

CHINA CAMPAIGN Papers for Business Pack

About Amnesty International

Amnesty International is an independent and non-political worldwide movement working for the protection of human rights. Started in 1961 by Peter Benenson, a British lawyer, it has grown to include more than 1,000,000 members and subscribers in some 192 countries. Today, Amnesty International has more than 4,000 local groups in 90 countries throughout Africa, Asia, Europe, the America and the Middle East.

The organization's nerve centre is the International Secretariat in London, with over 320 paid staff and 90 volunteers from more than 50 countries. The Secretary General is Pierre Sané.

Amnesty International is governed by a nine-member International Executive Committee. It consists of eight volunteer members, elected every two years by an International Council comprising representatives of the worldwide movement, and an elected member of the International Secretariat.

Amnesty International has a precise mandate, detailed in an international statute. The main focus of its campaigning is to:

- free all prisoners of conscience. These are people detained anywhere for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status — who have not used or advocated violence;
- ensure fair and prompt trials for political prisoners;
- abolish the death penalty, torture and other cruel inhuman or degrading treatment of prisoners;
- end extrajudicial executions and "disappearances".
 - oppose abuses by opposition groups including hostage taking, torture and deliberate and arbitrary killings.

Amnesty International members around the world work on behalf of victims of human rights violations threatened with imprisonment, unfair trials, torture or execution.

Amnesty International, recognizing that human rights are indivisible and interdependent, works to promote all the human rights enshrined in the Universal Declaration of Human

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Rights and other international standards, through human rights education programs and campaigning for ratification of human rights treaties.

Amnesty International is impartial. It is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the view of the victims whose rights it seeks to protect. It is concerned solely with the protection of human rights involved in each case, regardless of the ideology of the government or opposition forces, or the beliefs of the individual.

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Amnesty International has formal relations with the UN Economic and Social Council; the UN Educational, Scientific and Cultural Organization; the Council of Europe; the Organization of American States; the Organization of African Unity; and the Inter-Parliamentary Union.

Amnesty International is financed by subscriptions and donations from its worldwide membership. No funds are sought or accepted from governments. To safeguard the independence of the organization, all contributions are strictly controlled by guidelines laid down by the International Council.

Amnesty International: Summary of Policy on Approaches to Business sectors

➤ **No position on legitimacy of economic relations**

Amnesty International takes no stand on the legitimacy of military, economic or cultural relations being maintained with countries where human rights are violated

➤ **No position on punitive measures such as economic sanctions**

Amnesty International neither supports nor opposes sanctions against governments which are guilty of human rights violations, and takes no position on punitive measures of any kind, such as sanctions or boycotts.

➤ **Opposition to certain military, security and police transfers**

Amnesty International may oppose military, security and police transfers of equipment, personnel, training or technology, including proven financial or logistical support for such transfers, to governments and armed opposition groups that can reasonably be assumed to contribute to human rights violations within AI's mandate (torture, political killings, "disappearances" etc)

➤ **Which companies or business institutions does AI approach?**

National sections of Amnesty International may approach any entrepreneur, corporate body, institution or agency from the business world having a commercial, financial or trading relationship with the country where specific human rights violations are of concern. Companies are selected by national sections on the basis of their potential influence in that country

➤ **Company approaches are primarily to management**

In general, company approaches mean approaching the management but where appropriate may be supported by an approach to the company's workforce

➤ **Basic rules for such company approaches**

Approaches should be frank and open rather than secretive or confidential so discussions can be reported to the membership of Amnesty International if judged appropriate. Members who make such approaches should be conscious of the complexities arising from the different roles played by companies

➤ **What about multinational/transnational companies/corporations?**

Amnesty International may make multilateral approaches to international companies through its national sections, and these should include an approach by the section in the country where the company headquarters are based.

Amnesty International and international development assistance

Amnesty International urges donors of international development assistance to:

- ◆ help build up human rights **expertise** in donor institutions;
- ◆ examine the consistency with international human rights **standards** of development activities to which assistance is given;
- ◆ monitor and evaluate the human rights **impact** of such activities during implementation and upon their conclusion;
- ◆ **identify development assistance activities and partners specifically directed at the protection and promotion of human rights;**
- ◆ provide development **assistance for** the protection and promotion of human rights, including assistance to **non-governmental organizations which specifically promote human rights and assist victims of human rights violations;**

To further such aims, Amnesty International may provide donor officials with:

- country reports which include recommendations on positive measures for the protection and promotion of human rights, in accordance with Amnesty's statute;
- delegates to engage in dialogue with development assistance organisations on the promotion of these policies;
- copies of relevant international human rights standards

What you can do for human rights

Amnesty International calls on all businesses dealing with China to:

- Ensure that their working practices in China set an example to others by respecting the fundamental human rights of their employees, particularly the right to free speech and association.
- Help to put pressure on the Chinese authorities whenever possible to introduce safeguards to protect human rights and end the arbitrary exercise of power by officials.
- Raise awareness about basic international human rights standards by distributing human rights information, promoting business codes of ethics and supporting human rights education initiatives.
- Promote human rights by lobbying for legal reforms in line with international human rights standards and by monitoring violations such as the imprisonment of prisoners of conscience in order to pass information about their cases to non-governmental organizations.

