HUMAN RIGHTS – EDUCATION AND IMPLEMENTATION
IN A COMMERCIAL ORGANISATION

Angela Chambers
Bachelor of Arts
Master of Public and International Law

School of Management
RMIT University

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Declaration

I, Angela Chambers, declare that:

- Except where due acknowledgement has been made, the work is that of the candidate alone;
- It has not been submitted previously, in whole or in part, to qualify for any other academic award;
- The content of the thesis is the result of work which has been carried out since the official commencement date of the approved research program.
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Summary

This thesis, Human Rights – Education and Implementation in a Commercial Organisation has been written to explore the research question of “How Does an International Commercial Organisation Incorporate Human Rights into Operations?”

The research question was important because there was a gap in the literature and knowledge in the area of implementation of International Human Rights norms from within multinational commercial organisations. The context for this was a climate in which:

- Legal provisions were seen as prescriptive;
- Legal cases charging multinational corporations with complicity in human rights abuses were pending; and
- Civil society bodies were contributing to legal development, and to the debate on transnational corporations’ responsibilities, however, this was done in a selective manner and from an adversarial perspective.

Economic globalisation puts multinational commercial organisations into the position of a private international actor with money and power. This raises the issue of appropriate global citizenship responsibilities. Legal and civil society discourse implied such responsibilities, however, this research question was concerned with how the responsibility for human rights could be played out in a conscious, and autonomous manner by a multinational corporation; as a whole, rather than in the tradition of philanthropic individual leadership or by becoming involved with an international human rights agency.

There was evidence that some multinational companies appreciated the responsibilities accompanying their global influence; yet others were silent or unwilling to join the existing mechanisms such as the United Nations Global Compact. Was the reason behind this silence the cost of investment in the process of corporate social responsibility? Was it the lack of expertise and consequent moral authority?
Hence the research question was pursued from a Humanist perspective, using International Human Rights Law as an authoritative text for an exploration within a live multinational corporation.

A qualitative, interpretive and collaborative approach with an implementation focus was adopted; a case study using multiple sources of evidence including in-depth interviews was conducted in an Australian multinational corporation (IP) with operations in Southeast Asia, the Americas and Europe.

**Process**

First a dialogue involving using an organisation development model of consulting was established where the voice of the researcher was that of a passionate participant and facilitator for accumulation of knowledge from a position of lived experience. Methods used included interviews, document analysis, workshops, text analysis, direct observation and journal keeping to collect data and basic techniques of grounded theory to analyse it. Theory was developed from everyday experience and testing in practice.

**Contribution**

Initially the study revealed that organisation development consulting model, whilst offering essential tools at the beginning to the study, was limited as the study entered the more complex levels, interaction of a multinational with external environment and the internal structures and understandings of responsibilities for human rights.

Roles specific to human rights consulting, of Interpreter, Champion and Enabler developed in the evolving dialogue and this enabled sufficient penetration into the operational level of IP to identify human rights concerns.

A Model for Education and Implementation in a Commercial Organisation was developed from the findings to trial a new approach. This was designed to offer a way of approaching the layers of complexity present where issues of International Human Rights Law and the practices of a multinational commercial corporation meet. The model is a tool for a multinational to examine its practices in the global context.
when considering its approach to human rights; a diagnostic tool for an intervention into a multinational corporate context by a change agent or an interpreter of human rights. It is also an education tool for exploring human rights in a corporate context. The educational emphasis is seen to be central to the Model.

The Model can be used from bottom up as well as top down of an organisation. This research showed that having a comprehensive picture of the complexities involved was an effective method of exploration and making sense of human rights education and implementation in a multinational industrial setting.

The central premise underlying the Model is, if willingness within a multinational corporation exists then the Model provides a path through the complexity of incorporating human rights norms and legal provisions into operations.

The Model takes as a given, that this incorporation is taken from the stance of responsibility and autonomy, of acting as a responsible corporate citizen within the organisation and in the communities where it operates.

The process for arriving at such a stance is the central to this Model. It was constructed because IP was not willing to “sign up” on any human rights instruments. It was IP’s clear preference for wanting to do something about human rights and yet displaying fierce independence and autonomy that provided important fuel behind the construction of the Model. In such a situation a model which is essentially educative provides a basis for development of new knowledge and change in attitude and behaviour.

