

Research Project: Work, Wellbeing and Welfare: CSR and Human Rights.

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Background: Issue of business sustainability and CSR often generate issues related to peoples' rights, and their human rights in particular. The human rights of people working in firms and their supply chains, or impacted by their operations, has become an increasingly important aspect of the CSR agenda in recent decades. There is however a much wider rights agenda encompassing issues of consumer and investor rights, animal rights, and the extent to which communities have rights over the land and resources (including the genetic codes) of the ecosystems within which they live. A more controversial issue concerns the extent to which firms are perceived as having rights as opposed to responsibilities, and whether concepts of human rights (and related regulations) have the potential to be extended to a company. BRASS research has sought to consider some of the core issues related to the rights agenda, as well as seeking to push that agenda into new and challenging areas.

Aims & objectives:

- To develop a theoretical understanding of the right to protection of other stakeholders (workers, consumers etc) against corporate irresponsibility, including reforms to corporate manslaughter laws in a number of common law jurisdictions.
- To understand the relationship between the behaviour of multinational corporations and notions of human rights, including the potential for human rights regulations to be used to protect the interests of companies;
- To explore the implications of extending notions of rights in areas such as intellectual property rights versus the rights of indigenous populations in relation to genetic resources;

About the research: BRASS research on rights had a number of dimensions:

- Corporate killing: BRASS researchers explored the international growth in political attempts (some successfully followed through) to legislate a criminal offence relating to industrial manslaughter in England and Wales, Canada and some states of Australia. Concern about CSR combined with specific controversies involving loss of life in industries such as rail travel, airlines, tobacco and motor vehicles, have increased the pressure for such legislation to be enacted and enforced. BRASS work explored the legal and ethical principles which underpin the attempts to enact, and resist, corporate manslaughter legislation and the practical implications of attempting to prosecute and punish companies, rather than individuals, for manslaughter.
- Human capital and human rights: As well as the work on human capital, workplace equality and diversity (see A26) research in this area included work on equal opportunities within the global supply chains of the garment industry. There is also a significant human rights aspect to much of the BRASS research work on mining (see A42) and in the work on CSR, poverty and vulnerability (see A30). It is also the subject of a PhD project.
- MNCs and human rights law: An annotated bibliography was developed to explore the applicability of international human rights norms to MNCs, both as violators and as beneficiaries, and the issues this raises for international law and for domestic legal systems. Work on corporate complicity in human rights violations was also the subject of a specialised course developed for the European University Institute.
- The rights of indigenous knowledge: The *Convention on Biological Diversity* for the first time provided rules on the sustainable use of genetic resources. However, the provisions have been controversial with the pressure from large companies to be allowed to 'bio-prospect' and patent genetic materials ranged against the rights of local communities to use indigenous knowledge to exploit the genetic resources on their land. This work sought to review the relationship between

the 'real property' rights associated with ownership of land and anything growing on it (including genetic resources), 'genetic property' rights associated with the genes isolated from the resources, and the intellectual property rights associated both with scientific discoveries and also with indigenous knowledge.

- Human rights and environmental responsibilities: This work considered the relationship between environmental and human rights. Expectations that the Human Rights Act 1998 would promote the development of environmental rights and extend remedies for environmental harm has not happened in practice. This work explored the reasons behind this and the prospects for linking environmental protection to the human rights agenda (see Also A20).

Results and outputs:

The annotated bibliography provided a clearer understanding of the interplay between domestic and international laws, between private and criminal laws, and between civil law and common law systems in relation to MNCs and human rights. The work on human and environmental rights pointed to three reasons the two have not been integrated within the EU and UK: the retention of a strong model of parliamentary sovereignty; the need to mould human rights principles alongside the common law; and the traditional reluctance of the courts to determine questions of utility where questions of resource allocation arise. The conclusion was that environment rights are unlikely to be promoted through the Human Rights Convention.

- Frater, L. (2009), [*Protecting Indigenous Knowledge: The Role of the Convention on Biodiversity and Intellectual Property Rights*](#), BRASS Working Paper No. 52
- Elias, J. (2005), [*Stitching up the labour market: Recruitment, gender and ethnicity in the multinational firm*](#), *International Feminist Journal of Politics*, 7 (1), 90-111
- Lee, R. (2005), [*Resources, rights and environmental regulation*](#), *Journal of Law and Society*, 32 (1), 111-130
- Egede, T. and Wells, C. (2004), [*An Annotated Bibliography of the Accountability of Multinational Corporations: A Review of International Human Rights Law*](#), BRASS Working Paper No. 12
- Wells, C. (2002), [*The reform of corporate criminal liability*](#), in De Lacey J. (ed.), *The Reform of United Kingdom Company Law*, Cavendish Publishing, pp. 291-301
- Hall, A. and Johnstone, R. (2005), [*Exploring the recriminalising of OHS breaches in the context of industrial death*](#), *The Flinders Journal of Law Reform*, 8 (1), 57- 92
- Hunt, J. (2003), [*Fair and just working conditions*](#), in Hervey, T. and Kenner, J. (eds.), *Economic and social rights under the EU Charter of Fundamental Rights: A Legal Perspective*, Hart
- Lee, R. (2002), [*Human rights and environmental responsibilities*](#), *Wales Law Journal*, 1 (4), 336-352

Impacts achieved/potential for impact:

The work of Prof Celia Wells and PhD candidate Andy Hall both explored the issue of corporate killing at a time when it was being vigorously debated in policy and practice, and provided a thorough review of the legal issues involved. Prof Wells acted as an expert advisor in relation to these issues to the Ladbroke Grove and Hatfield rail disaster enquiries and to a Parliamentary Commission on corporate killing regulation. In 2010 BRASS provided the research skills in a collaboration with the 20/50 Consultancy providing survey and interview work for a Human Rights and Business project for the Ministry of Justice (which involved many of the UK's largest firms). BRASS also contributed to the World Bank's *All Africa Legal and Human Rights* initiative.