What Amnesty International can do for you

The national sections of Amnesty International can assist your company in a number of ways, through:

- Providing up-to-date information on the human rights situation in countries where investment is anticipated or already exists, through published information, newsletters and the annual *Amnesty International Report*
- Providing information on international human rights legislation
- Organizing Urgent Action appeals for employees or associates who are the victims of human rights violations
- Assisting with internal education programs to raise awareness in your company of human rights issues

Business and Human Rights

Article by Sir Geoffrey Chandler, CBE, published in Business Ethics, April 1993

“Should businesses and their shareholders be concerned about violations of human rights in the countries in which they work? Such a question is likely to receive an equivocal or evasive answer, if it receives an answer at all. But it is a question which in future is likely to be asked with increasing insistence.

Amnesty International

For “human rights” read “environment” and the answer will immediately change. There can be few companies today which do not actively promote their care for the environment, whether simply as a defensive public relations exercise or - in the best cases - as a principle grafted into their operating practices. But then all companies pollute in greater or lesser degree (or, at least, modify the environment through their activities), and it is no longer regarded as acceptable for this social cost to be borne by the community rather than the company.

Unlike damage to the environment, the abuse of human rights may appear more difficult to define, perhaps be subject simply to political definition. But the founding of Amnesty International in 1961 provided clear humanitarian definitions which have stood the test of time and have found recognition in all civilized nations. Amnesty defined the “prisoner of conscience”. There are men and women detained anywhere for their beliefs, colour, sex, ethnic origin, language or religion who have neither used nor advocated violence. The aims of Amnesty International are the release of such prisoners; fair and early trials for all political prisoners; the elimination of torture and cruel, inhuman or degrading treatment of prisoners; and an end to executions.

Amnesty International depends on scrupulously conscientious and politically unbiased research into cases of abuse. It applies a single human rights standard to all countries, neither supporting nor opposing any government, not the ideologies or views of the prisoners it seeks to protect. Its method is to harness the support of its one million members and supporters in 150 countries in order to bring pressure to bear by letter-writing, by circulating petitions, and publicising the facts.

There are many individual Amnesty International supporters who come from the business world; but business corporately, unlike the medical and legal professions which have long had professional groups supporting Amnesty International's aims, has played no role.

UK business takes a hand

In November 1991 a group of supporters within the UK business community set up the *Amnesty International British Section Business Group* with the purpose of encouraging companies and business people engaged in overseas trade and investment to use their international links to work for an improvement in human rights. The Group was launched at a dinner at which the British Foreign Secretary, Douglas Hurd, was the principal speaker.

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According to Amnesty International's latest annual report, in at least 120 of the 160 United Nations member states, although all bound by the Universal Declaration of Human Rights, the rights that Amnesty International seeks to protect are being severely violated. The subsidiary companies of transnational groups therefore inevitably operate in countries where they are brought face to face with human rights abuses. Two out of three people — and hence company employees — live under governments perpetrating such abuses.

Universal concern about the environment has forced that subject on to the corporate agenda. Can the same happen over human rights? This so far has only occurred in exceptional cases, of which South Africa is the most notable. The purpose of the Business Group is to encourage companies in strict confidentiality to use their influence to diminish abuses by raising their concern with the government with which they deal in whatever way they believe to be consonant with their commercial well-being and survival.

Amnesty International does not call for or organise sanctions or boycotts against governments, companies or individual. It takes no stance on the legitimacy of economic relations between a company and a government guilty of human rights violations. It does not advocate disinvestment. The Business Group believe that the quiet word from a manager often in touch with a government minister can have a potent influence in remedying abuses by making known to him that named individual prisoners of conscience or victims of torture have been identified and publicised by Amnesty International and that, left unremedied, this would be inimical to the country's commercial relationships. The only specific campaigning activity that Amnesty International directs against companies is where there is direct involvement in the export of equipment, personnel or training used for the purpose of torture or execution.

Companies, however, are faced with a series of questions concerning both the expediency, and, more importantly, the legitimacy of such action.

- * Are human rights abuses relevant to the interests of the company?
- * Can the company be regarded in any way as assisting those abuses?
- * Can a company do anything about them?
- * *Should* it do so: would such action be “legitimate”?

Business Advantage

There is a correlation between the abuse of human rights and the possibility of political instability and civil war. There is a growing tendency for western nations, the home of the parent companies of the majority of transnational groups, to restrict both aid and trade relations with those where human rights are violated, leading to import/export bans or restrictions on credit insurance. Shareholders in these parent companies, influenced by domestic public opinion, increasingly question the propriety of corporate activities where human rights are violated. Political recognition or acceptance into trading blocks may well be conditional on the observance of human rights. An increasing number of charities will not invest in the shares of companies which trade in countries which do not respect human rights. The ethical investment movement is growing. Companies would undoubtedly be happier in a perfect world. The diminution and removal of abuses would be to their great advantage.

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It is more difficult to determine whether a foreign company simply by its presence, contributes to or deters such abuses. It does neither directly. However, its contribution to economic development and what can be inferred (fairly or unfairly) to the confidence it places in the government in power could encourage that government to persist in its ways. Equally a company with an explicit code of practice in its own operations, derived from clear humanitarian and ethical principles, could, by its example, act as a deterrent to practices which transgress these principles. But if either case is correct, and I believe both can be true, it means that companies cannot extract themselves - Pharisee-like from the issue.

But can and should companies use their influence to make the world less imperfect in this respect? That it is in their interest to do so is obvious from what has been said above. That they have influence is undeniable, that influence being in direct ratio to the importance of the company activity to the economy of the country. The threat to continuing investment if shareholders are alienated by a country's human rights practices is a real one and notification of this can undoubtedly be influential, perhaps more so than from any other source.

Would such action be "legitimate" in the context of the purpose of the company?