Whilst not an international legal citizen a multinational corporation has legal, moral and ethical responsibilities to act in accordance with the principles, established norms and legal provisions of human rights within the sphere of its influence. These responsibilities are complex and contested. Before practical steps can be taken, a corporation needs to take a stance from which to act in a human-rights conscious manner. This stance and the consequent ownership of responsibilities require an informed and examined position.
This implies a willingness to engage in an examination of its philosophy and practices from a human rights perspective before it can participate in a dialogue with its members and stakeholders.

All this implies a choice on the part of the corporation. It is an autonomous choice for taking responsibility for its behaviour on the international stage. This research was based on the philosophy that IP always had this choice.

This study provided as complete an answer to the research question of how does an international commercial organisation incorporate human rights into its operations as was possible given the existing state of research on the topic from this perspective. The contribution the thesis offers is that it has tackled these issues in the language and culture of a live multinational organisation. In the process the study developed tools for further pursuit of the complexity of human rights and multinational corporations as a contribution to this discourse.
Chapter 1 Introduction

1.1 Human Rights and Why Conduct Research in a Multinational Commercial Organisation

1.1.1 Why start? A Personal History

The driving force behind doing research into human rights and multinational corporations was the researcher’s curiosity about translating concepts of moral self-responsibility and dignity into daily practice in the world. Behind this curiosity was her motivation to consolidate her personal history, work, academic learning, and life experience into a conceptual understanding of the world.

Her experience of the human rights debate has been that such rights are unquestionably good, something everyone is entitled to, and something that came out of the atrocities committed in Europe in the name of the state against its citizens and civilians from neighbouring states.

The researcher grew up in a country and a family where the effects of these abuses were palpable but not discussed in an open or informed manner. At home, the experiences of her parents’ active resistance against occupation of their country by the Nazi forces and their incarceration in the German prison camps were alluded to but not openly discussed. At school, the only public forum she knew, the official philosophy of liberation and equality was taught in an ideologically framed language but not critically debated. This left her with the experience but not the tools for making sense of the human rights violated and denied to her parents and subsequently to her whole family. On the other hand, the state, through its ideology, controlled schools and public debate and stifled an open dialogue of recent history including human rights abuses by the state. State institutions and their agents were to be at the very least treated with reserve if not fear. Rights of workers were openly debated within the prescribed framework however. Legal provisions and many institutions were in place to put these ideas into practice. Nonetheless, sociology was not on the school curriculum and discussion of the state’s policies and decision making processes were out of bounds.
After migrating to Australia as a young adult, work was mostly the means of survival; nonetheless, the large public organisation where she worked provided opportunities for exploring how a commercial organisation can take a broader role in the community where it operates. She had vivid memories of the debate and consequent change in policy that involved international stimuli, for instance the Convention on the Elimination of All Forms of Discrimination against Women, which led to changes in the practice of the organisation.

Commercial organisations have a lot of energy, money and power. The question of why they could not play a role in advancing common good and human rights in the communities where they operate stayed with her.

In the early 1990s, her work responsibilities, academic studies and the fate of her country of origin met.

She was charged with the responsibility of lowering the number of legal disputes between the company and its customers. The adversarial approach to resolving contractual disagreements was not working for any of the parties: the customer, the staff or the shareholders. The only winners seemed to be the lawyers. Dispute Resolution was the academic course where she - out of curiosity - chose international dispute resolution as an elective subject. There was no looking back from there; the academic pursuit of international law provided some panacea for the pain, shame and helplessness of witnessing the disintegration of Yugoslavia into a civil war and gross human rights abuses as the world largely stood by.

She was not alone; the academic subject of Human Rights was always oversubscribed at the University. The students came from all walks of life, academics, lawyers, foreign affairs, aid workers; nonetheless there were no executives or human resource managers among them at that time.

The Universal Declaration of Human Rights and the two Covenants, International Covenant on Civil and Political Rights (1966) (ICCPR), and the International Covenant on Economic, Cultural and Social Rights (1966) (ICESCR) were much debated from political and legal points of view. Nonetheless, the researcher despite
her interest in various aspects of international law and strong agreement with the underlying principles of universality and indivisibility of international human rights remembers agreeing with one of her lecturers, who said “Now what?”

