporations to protect human rights, they remain subject to some limitations. To begin with, the approaches and

solutions given are mostly directed towards TNCs. Indeed, very little research has been conducted into the treatment of human rights by small and medium enterprises (SMEs). As TNCs have a global reach and immense economic power, they are able to leverage resources and solutions in order to be catalysts for change. In comparison, SMEs have few resources and might not be able to apply the same methods for the respect and protection of human rights. The costs of implementing social projects, both in time and resources, might create a burden too heavy to bear for SMEs. However, even if the challenges and possible solutions might be different, SMEs, as TNCs, have to deal with human rights issues in their operations. As such, further research pertaining to the relationships between SMEs and human rights would be useful. Additional research into TNCs is also necessary to examine the problems of high implementation costs, the difficulty of selecting trustful local partners, as well as ensuring a sustainable follow-up to corporate engagement. Moreover, social conflicts on a local, national or global level might arise after empowerment. Unequal development opportunities between different communities or regions can create tensions and therefore, it is essential to assess how such conflicts can be avoided.

This article proposes suggestions for behavioral change with regard to human rights to TNCs. However, the cases provided apply to specific situations with specific conditions and characteristics that may not be applicable to other cases. Again, a careful examination of the context and stakeholder dialogue is needed in order to establish sustainable human rights practices by corporations. Indeed, a business's voluntary actions to engage in social projects related to human rights are subject to critiques. With regard to empowerment, it is questioned whether it is the role of business to sustain social transformation. Nonetheless, corporate action through dialogue, empowerment and constructive engagement can leverage the respect and protection of human rights in the world. Additionally, dialogue and empowerment can be an effective approach to guarantee that business activities do not contribute to human rights

violations. The process of empowerment can result in changes of mindset, which makes it easier for corporations to implement and enforce ethical business principles in local communities (de Leede, 2007).

It is realistic to expect that profit-making enterprises want to contribute to development programs based on a cost-benefit analysis that demonstrates that the benefits of promoting human rights standards, such as prohibiting child labor, outweigh the cost of implementing them (Ougaard, 2005). Moreover, corporations operating in risky countries must take an active role in demonstrating due diligence towards their responsibility to respect human rights, as the case of Myanmar has shown. Success has been observed and therefore, companies are encouraged to study best practices and get engaged in multi-stakeholder initiatives focusing on empowerment. In this globalized world, different stakeholders must exchange knowledge and combine skills in order to achieve goals that one actor alone is not able to do.

NOTES

- ⁱ Universal Declaration of Human Rights, 1948, Preamble, <http://www.un.org/Overview/rights.html#ap>
- ⁱⁱ Multi-stakeholder initiatives are new mechanisms of cooperation between corporations and civil society organizations, sometimes involving governmental institutions. They generally aim at tackling pressing social and environmental issues by building a framework for sustainable progress in the realization of human rights, most of the time with the help of standards. Examples include the Voluntary Principles on Security and Human Rights (www.voluntaryprinciples.org), the Fair Labor Association (www.fairlabor.org) or the Business Leaders Initiative on Human Rights (www.blihr.org).
- ⁱⁱⁱ The authors of the present article are the five Young Scholars: Dorothée Baumann, Sara Lindeman, Marieke de Leede, Lindsay McShane and Nicky Black, invited to the conference in order to present new ways of thinking about business and human rights, as well as the organizer of the conference, Sébastien Mena.
- ^{iv} The Masters were, in alphabetical order: Gilles Carbonnier, Professor, HEI Geneva; Philip Jennings, Secretary General, UNI Global Union; Chris Marsden, Chairman, Business Group Amnesty; Sir Mark Moody-Stuart, Chairman, Anglo American; Gerald Pachoud, Special Adviser on Business & Human Rights, UN; and Aurret van Heerden, Chairman & President, Fair Labor Association.
- ^v For an overview of corporate human rights policies see <http://www.business-humanrights.org/Documents/Policies>
- ^{vi} The UN Global Compact is the world's largest corporate citizenship and sustainability initiative. Since its official launch on 26 July 2000, the initiative has grown to more than 6200 participants, including over 4700 businesses in 120 countries around the world. It is a network-based initiative with the Global Compact Office and six UN agencies at its core. By participating, businesses voluntarily commit to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labor, environment and anti-corruption. By doing so, business, as a primary agent driving globalization, can help ensure that markets, commerce, technology and finance advance in ways that benefit economies and societies everywhere (www.unglobalcompact.org, April 2008).
- ^{vii} Interview with Christian Frutiger, Nestle's social affairs and human rights manager. Interview transcript available from the author.
- ^{viii} In this context, local communities are the sum of surrounding villages that are involved in the empowerment project related to the business activities.

^{ix} The assumption of bounded moral rationality, central to this conceptual study, was a point of great discussion amongst the Masters. While there was no dispute that it is necessary to enrich our understanding of the consumers' role in advancing the agenda for social responsibility in the marketplace, the assumptions about the potential capacity for the consumer to do so was the primary point of discussion. Many of the Masters indicated that, though valuable to conceptually examine the issue of social responsibility from the perspective of bounded moral rationality, it is perhaps more realistic to adopt an economic, self-interested view of consumers as more price motivated. These divergent views provided grounds for a rich discussion and highlighted the complexities of advancing the CSR agenda, and more specifically, that of consumer social responsibility.