The purpose of a company is to provide a product or service efficiently and profitably. Those companies which state their purpose and principles, or which have explicit codes of practice, deal in these documents with those constituencies which companies influence directly through their activities - employees, customers, the community and the environment. Understandably none find a place for matters beyond this, other perhaps than to exclude them. Some, for example, explicitly exclude corporate participation in party politics or payments to political parties, organisations or their representatives.

Power for good

Companies undoubtedly have power, at the least the "power" to disinvest from a country. But it is abundantly clear that the sovereign power of governments — ultimately demonstrated in the capacity to nationalise or to refuse permission to operate — is paramount, whether in regard to national or foreign corporations. The company operates within a framework imposed by governments, and foreign investment in particular can only take place with the explicit or implicit permission of the government.

Moreover a company is accorded by society (and by its articles of association) the power to perform a particular task. When pressure groups call on companies to make or withhold investment, not on normal investment criteria, but in order to influence particular causes or the pattern of particular societies, it invites a dangerous abuse of power which would be immediately visible if it were to be used for causes which these pressure groups opposed.

Does the violation of individual human rights — precisely defined — fall into a different category? I believe that it does, and that public opinion — and shareholders — will increasingly come to see it as such. Proscribed by the United Nations Universal Declaration, condemned by all civilised nations and people, it will, with growing awareness of these abuses in the world, become increasingly difficult for corporate citizens — any more than the individual citizen — to stand aside where it is in their power to bring influence to bear.

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Amnesty can assist companies by the provision of detailed and up-to-date information on the human rights situation in countries where investment exists or is contemplated, by information on international codes of conduct on human rights and on upcoming legislation. It can provide assistance with internal education programmes to raise awareness within a company of human rights issues.

The Amnesty International British Section Business Group is acutely conscious of the sensitive nature of any intervention by companies. Its contacts with companies and the responses received are therefore a matter of total confidentiality unless the company itself may wish to make them public.

The day may well come when companies, confronted by a world increasingly unwilling to put up with these violations and by the moral indignation of employees living in their context, will spell out in public their own distaste as a matter of policy. When that happens we will be very much nearer to their elimination.”

Sir Geoffrey Chandler CBE, a former Shell UK executive, is Chairman of the Business Group of the British Section of Amnesty International.

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The Role of Business in Promoting Respect for Human Rights

Extracts from a speech by John Kamm to the Commission on Security and Cooperation in Europe's Seminar "OSCE at 20: Relevance to Other Regions", Washington D.C., 13-14 November 1995

“The time has come to recognize a simple truth: while it might not always be the case that trade and business are good for human rights, it most certainly is the case that a good human rights environment is always good for business. Businesses are acting in their own self-interest when they actively promote respect for human rights in the countries where they operate.

Promoting respect for human rights is good for business for at least five reasons:

1) Respecting human rights enhances worker productivity and management creativity, in short, it raises enterprise profitability.

Workers produce more and higher quality products when they work in enterprises which respect their dignity and their rights. Companies which encourage free and critical thinking and which are able to send their workers and managers abroad to learn from the experience of their colleagues overseas are companies which innovate the fastest. Business which respect rights attract the best job applicants. And firms which operate in countries which have free presses and which permit the free spread of satellite and computer-based technologies enjoy competitive edges over those which operate in countries that do not.

2) Promoting rights opens markets

Pushing China to respect intellectual property — the protection of intellectual property is a human right specifically recognized by the Universal Declaration of Human Rights — is of critical importance to the future success of American business in China. Without respect for patents and copyrights, China's market for some of America's best products and services will remain closed, adding to the ever-spiralling trade deficit.

An examination of the history of China's economic growth since 1979 clearly shows that the Chinese government's acknowledgment of a human right has always preceded the opening of specific markets. It was the Chinese government's decision, for instance, to loosen restrictions on the travel of its citizens that opened the market for aircraft in China. Just as granting permission to Chinese citizens to own their own telephones and television sets — devices which have aided the development of freer expression and thought — opened the markets for these consumer goods, so would the granting of permission to own fax machines in their homes open up a potentially huge new market for these devices.

As it stands, citizens are not allowed to own fax machines without first obtaining permission. In fact, many Chinese already own fax machines as well as satellite dishes without first getting government permission, and most get away with it. Unfortunately, those who use these devices to

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advance human rights and political reform do so at great risk, as the case of Zhou Guoqiang, a dissident jailed for, among other things, illegal ownership of a fax machine, shows.

3) Promoting respect for human rights goes hand in hand with the development of the rule of law

More and more businesses are coming to the realization that their investments and even their persons are not safe in a country where there is no rule of law. Contracts mean nothing if they can be cancelled at the whim of local officials. Guarantees that investments will be protected mean nothing if the investors are subjected to arbitrary and illegal detention by police forces who have vested interests in enterprises threatened by the investments. Over the past few years, there have been more and more such cases, including those of Zhang Gueishing, an American greencard holder jailed over a commercial dispute for 30 months without being brought to trial, and the shocking case of Jimmy Peng, an Australian citizen who was kidnapped in Macau and held for two years while the Chinese police concocted a case against him, a case so weak that the Chinese courts sent it back to the prosecutors at least a half-dozen times on account of insufficient evidence. Jimmy Peng has just been sentenced to 18 years in prison.

Corruption — the handmaiden of human rights abuses at the local level in China — thrives in a country where there is no rule of law, and corruption is without doubt one of the greatest enemies of doing successful business in China. A survey conducted among businesses in Hong Kong in 1994 indicated that Hong Kong businessmen factor 3-5 per cent into every business deal as the cost of corruption. Many deals have been lost by American businesses because they didn't pay bribes to corrupt officials, Communist Party cadres who extort payments in the morning and arrest and harass dissidents in the afternoon.