She remembers reacting at the time, that there has to be a way of utilising all the effort and passion behind these values, sentiments, words and agreements.

This aim resulted in this piece of research.

1.1.2 Why Start? What Has Been Done in the Field?

A brief overview of existing literature dealing with international human rights and the responsibilities of multinational enterprises followed and revealed three streams:

**International regulation** of the private sector includes instruments and conventions by the United Nations, the International Labour Organisation and the Organisation for Economic Co-operation and Development, namely the Global Compact (2002), the Tripartite Declaration on Multinational Enterprises and Social Responsibility (2000), and the Guidelines for Multinational Enterprises (2000), respectively.

All these instruments essentially rely on self-regulatory initiatives and suffer from perceived weaknesses: disagreements over the standards, lack of strict enforcement mechanisms and consequent lack a of well-defined way to keep multinational enterprises accountable (Haufler 2002; Meyer & Stefanova 2001). This suggests that on an individual multinational enterprise level it is important to be aware of the framework and use it as a guide for developing of corporate social responsibility, including human rights guidelines and practices.

The challenge is to translate these universal principles for local application and thereby contribute to the debate and the gap in knowledge at the intersection of business and social responsibility. This becomes even more appealing if we consider that multinationals have a potential for a positive impact on human rights (Schrage & Ewing 1999; Spar 1999)
Legal cases, for instance Shell (in Nigeria), Nike and Unocal influenced public debate about human rights and provided precedents in domestic jurisdiction for the accountability of multinationals. In addition they fuelled arguments about the development of international law around responsibilities of multinational enterprises as international legal actors and created tension between domestic and international law. These developments informed an individual enterprise about the value of social reputation. They also identified the types of perceptions that exist at the intersection of law, civil society and commercial enterprises in the global environment.

Civil Society and human rights movement actors comment on breaches of human rights by multinationals. Their contribution to the legal developments includes provision of guidelines and advice on implementation, such as Amnesty International Australia’s “Just Business” report (2002). Bodies of civil society are political actors, independent of international institutions and states. However, it could be argued that they are not representative and that they employ a prescriptive, activist voice to bring attention to human rights violations in a selective, even self-serving manner. Nonetheless, there has been an increased constructive engagement between NGOs and business (Santoro 2003); the NGO literature does inform implementation at individual enterprise level. Be they in their activist role or advisory collaborative role, NGOs operate very successfully internationally and locally and exert a lot of influence.

On the basis of this review the research progressed on the following assumptions:

- That a multinational could use its influence to improve human rights practices in places where it operated;
- That by working from within an organisation, awareness, education and consequent implementation of human rights practices would have lasting positive effects within that organisation as well as provide new knowledge for its industry; and above all
- That the discussion about what human rights principles and codes actually mean within a multinational, from the board of management level to the coalface at manufacturing sites, would provide knowledge to fill the gap that existed in the field.
1.1.3 What to Do? The Research Question

Having started the research with the question “How does a consultant help an organisation become more aware of human rights issues and implications for corporate practice?”, and after engaging with a commercial organisation, which will be called IP, for several months and following a consultative process within an overall methodology of action research, the researcher became uncomfortable about the amount of energy being consumed by the consultation process at the expense of progress on research about human rights in the practices of multinational corporations. At the beginning of the engagement with IP, the process followed familiar phases of entry and contracting, discovery and feedback (Block 2000). However, as the process moved to engagement and implementation, the specific knowledge and skills of human rights were paramount for the progress of the study. This context knowledge was firstly about international human rights legal provisions/conventions and secondly about how to tailor them to an international commercial setting. The first aspect was expert knowledge on human rights that the researcher brought to IP, while the second aspect was being generated from the engagement with the IP participants.

The original engagement was insufficiently collaborative because:

> Knowledge is always gained through action and for action. From this starting point, to question the validity of social knowledge is to question, not how to develop a reflective science about action, but how to develop genuinely well informed action (Reason & Bradbury 2001, p. 1)

The highlighted part of this quote informed and confirmed the researcher’s need to shift the emphasis from reflection on consulting practice in organisations to how to bring about the informed education and implementation of human rights at IP itself.