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Figure 1 - Five perspectives on business and human rights

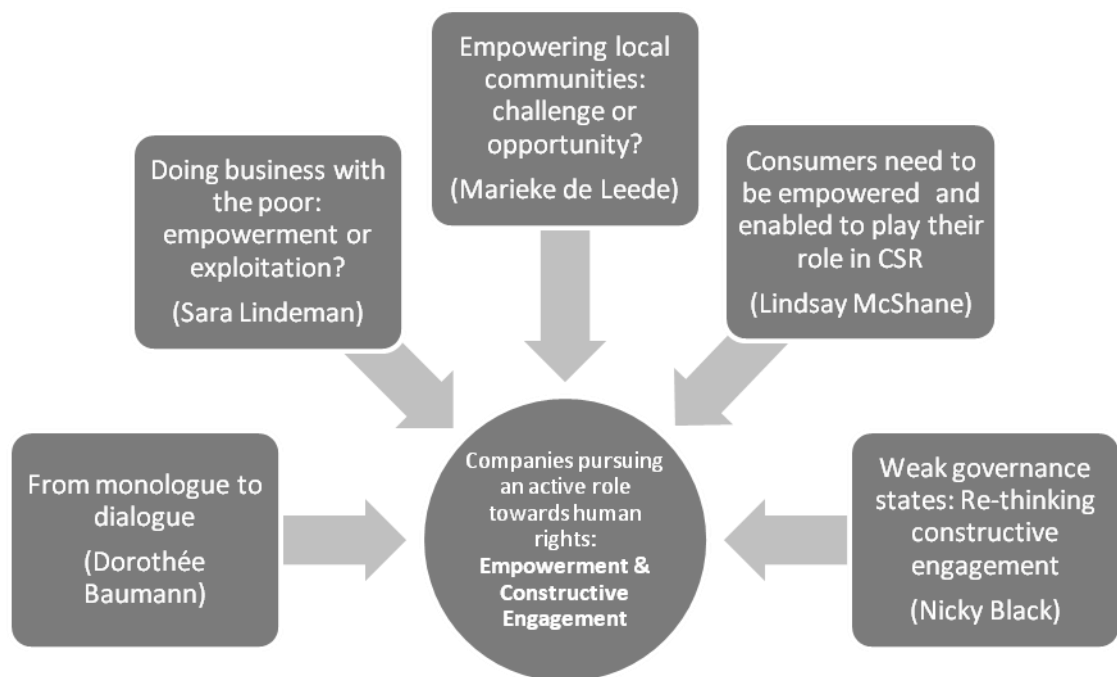


Table 1 – Compliance, charity and co-creation: Three approaches to human rights protection and promotion in a business context (summarized from Lindeman, 2006)

	Compliance	Charity	Co-creation
Main feature	Legal	Philanthropic	Entrepreneurial
Financing	Dependent on financing	Dependent on donations	Self-sustaining (but require initial investments)
Human rights approach	Negative, “do no harm”	Positive, “do good”	Positive, “do good”
Reach	Limited to company sphere of influence, rarely affecting the very poor (Jenkins, 2005)	Limited to unique local projects, not replicable	Potentially vast reach among low-income people
Main activities	Social reporting, monitoring, auditing > Not originally company core competence but devoted companies are learning	Donations or community development initiatives > Not company core competence	Problem solving and business model development > Based on company core competence
Role within company	Often responsibility of CSR department	Responsibility of CSR department	Part of business development
Relation to NGOs	Initially mistrust evolving to constructive cooperation	Company as “paymaster”, distance in relationship	Need to overcome mistrust and closely cooperate
Main human rights function	Respect, Protect	Fulfil	Fulfil
Time frame	Last 10-15 years	Long tradition of donations, 10-15 years of community development in terms of “give back to society”	~5 years, emerging

Table 2 - Indicators of female empowerment

Indicators of female empowerment

- Increased independence;
 - Women leave their houses, interact with each other and unite.
 - Women are able to make their own decisions without asking their husband.
 - Women have their own money and not depend financially on their husband.
 - Women have no external debts with moneylenders.
 - Women are able to continue social and health-related programs without assistance of external partners.
- Increased knowledge and capabilities;
 - Understand the additional value of organising and arranging things together instead of alone, including the importance of harmonisation and knowledge sharing.
 - Have the confidence to communicate, to speak up and to formulate their own opinions.
 - Have the feeling of being strong enough to start discussions, both within the group and beyond, for example, with other partners or with their husband.
 - Disseminate information on non-discrimination and other pressing human rights issues.
 - Have increased entrepreneurial knowledge; being familiar with economic activities and being able to manage a bank account.
 - Persuade others to abide by certain rules of behavior.
 - Try to change the perceptions of others in the community on issues regarding health, education, equality and nutrition.
- Increased opportunities and choice;
 - The movements of women to other villages, which includes disseminating of information, to motivate other women to unite, to go to the bank, or to share experiences.
 - The feeling that they are able to serve the community and be useful.
 - Female motivators, instructors and teachers.
 - Females in governmental positions.
- Changed perceptions;
 - Being proud of who they are and what they do.
 - Women dare to show their face and stop hiding behind their saris.
 - Increased trust towards people outside their own village.
 - The increased feeling of being equal to the other partners.
 - Women get more respect from men and gradually feel more equal to their husband.