4) Promoting respect for international human rights instruments is essentially the same exercise as promoting respect for international trade agreements. The efforts complement each other.

The biggest obstacle to China's joining the World Trade Organization is the belief by its officials that China deserves separate treatment on account of its size and its history. There should be one standard for China, they feel, and another for everyone else. The same mentality characterizes the Chinese government's assessment of its responsibilities under the Universal Declaration of Human Rights. Pushing China to respect international standards in one area — trade — is closely bound up with convincing China to respect standards in another — human rights.

5) Promoting respect for human rights is good for a company's image, both at home and in the host country.

Companies which demonstrate a commitment to respecting human rights in the workplace and to improving human rights in the community at large enjoy better images than those that do not. Indeed, companies which associate with regimes of the most brutal and repressive kind are more and more the targets of shareholder resolutions and investment community boycotts. The silent forces of democracy and human rights in the host countries observe and take careful note of who is helping them and who is not, and when these forces have their day, rewards and punishments will be meted out accordingly. Aung San Suu Kyi, the champion of Burmese democracy and

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Nobel peace Prize laureate, has made this abundantly clear in recent interviews when asked about companies who invest in her country without taking into account the interests and feelings of the people.

Not only is promoting respect for human rights good for business, but businesspeople are uniquely qualified to undertake human rights work.

Businessmen and women are seen by government officials of countries like China, Indonesia and Burma to be their natural allies (in fact, the business community is probably China's only real friend in Washington today). The perceived commonality of interest between these governments and their business allies (both oppose sanctions, both support measures designed to increase trade) give businesspeople an ability to raise human rights issues without being perceived as having ulterior and "unfriendly" motives. Since I began doing human rights work in China six years ago, my own experiences and the accounts of business people in other countries have convinced me that the trust which business people enjoy among government officials of authoritarian regimes is a tremendous asset which can be used to good effect in lobbying for prisoner releases and other improvements in the human rights environment.

Businesspeople are skilled negotiators. They are goal-oriented. They know the value of good preparation, of patience and persistence. Salespeople are especially good at persuading those who don't think they need their goods or services to buy them. All of these traits, when applied to human rights work, bring results.

What kinds of things can businesses do to promote human rights in the countries where they operate? We can classify initiatives into those which take place in the workplace and those which take place in the host country at large.

In the workplace, companies can enforce codes of conduct which ban the purchase of goods made with child or forced labour, and which put the highest value on safety and the maintenance of health. They can enforce minimum wage and hours of work rules, and provide their workers with health insurance, maternity leave and workmen's compensation. American companies can encourage the establishment of free associations of their workers, if not open and free unions — which are not yet possible in many Asian countries, including China — then other types of association which concern themselves with health, safety, environment and even quality issues. Companies can devise systems to reward creativity and free expression, and can provide their employees with travel opportunities. Libraries and reading rooms can be established where publications not normally read by workers are made available. Companies can, and should, protect their employees to the maximum extent possible for the arbitrary abuse of power by government and security officials (as when female workers are told by local officials that they must have abortions). They can lay down strict rules against the paying of bribes and empower their local managers to enforce them.

In the larger community where they operate, businesspeople can undertake two types of activities to promote human rights: lobbying and monitoring.

They can lobby for legal reform in the host country, including not only reform in such areas as regulation of commerce and dispute resolution but also in such areas as the decriminalization of

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political activity. They can impress upon governments the importance of behaving in accordance with international standards, whether the behaviour concerns trade or human rights. An example of the latter would be lobbying China and Burma to allow Red Cross access to their prisons, standard practice in more than 100 countries around the world. And they can support efforts by their own governments to promote protection of intellectual property — in the words of the Universal Declaration, “artistic and scientific creations.”

In cases where egregious violations of individual rights have taken place, businesspeople can explain to the government of the host country the deleterious consequences of attracting trade and investment. My own experience shows that it is possible to lobby for the release of people wrongfully jailed — be they fellow businesspeople who run foul of local powers to prisoners of conscience imprisoned for the nonviolent expression of their political and religious beliefs — without incurring the wrath of the host government.

To carry out this lobbying and to better inform their members about human rights conditions in the countries where they are thinking about doing business, chambers of commerce and other trade associations can establish human rights committees. These committees can interface with the human rights community, thereby bridging what is today an immense and terribly counterproductive gap.

I have increasingly come to the conclusion that it is in the area of human rights monitoring that business operating in China can make their most valuable contributions. For example, there are now thousands of ventures involving US business all over China, at least several in each province. These ventures can be monitoring posts, places which collect information on local conditions, rules and regulations governing such things as religion and ownership of satellite dishes and, most important from a humanitarian perspective, the sentencing of political and religious prisoners. Every court has notice boards on which they post the results of trials; for a brief moment, the names of prisoners of conscience are made public. Today in China there has been an explosion of publications at all levels of the country — newspapers, magazines, legal journals (every province has its own legal newspaper), books which are collections of court cases which include accounts of trials of counter revolutionaries whose names are unknown outside China.

For the past few years I have been submitting lists of prisoners to China's central government in Beijing, requesting that it supply me with what I call ‘basic information’ on them. Of seven lists submitted since early 1994, I have received responses to four. The information provided about these prisoners confirms a truth long appreciated by those who labour in the field of human rights: the better known a detainee is, the more likely that he or she will be treated humanely. Businesspeople can do humanitarian work of great value by finding and passing along to non-governmental organizations, the names of political and religious prisoners.

