



# Business and Human Rights

■ Andrew CAPLEN

On April 24, last year, over 3,000 people went to work in the Rana Plaza building in Savar, Bangladesh. By 9:00 am, more than eleven hundred had died.

There was no natural disaster, no earthquake. Rather, the building that they were working in had collapsed.

The preceding day police had evacuated the complex. They had been concerned over the large and growing cracks on the walls. But when a number of the employees refused to re-enter the building, local reports indicate that they were threatened by managers of the five businesses based in the Rana Plaza.

Employees were told that they would not be paid for the whole of that month if they did not return to work. There are stories of violence being used; of people being hit with sticks in order to force them into the factory. But this is not just a Bangladeshi problem. The businesses within that building supplied clothing to major stores throughout the western world.

in relation to human rights violations are crystallising with new cases being brought every day. The need for law firms to advise clients on business and human rights is increasing. And law firms themselves need to look at their own obligations as businesses.

Some years before the Rana Plaza tragedy, the United Nations sought to develop a standard set of principles in the area of business and human rights. This was in recognition of increasing globalisation and the lack of international, and in some cases domestic, frameworks to deal with human rights violations.

In 2006 the UN appointed Professor John Ruggie, a former Harvard professor, as the Secretary General's Special Representative. He worked with businesses, civil society and governments in order to develop the UN Guiding Principles on Business and Human Rights.

The UNGPs, as they became known, are a

launched a National Action Plan on business and human rights, becoming the first country to set out guidance to companies on integrating human rights into their operations.

The UNGPs have also been incorporated or reflected in other global standards, such as:

- the OECD guidelines for multinational enterprises
- the ISO guidance on social responsibility
- and the European Commission's recent communication on corporate social responsibility.

The principles themselves are not legally binding. But there has been support for their implementation across governments and the private sector. And there has to be the hope that they may one day become mandatory requirements in many jurisdictions.

You may be aware that there are increasing calls for human rights disclosures by companies from stock exchanges, regulatory agencies and financial institutions. It would seem that across the board businesses are working to give practical effect to the UNGPs in their specific sectors as the business case for compliance becomes increasingly compelling.

Just like the UK Government I am proud to announce that the Law Society was the first bar association in the world to look at how the legal services sector translates the UNGPs into a practical standard. We at the Law Society of England and Wales felt that it was vital that the legal sector should lead by example, not least because our profession plays a key role in supporting the rule of law. We strongly believe that the promotion of business with respect for human rights is of fundamental importance. And we are committed to advancing this work.

Major companies are increasingly expecting their entire supply chain, including professional service providers such as law firms, to demonstrate that they are respecting human rights.

## The ramifications of legal liability in relation to human rights violations are crystallising with new cases being brought every day.

The fall-out has been huge. Human rights organisations, governments and the clothing industry have all responded. The debate which followed centred understandably upon the need for increased corporate social responsibility across global supply chains.

Questions were asked. For example, do global enterprises have a responsibility for the staff in their supply chains as well as to their own direct employees in the west? And if so, where should the line be drawn - if at all?

This is not a new debate, but it is one that is gaining momentum and becoming increasingly prominent. The ramifications of legal liability

framework made up of three central pillars:

- the state's duty to protect against human rights abuses by third parties, including businesses;
- a need for greater corporate responsibility and respect for human rights; and
- the need for greater access by victims to effective remedies, both judicial and non-judicial.

The UNGPs were unanimously endorsed by the UN Human Rights Council in 2011 and are now widely viewed as the authoritative statement of the respective roles of business and governments.

In September 2013 the UK Government

The public and political mood has shifted. We consider that the scrutiny of business behaviour is likely to intensify.

The Law Society's first step was to set up an advisory group to consult with the legal sector. This group was made up of expert practitioners drawn from a cross section of our membership. It included in-house solicitors and those from our major City firms, as well as niche human rights practices.

The 'terms of reference' focused on:

- education, raising awareness
- codes of conduct and regulation, and
- practical guidance.

The group produced a final report earlier this year. This set out 11 clear recommendations as to how the Law Society could support its members in this new and rapidly evolving area: We are currently looking at how these can be

practically implemented, and will be launching the second stage of this project in early 2015.

There are certainly many challenges ahead. We are well aware that we do not have all of the answers.

I do however find it somewhat worrying that the UK's response to human rights domestically has a somewhat different flavour than the message we are projecting internationally. In October of this year the UK Conservative Party, the majority party in our coalition government, announced their plans to "scrap" the Human Rights Act should they be re-elected. They plan to replace it with what they have called a Bill of Rights, which will contain additional qualifications to rights guaranteed by the European Convention on Human Rights. The Law Society rejects this approach.

Chair of the Law Society's Human Rights Committee, Stephen Grosz, has said: "By

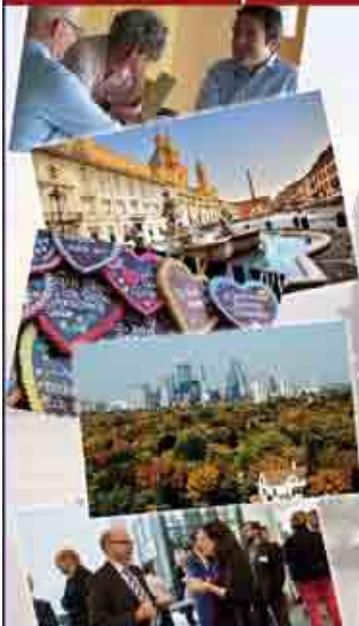
diluting rights protection at home, we undermine our moral authority to speak up against abuses elsewhere; and we allow other countries to justify their own misconduct by pointing to our poor example."

We believe that human rights should never be used as a political tool, and that any changes that are made should broaden guarantees of fundamental rights rather than seek to limit them.

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