

CRISIS CONTENDERS: HUMAN RIGHTS VIOLATIONS AS A SOURCE OF RISK

Australia, Brisbane, Melbourne, Perth, Sydney
Legal Briefings - By **Stephane Brabant**

Media coverage linking organisations with the violation of human rights is now commonplace. Stories of environmental disasters, the intervention of security forces in community protests, the use of child labour and even human slavery/trafficking in the supply chain are not unfamiliar on the front pages - and they will continue throughout 2016.

These links arise in a number of ways. An organisation may cause or contribute to a violation of human rights either directly, through its action (or omissions), or through its business relationships, supply chain or customers. Whatever the link, crises of this type are always very sudden. If they cannot be anticipated and prevented, they must be dealt with rapidly to stop them escalating and causing calamitous financial and reputational damage.

When organisations do come under scrutiny in respect of human rights, the judges are no longer only those seated in the courts. The 'new' judges are the NGOs, civil society, banks, international financial institutions and stock markets. Aside from any legal sanctions that the organisation may suffer, these institutions can apply equally powerful reputational, operational and financial 'sanctions' for human rights violations.

"To minimise the risk of reputational damage stemming from involvement in activities that might become controversial from a human rights perspective, companies and their legal advisers must take the broadest possible view of how to protect the company's position right from the outset" says **Stephane Brabant**, who leads on business and human rights for Herbert Smith Freehills.

"Where a crisis threatening reputational damage does occur, solutions need to be fast, pragmatic and effective. Attempting to resolve disagreements through conventional channels, such as the courts, can often amplify grievances and compound the damage."

A CHANGING ROLE FOR LAWYERS

The issues around business and human rights perfectly illustrate the changing role of the lawyer in crisis prevention and management. The best lawyers will ensure their clients comply with the law on issues including health and safety, environmental protection and working conditions. In order to minimise the risk of crisis, they will go beyond the letter of the law and consider internationally recognised human rights in drafting contracts.

When a crisis does occur, outstanding lawyers will step up not only as technical lawyers but as trusted legal advisers. They will be able to counsel on the legal consequences of events and provide pragmatic advice on the right action to take in fast-moving situations where the stakes are high. We're certain that's the type of lawyer you'd like to have at your side.

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