I have brought with me today samples of the prisoner lists I have submitted and the responses I have received from the Chinese government. They demonstrate what is possible in the area of human rights monitoring by businesspeople in China today.”

Promoting a discussion on business ethics and international human rights standards

Human rights violations and abuses have traditionally been thought of as problems created by governments and, therefore, only to be solved by governments. Since the 1970s, however, international public opinion has changed and more and more people have been challenging this view by also focusing on the responsibilities and opportunities of non-state actors. It is now widely recognised that international companies have powerful economic influence which also translates into considerable political and even cultural influence. Business leaders serve as powerful role models in relation to their employees, customers, shareholders and the wider community in which they operate.

There is a growing debate internationally on ethical conduct amongst the business community. For example, in September 1995 the UK *Financial Times* in an editorial entitled *Ethical Fog* argued that acting ethically may be in a company's best commercial interests but concluded:

"There is no need for timidity in discussing what society should demand from those in commercial life. It is a part of a civilised society that people, inside and outside business, act morally. No more, and no less."

In response, the chief executive of The Industrial Society in the UK pointed out that:

"The need for individuals to act morally cannot by itself guide corporate policy... With consumer activism at unprecedented levels of intensity, and investigative media armed with the technology to uncover unethical practices, the law and ethical principles have become more than simple `constraints'".

The growth of company Codes of Conduct

Many large companies have in recent years established principles or codes of business ethics. Some of these have been made widely public. According to a recent survey by the Ethics Resource Center in Washington DC, three-fifths of US firms and about half of Europe's biggest companies now have codes of ethics. According to some surveys, 95% of the major US companies questioned now have written standards of conduct. Surveys by the UK Institute of Business Ethics confirm this trend amongst large companies. A recent survey undertaken of non-US international companies with codes of ethics reportedly received the biggest positive response from Europe, a significant response from Latin America and a smaller one from Asia.

In most cases, these ethical codes encompass honest business practice, fair treatment of employees and, in some cases, the protection of the natural environment. Nevertheless, many codes also allude to a concern with the company's role in wider society by stating that the company should be a "good corporate citizen". However, few such codes of ethics spell out clear guidelines for what this "good citizenship" actually means in practice.

Governments, too, are beginning to show an interest in promoting company codes of conduct, most notably during the international efforts to end apartheid in South Africa and Namibia. Arguably, the Sullivan Code which became law for US companies, as well as the European Community Code of Conduct for companies operating under apartheid, were used to limit economic sanctions, but also helped the anti-apartheid struggle. More recently, since the delinking of US "Most Favoured Nation" trade benefits with human rights in China in May 1994 (a policy dating from the 1989 Tiananmen Square massacre), the Clinton Administration launched plans to encourage companies to respect a voluntary codes of ethics issued in early 1995 for US corporations doing business overseas. The US government also stated that it would step up support for non-governmental organizations concerned with human rights in China. These "Model Business Principles", which apply voluntarily to US companies operating anywhere in the world, recommend that each company should prevent discriminatory employment practices, avoid using child or forced labour, provide safe and healthy workplaces, follow sound environmental practices and strive for :

"the maintenance, through leadership at all levels, a corporate culture that respects free expression consistent with legitimate business concerns, and does not condone political coercion in the workplace; that encourages good corporate citizenship and makes a positive contribution to the communities in which a company operates; and where ethical conduct is recognized, valued and exemplified by all employees."

The US government announced that a privately-run organization, Business for Social Responsibility based in San Francisco, will act as a clearing house to provide companies with information and advice on drawing up their own codes. The US Commerce Department published a list of companies - including Boeing, Honeywell Inc, General Electric, Eastmann Kodak, the Rockwell International Corp and the Loral Corp - which publicly supported the Model Business Principles.

However, these Principles are seen simply as "a useful reference point for framing the codes of conduct of individual businesses" and are obviously vague and abstract. Many US-based companies fearful of a set of principles which required specific, concrete action were reported to be relieved. The President of the US-China Business Council, said:

"We note that the statement is not country-specific and recognises US business' leadership role in supporting human rights. Each American business will form its own conclusions as to whether it will do exactly as the administration bids it to do." He stated "Our message is that major US interests require stable US-China ties."

But if stability is indeed the watchword of international business aspirations, can this actually be achieved at least in the longer term without respect for human rights?

Just Corporate Imaging?

Many observers see company codes of good conduct as business management's responses to the growth of ethical consumer and environmental group pressure. The Economist (3 June 1995 in a feature entitled "How to make lots of money, and save the planet too") looks at what it calls

the "budding romance between greens and business" and points out that "green laws can be good for profits - either by creating new markets or protecting old ones against competitors." A second article (*Ethical Shopping: Human Rights*) looks at the power of the consumer to force retailers to consider human rights issues and asks whether this will help workers in poorer countries. Being seen to be ethical is viewed by some business commentators as a clever marketing strategy for luxury products like clothes, personal hygiene products and ice-cream from large multinational companies. But ethical self-promotion can backfire if an international company is caught out suffering an "ethical lapse". With managerial responsibility for distant subsidiaries and contractors in many countries often a difficult task, it is hard for busy executives to maintain standards or keep checks on corporate ethics - and this is compounded when guidelines are vague or non-existent.

In order to be seen to be effective, some managers advocate that ethics rules should be explicit and regularly monitored and measured. Some companies, such as Ben & Jerry's the ice-cream makers, are turning to "ethical audits" whereby their annual report contains an independent audit which reports on its "ethical, environmental and other failings". This method has helped them maintain their good reputation despite revealing occasional lapses.