> I do not separate my scientific inquiry from my life… For me it is really a quest for life, to understand life and to create what I call living knowledge (Reason & Bradbury 2001, p. 1).
This quote reminded the researcher that she had embarked on this journey because she had a vital interest in creating a living knowledge about human rights. This living knowledge that came from implementing the intent of the Universal Declaration of Human Rights:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world (United Nations 1945).

This knowledge could be constructed by engaging with a multinational corporation and examining what it meant to make a commitment to provide for the safety, health and welfare of its employees and stakeholders globally.

The research question had to be broad enough to take advantage of this research setting and of the existing discourse in the international arena, yet be sufficiently focussed to produce new knowledge about organisational change in regard to implementing human rights policies.

How was a multinational corporation’s taking a public stand on international human rights different from adhering to local laws? It was the researcher’s sense that a significant shift in perception of the corporation’s responsibility was involved.

Prescriptive knowledge about how to develop and implement human rights policies in a multinational corporation appeared to be simple if voluminous. However, making this knowledge accessible and convincing to managers in a dynamic and complex environment was the bewildering place where this research was heading.

The research question therefore became: “How does an international commercial organisation incorporate human rights into operations?"

1.2 What Was Done? The Research

The research question provided an opportunity to investigate these aspects of human rights from inside a multinational corporation. It was an opportunity to create new knowledge about a platform from which to examine human rights in a commercial
setting; about establishing human rights dialogue within a commercial setting; and about practices and policies that expose a multinational corporation to human rights violations.

1.2.1 What Was the Scope of the Research?

The relevant bodies of literature were reviewed to guide and frame the study. Based on the broad principles of Humanism, the thesis makes an assumption that morality for all actors engaged in the global arena is a given. Immanuel Kant’s perspective guides the work of Donaldson, Bowie and Werhane, Ralston Saul and others included in the literature review. This provides the philosophical framework of the thesis, while the practical guidance for the case study came from the human rights literature, of which the International Human Rights Law forms a substantive part. These are discussed in Chapter Two.

Since organisation consulting was the core activity in this study, consulting for change literature is reviewed in Chapter Three.

1.2.2 How Was this Research Conducted?

Within the context of international commercial organisations, human rights is not thoroughly researched and remains a threatening topic. This observation called for an approach that was exploratory, transparent and participatory. A qualitative, interpretive and collaborative approach between the researcher and the researched was adopted. Conducted as a case study using multiple sources of evidence including in-depth interviews over a two-year period between September 2002 and September 2004, it incorporated the researcher’s and the client’s philosophy of acting on the findings for changes in IP practices. The methodology is described in Chapter Four.

1.2.3 Who is the Subject of this Research?

The industry partner (IP) in this research was an Australian manufacturing multinational company. It manufactured household goods and had its manufacturing plants in Malaysia, Thailand, India, Sri Lanka, Mexico, the USA and England. To
manufacture its goods, IP sourced raw materials from the Southeast Asian countries, and hired local and immigrant workers. It purchased semi-manufactured goods for its manufacturing process from a variety of sources. Its managerial and marketing structure spanned the globe with governing and senior management decision makers operating in Australia and the USA. IP is described in Chapter Five.

### 1.3 What Are the Findings?

The findings of this study fall into two categories: findings about the process and findings about potential exposure to human rights violations. From this engagement in the process, the three equal roles of the Champion, the Interpreter and the Enabler, and a conceptual process model of the introduction of human rights into a commercial organisation emerged. On the practical level, exploring how to deal with human rights at IP also uncovered the existing practices and the potential exposure to human rights issues that confronted IP.

#### 1.3.1 About Potential Exposure to Human Rights Issues

This case study uncovered IP’s existing practices and policies in dealing with its supply chain management, with discrimination and sexual harassment, and with its relationships with trade unions. These potentially expose IP to being complicit in breaches of international human rights legal provisions and norms.

Included in the supply chain management are IP’s sourcing of raw materials, finished goods and partially finished goods, employment of foreign workers, contract manufacturing and use of security forces. These issues are discussed in Chapter Six.