Franklin Research & Development, a Boston-based ethical-investment firm, stated recently that fewer than 5% of America's retailers and branded-goods companies are now tackling human rights issues in the true sense; but those that do include some of the world's most illustrious names, such as Levi Strauss, Wal-Mart, Sears, Reebok, The Gap, Nike and Nordstrom. The latest is Federated Department Stores, which owns Macy's. The latter company announced last April that it was pulling out of Myanmar because of human-rights abuses there...". But are human rights issues going to be resolved simply by pulling out?

The case of Levi Strauss & Company

Levi Strauss, which operates in over 40 countries, has established guidelines for determining whether to do business in a given country at all, which makes its approach to business ethics relatively unique. Although the company's "Terms of Engagement" cover five broad areas (environmental requirements, ethical standards, health and safety, legal requirements, and employment practices), Levi's says it would eschew an involvement in a particular country if (a) it would badly affect the company's global brand image (b) there is evidence that company employees or representatives would be exposed to unreasonable risk (c) there are pervasive violations of human rights (d) the legal environment creates unreasonable risk to its trademark or seriously impedes its ability to implement these guidelines, and (e) political or social turmoil threatens the company's commercial interests.

In early 1992, Levi's pulled out of Burma [Myanmar] after discovering that the Burmese military authorities held substantial ownership shares in Levi's contracted suppliers, and in May 1993 Levi's stated it would not make any direct investment in China because of the "pervasive violation of human rights". It terminated contracts with about 30 suppliers. Levi's also hired independent inspectors to audit the company's 600 to 700 suppliers worldwide. This resulted in the termination of 5% of its suppliers and exacted changes from a further 25%. Levi's continued to buy fabric from Chinese sources and to market its products in China, such activities being not covered by its ethical guidelines.

The case of Reebok International Ltd

Reebok is one of the companies which has expressly committed itself to human rights in its manifesto, Reebok Human Rights Production Standards. The company's involvement in human rights dates from 1986 when Reebok agreed to sponsor an international rock music tour to benefit the work of Amnesty International. In 1988 it also established the annual Reebok Human Rights Award, which honours young people from the USA and around the world who have made a significant contribution to the cause of human rights, awarding them a grant of \$25,000 to further their work. The Board of Advisors includes Jimmy Carter, musician Peter Gabriel and Li Lu, a recipient of the award in 1989 (along with Wu'er Kaixi and Chai Ling). Witness, a new project created by the Lawyers Committee for Human Rights with Peter Gabriel and The Reebok Foundation, works in partnership with NGO's around the world "to protect and promote human rights." It has donated fax machines and hand held cameras to be used for training and education and to "document human rights violations in an objective and impartial manner."

Unlike Levi Strauss, Reebok's "Human Rights Production Standards" do not focus on the overall human rights record of the country in which Reebok operates. Rather, the focus is on non-discrimination in employment, health and safety, and to avoid contractors that use child labour, forced labour, excessive hours, and "*that pay less than the minimum wage required by local law or that pay less than the prevailing local industry practices.*" So, Reebok has retained its operations in China, but has refrained from purchasing goods from Burma.

Since 1992 teams of Reebok executives have toured production sites once or twice a year with a checklist, although it was reported that this did not include the dormitories of 400 young female employees living in Jing Sheng Rd in Zhuhai, Guangdong which were described as a firetrap. They worked at a nearby factory owned by the Hong Kong listed company Yue Yuen Industrial (Holdings) Ltd. Yue Yuen started making Reebok shoes in China in 1988 and has since added production sites for Nike, Converse, L A Gear and others. The local managing director said that he hadn't brought the dormitories to Reebok's attention as they were supposed to be temporary - they had been set up 2 years earlier. Yue Yuen was building a model factory site in Zhongshan, north of Zhuhai, which had been visited and praised by President Jiang Zemin. It was also building a hospital in Dongguan, another industrial town in Guangdong..

This points out the difficulties of trying to ensure that contractors in China adhere to standards acceptable to the West. Reebok's HQ said that "Conditions that are substandard are absolutely unacceptable" and added that unless Yue Yuen corrected the situation immediately, they would cease to do business with them. However, the issue of monitoring begs the question of what is being monitored in the first place. One commentator said:

"Codes of conduct have become a popular defence against charges of exploitation for big consumer-goods companies that depend upon cheap labour in the developing world... To show they were part of the solution [to China's record of human rights abuses], not the problem, many companies manufacturing in China published codes that they say help raise consciousness about human rights...The codes, however, aren't always in sync with reality. Reebok's code, for example, demands that workers at its contractors' factories

enjoy the right to organize - yet independent trade unions remain against the law in China."

In line with the law?

Businesses are of course compelled to act within the law. But what does this mean? The rule of law is a term that refers to a state in which people are governed according to laws that are just and fair and which apply to all people equally - and not to arbitrary government decrees or whims disguised as "law". From such realities stem responsibilities of good citizenship, ones which have practical applications across the social spectrum, including for business leaders and international companies that consider themselves good corporate citizens.

For example, a recent report on working conditions in China's export industries and the ethics of producing in China included the following comment on the subject of industrial safety: *"The [Chinese] government can boast of having one of the world's best set of laws and regulations on industrial safety. But like all rules in China, they are seldom if ever adhered to."*

This statement is echoed elsewhere. A Hong Kong-based business consultant working for a risk analysis company told AI that they have many clients wanting to ensure that China's laws and regulations measure up to their corporate codes of conduct. On the whole they do but, he said, everyone knows that is meaningless in reality. Foreign companies keen to do business in China do not wish to hear this. The Asia investment fund manager of a major UK-based company, Foreign and Colonial, was reported as saying that large international companies were unlikely to break labour laws but admitted:

"When fund managers visit a company, they rarely visit the factory floor. I have been fund managing for eight years and I have never seen a human rights violation."

Persistent human rights violations in China can be ignored by international companies only at their own peril. According to Western exporters and bankers, Chinese banks were refusing to honour up to half the letters of credit presented to them during 1995. In most cases payment was postponed, but in some cases letters are being refused unless contracts are renegotiated at lower prices. Chinese banks are accused of looking for the tiniest faults such as misspellings in order to reject letters of credit, generating vast amounts of work for Western banks who are either absorbing the cost or passing it on to the exporter. One instance reported is that of Troy McBride, who went to a hearing of the People's Intermediate Court in Hefei to reschedule payments on a debt his company owed a Chinese company. The latter, backed by a local judge, insisted that McBride make himself personally liable for the debt *even though Chinese law does not authorize such an action*. He was then kept under virtual house arrest. Los Angeles lawyer Frankie Leung said that he heard of 5 or 6 similar cases a month, and assumed that more went unreported.

Another worrying factor for many business people in China may be the draconian penalties for non-violent crimes. On 1 November 1995, the Chinese government promulgated a new law passed by the National People's Congress (NPC). The Congress accepted a Decision of the Standing Committee on Punishing Those Who Commit the Crime of Disrupting Financial Order

passed in June which proposed a maximum sentence of the death penalty for the most serious cases of counterfeiting money; raising funds by fraudulent means; carrying out fraud on financial bills; using forged or altered letters of authority for collecting or remitting money, deposit receipts or other bank settlement evidence; carrying out fraud on letters of credit.

Donald Lewis, law lecturer at the University of Hong Kong, warned foreign investors that "*The extension of criminal liabilities may be excessively broad. All people related to the alleged crimes are liable to prosecution...it may cover also bank personnel who prepare letters of credit and all people involved in the transaction.*" Alfred Chown, Vice Chairman of the Australian Chamber of Commerce in Hong Kong said "*I don't think the death penalty can really curb corruption... The problem in China is that innocent people will be convicted*". In 1994, 943 cases involving 148,559 sets of false tax invoices were discovered and such forged or stolen invoices are bought sometimes unwittingly by companies. Amnesty International recorded at least 1865 death sentences and 1313 executions in China in the first six months of 1995, but these figures are believed to represent only a fraction of the total number. The Chinese government does not issue official data on the death penalty and regards this as a state secret. Many death sentences are given for non-violent crimes. For example, on 30 October 1995 Luo Guohong, a 35 year old bank manager, was sentenced to death by a court in Guangdong for embezzlement. Trial procedures in China fall far short of international standards. Defendants do not always have access to lawyers, and when available lawyers are given only one or two days to prepare a defence in a death penalty case. Death sentences are often decided in advance of the trial by an "adjudication committee" whose decision is seldom challenged.

Another recent report about business in China cites a spate of incidents - mostly involving Overseas Chinese businessmen - in which foreign executives in China have been intimidated, often with no interference, tacit approval or even complicity from the police and legal authorities. In one case Miami businessman Troy McBride had his passport seized by order of a judge in Hefei, Anhui, and was reportedly prevented from leaving by local thugs because his company hadn't paid \$486,000 owed to a local firm (see above). In another case reported, a British trader was kidnapped for 3 days in Guangdong by men with high voltage electro-shock stun guns. Two Australians were also said to be recent victims of coercion. Legal experts stress that such tactics are not new in China, and if it is happening more often now, this is probably due to the recent surge in the volume of foreign business. Ethnic Chinese with foreign passports are the most frequent victims, as they are still regarded as Chinese and treated as such. One expert in Chinese law warned recently of the dangers for ethnic Chinese businesspeople:

"If Chinese authorities deem that they are actually Chinese citizens they can then be charged with a 'counter-revolutionary offence' against the government for any comments they have made about China while abroad. Simply by claiming that an ethnic Chinese is a citizen of the People's Republic, the authorities can deny the individual the consular services of the country in which that person has resided."

The case of James Peng highlights the vulnerability of ethnic Chinese in China. Mr Peng, a native of Guangdong, became an Australian citizen in 1991. Peng was chairman of Shenzhen Champaign, a textile, property and trading group he set up with partners in the late 1980's, and which was the first Sino-foreign joint venture to be listed on a Chinese stock exchange. In 1992

he clashed with the Shenzhen government and won a judgement against it in the Guangdong Higher People's Court, establishing his right of ownership of the company.

To help win back favour with the Chinese authorities, Peng then brought in two people with top-level connections, one being Ding Peng, the niece of Deng Xiaoping. This backfired: with the support of the Shenzhen government, Ding wrested control of the company away from Peng. Peng won an order through the Supreme Court of Hong Kong to stop the transfer of shares. He was asked to drop the law suit. He refused, and several weeks later (in summer 1993) was kidnapped in Macau and handed over to the Chinese police. He was taken to Shenzhen where he was detained for nearly 2 years in the Meiling Detention Centre. Meanwhile Ding had renamed the company Shenzhen Fountain and become chairman.

On 17 November 1994 Peng was brought to trial and charged with embezzlement and misappropriating public funds. The trial lasted a day and the judge reserved his decision. On 21 December 1994, the case was referred to Shenzhen Procurate for further investigation. The case then went back and forth between court and procurator until on 19 September 1995 the Australian consulate in Guangzhou was informed that the judge had reached a verdict.