#### 1.3.2 The Process and the Roles

A consulting model evolved during the study. It builds on the consulting models informed by the action research tradition (Cherry 1999; Lewin 1948) and is a combination of process consultation, a collaborative role (Block 2000; Schein 1998), and the role informational expert (Lippitt & Lippitt 1978). The distinctive feature of the model that emerged from this study is the role of the consultant as an interpreter of human rights.
Researching human rights in a commercial organisation requires trust, commitment on the part of the client, and at the same time expert knowledge that is not resident in the organisation, as well as and a driving force that is not an outcome of its existing culture but is driven by economic performance. Therefore two other roles emerged, the Champion and the Enabler. These roles are described in Chapter Seven.

1.3.3 A Model for Education and Implementation of Human Rights in a Commercial Organisation

A tool was needed to view the broader process, to engage in discourse, for education and overview, and for IP to look at itself in relation to its human rights approach and to make informed decisions. Moving from the broad influences bearing upon IP’s position to the practical implementation steps, this tool, the model, described in Chapter Eight, incorporates the six levels of process and content that emerged from this case study.

1.4 What Are the Conclusions?

This thesis demonstrates the contribution of this research to the practical implementation of human rights in a multinational corporation. This contribution is further discussed in Chapter Nine. The concrete outcomes for IP include the drafting of a Human Rights Statement, the education process for the participating managers, and amendments to its Third Party Social Accountability Policy.

1.5 What Is the Argument?

The argument presented by this thesis is based on the following two assumptions; the position the researcher reached after engagement with IP:

- First, a multinational commercial corporation is an international citizen and an actor whose actions have consequences for the other actors; it has responsibilities for its behaviour on the global stage;
- Second, these responsibilities go beyond economic performance, beyond just obeying the local laws, and beyond accepting the espoused local customs;
they include International Human Rights norms, which is an important contemporary component of corporate social responsibility.

The argument developed from this position is as follows:

Whilst not an international legal citizen, a multinational corporation has legal, moral and ethical responsibilities to act in accordance with the principles, established norms and legal provisions of human rights within the sphere of its influence. These responsibilities are complex and contested. Before practical steps can be taken, a corporation needs to take a stance from which to act in a human rights-conscious manner. This stance and the consequent ownership of responsibilities require an informed and examined position. This implies a willingness to engage in an examination of its philosophy and practices from a human rights perspective before it can participate in a dialogue with its members and stakeholders.

This case study developed tools to tailor the provisions of the International Human Rights Law to the language and culture of an individual multinational corporation and mapped processes for a recommended route to follow. In addition, an examination of policies and practices from a human rights perspective brings forth practical issues of human rights violations and possible collusion with human rights violations by other actors, and identifies the missing or invisible mechanisms. These need to be viewed in the light of the international provisions and made transparent before a corporation can act in a fully human rights-conscious manner.

All this implies a choice on the part of the corporation. It is an autonomous choice for taking responsibility for its behaviour on the international stage. This research was based on the philosophy that IP always had this choice.

This study did not provide a complete answer to the question of how does an international commercial organisation incorporate human rights into its operations. The contribution the thesis offers is that it has tackled these issues in the language and culture of a live multinational organisation. In the process, the study developed tools for the further examination of the complexity of human rights vis-à-vis multinational corporations.
Chapter 2 Literature Review

2.1 Introduction

Humanism informs this thesis from the broadest viewpoint, where IP is analysed from a perspective of becoming an international citizen. This is examined first. Literature on human rights, the primary body of literature, follows and is separated into three streams: philosophical, legal and advocacy. This is followed in the next chapter by the literature on organisational change where this thesis questions the adequacy of the research in this area. Then follows a brief review of organisational consulting – a limb of the organisational change body of literature. Organisational consulting was the model employed in the data collection and analysis phase of the research.

2.2 Preamble

2.2.1 Tensions in the Human Rights Debate

The nature of human rights is a source of some debate. The concepts of justice, morality, and dignity, among others, have been used and their meanings debated by a variety of sources and from several perspectives.

For example, a definition of a human right as a: “Significant right or freedom, possessed by all men and women, regardless of where in the world the individual may be” (Piotrowicz & Kaye 2000, p. 3) raises a least two further considerations; one is the assumption that by virtue of being human an individual has rights; and two, the term “right” can have both legal and moral connotations. That is, even if human rights are accepted as universal this does not mean that all socio/political systems in the world have legal provisions and mechanisms for implementing or enforcing universal human rights norms.