On 28 September 1995, despite the fact that the prosecution had brought no new evidence to light in support of its case, Peng was sentenced by Shenzhen Intermediate People's Court to 18 years imprisonment and deportation for embezzling company funds. It was not clear how much of the sentence he would have to serve before being deported. He was given leave to appeal within ten days. The Australian Foreign Minister Gareth Evans said "*People will look long and hard at the perils of doing business in China if this sort of thing can happen.*" The Sydney Morning Herald commented "*Last year [crime in China] was reported to have jumped 66.2%. A new sideline is hostage-taking and ransom. The Hong Kong media have reported about 70 kidnappings of mainly Hong Kong and Chinese businessmen in China...*"

Another recent disturbing report of abduction is of a Hong Kong government official owing money was abducted in broad daylight by 16 mainland Chinese and put on a boat for Guangdong. Marine police managed to rescue him after a chase.. A Chinese executive, Chen Xianxuan, involved in a business dispute, was abducted in June and handed to authorities in Shenzhen. One of Chen's kidnappers was a policeman. After members of Chen's staff demonstrated outside the golf club where he had been snatched, bringing the case to the attention of the Hong Kong media, Shenzhen authorities forced his release and Wang was arrested, reportedly on direct orders from officials in Beijing.

Other reports state that corruption in business dealings in China is the norm. A recent investigation in Shenzhen uncovered 156 cases of graft involving 73 CCP officials. Over 3,500 reports of corruption have been filed there this year. "*There is no shortage of targets for the corrupt and the violent. Lured by low start-up costs and cheap labour, foreign firms have poured into southern China... Almost all Hong Kong firms have moved across the border, ploughing £5bn into (Guangdong) and employing 4m Chinese.*" A national anti-corruption campaign has caught and punished nearly 50,000 officials in the first half of 1995. On 18 August 1995, a team to screen the collection of fees other than taxes from foreign-funded enterprises was inaugurated, headed by the Vice Governor of Fujian province, Zhang Jiakun and approved by Provincial Party Secretary, Jia Qinglin. According to surveys foreign investors have been critical both of the

amount of fees they have to pay and the number of collecting agencies, encouraging confusion and corruption.

Helping promote international human rights standards

One of the main arguments which international companies use to reject any concrete action on human rights issues is that such action would force them to abandon their political neutrality and may force them to oppose laws and norms in the host countries. However, basic human rights are enshrined in most constitutions and in international human rights customary law, treaties and agreements freely entered into by states. Even “emergency measures” should conform to international human rights standards.

The reality is that it is possible for non-state organizations to help promote and protect human rights by being independent of all political parties and governments and by being strictly impartial - Amnesty International does this by basing itself purely on a human rights mandate derived from international human rights standards. There is no reason why international companies cannot also base their ethical standards and guidelines on international human rights standards.

The Universal Declaration of Human Rights is not only addressed to governments - it calls upon "every individual and every organ [institution] of society" to "strive by teaching and education to promote respect for these rights and freedoms by progressive measures, national and international, to secure their universal and effective recognition and observance..." All companies have an obligation to promote respect for international human rights standards, and can be encouraged to do so in a variety of ways. Apart from the Declaration, the Convention Against Torture and the two International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the ILO Conventions provide standards that can also be promoted by companies. ILO Conventions 87 and 98 oblige governments to uphold the right to freedom of association and collective bargaining, and this requires active support from companies.

Wherever international companies are subject to corrupt law enforcement agencies which abuse their power, they will find that there are specific international human rights standards that can be promoted to counter this. The Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UN Standard Minimum Rules for the Administration of Juvenile Justice, the UN Standard Minimum Rules for the Treatment of Prisoners, UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment and the Common Article 3 of the Geneva Convention all specify conduct required of law enforcement personnel in which they should receive training.

Company managers who understand the importance of these international standards and who take a considered view of their company's future will seek to develop measures to promote human rights in the national context in which they operate. In relation to China, this could mean business managers creatively using opportunities to:

(i) make available relevant information on human rights, both informally and at a formal occasions if possible, to company employees and the wider community;

- (ii) engage in discussion on human rights with other managers and trainee managers in business associations and business schools;
- (iii) help establish collections of literature and video material which include human rights issues and are accessible to employees;
- (iv) help, in an individual capacity, document the failure of laws or regulations to conform to international human rights standards and individual human rights abuses where possible;
- (v) prevent the inadvertent use of goods produced in whole or part by prisoners while subjected to torture or severe ill-treatment;
- (vi) publicly adopt and implement a non-discriminatory employment policy in line with ILO and other international human rights standards - and which includes protection for political beliefs and a statement of company support in principle for the Universal Declaration of Human Rights;
- (vii) encourage freedom of association and expression in the workplace, as required by ILO conventions and permitted under Article 35 in China's Constitution and the Chinese government's human rights white paper of August 1992;
- (viii) engage Chinese officials at local, provincial and national levels in dialogue on human rights concerns, including cases of political detention.

Conclusion

The vagueness of many business ethical codes and principles has been seen by some as an advantage, but in modern conditions experience shows that such vagueness can confuse managers facing potentially embarrassing problems which arise from complex human rights issues impinging on the company. An appeal simply to the domestic law is often quite inadequate to find reasonable and practical solutions. Such unsolved problems can be covered up, but then fester and eventually hinder the efficient long-term well-being and development of the employees and customers of the company, as well as the efficient functioning of public authorities on whom the company depends. Ultimately, everyone has an objective long term interest in upholding international human rights standards, and although the business community appears to be a late-comer, it will increasingly have to address itself to practical guidelines to help promote respect for human rights.