Then there are arguments about where the idea of human rights came from. Some writers argue that it came from the Enlightenment world view (Ife & Briskman 2001) and hence represent a western framework. Even viewed from such framework their theoretical underpinnings are not unchallenged. For instance, in response to John
Locke’s proposition that by virtue of our humanity we are born with “natural” rights (Matthew 2002; Mautner 2005) Jeremy Bentham called the assumption of “natural rights” a “nonsense upon stilts” (Matthew 2002, p. 273). These are arguments predominantly about universality and indivisibly of human rights. Locke’s philosophical assertions, though they have been most widely discussed in context of “civil” rights, have nonetheless considerably influenced arguments for inalienability and hence universality of human rights in general.

The association of human rights with western thought does not have to detract from their power or importance in the world. In addition it has been argued that the notion of human rights is embedded in all the major traditions (Ife & Briskman 2001).

Nonetheless, the perceived ‘western’ idea of human rights carries further baggage of an individual-centred rights and this continues to be questioned; the argument that dignity in some societies may well reside not in the individual but in the individual’s participation in the community, for example. This gives rise to the concept of human rights being culturally relative. Furthermore, the very idea of a right giving dignity can be challenged by the notion of dignity being derived from duty owed to the community (Donnelly 2002; Matthew 2002).

But even accepting the universality and inalienability as fundamental qualities of human rights does not settle the content of rights and freedoms that may be classified as human rights. This too is a source of ongoing debate (Donnelly 2002; Piotrowicz & Kaye 2000; Sellers & Reidy 2005; Steiner, H. & Alston 1996; Steiner, H. J. & Alston 2000).

Leaving their western origins aside, the individual-community and right-duty tensions can be unpacked further by looking at the evolvement of human rights.

Human rights can be perceived as divided into three generations (Ife & Briskman 2001; Matthew 2002):

- Civil and political – first;
- Economic, social and cultural – second; and
- Collective – third.
Only civil and political rights could be perceived as having origins predominantly in the liberal Enlightenment period as discussed above. These are individually based and are concerned with fundamental freedoms as perceived necessary for a democratic and civic setting. Consequently the emphasis in first generation of rights is on protection of individual’s – their innate, natural – rights by the state and from the state as well as other actors.

Economic, social and cultural rights can be seen as being born out of the social democratic thinking of the nineteenth and twentieth’s centuries – a more collectivist view. It envisages a positive role for the state to play: to create polices for a realisation of societies where these rights can be realised. These rights are less well provided for in the international agreements – less agreed upon between the states in the international fora. The norms and legal provisions that do exist are seen as less effective: they are less monitored and hence less reported on. Less legislation, monitoring and enforcement also means less involvement in the discourse of these rights by lawyers.

The third generation rights are defined to an even greater degree at the collective level. They include the rights to economic development and environmental rights. It could be argued that they arise from the struggles against colonialism and unsustainable development and promoting self-determination of peoples.

The criticism that lawyers equate human rights with the law could be seen as criticism of equating human rights with civil and political rights.

Human rights are more complex than this perceived concentration on the civil and political rights and the baggage of western domination of this aspect of them: the legal domination of human rights discourse, the opportunity for the western cultures to dominate other traditions and also the patriarchal assumptions contained in this first generation of rights.

In addition it is recognised that human rights do not exist in an objective sense, despite the plethora of international legal instruments and declarations. They are defined and redefined in different contexts, historical, cultural and political (Ife 2001).
Moving human rights into a broader perspective beyond the legal, into a diverse and holistic view involves a dialogue that attends to several things. It means moving beyond:

- Civil and political, hence beyond western concentration, already well developed legal aspects – a male dominated, competitive and conflictual domain;
- Public, into a more inclusive framework suggested by the feminist approach (Charlesworth & Chinkin 2000; Gardam & Charlesworth 2000); including the linking of the public and the private and also consensus-seeking, collaborative approach.

Taking these perspectives into account could suggest that the human rights debate be located in post-colonialist and post-modern traditions.

However, human rights in the globalised world in which this study is positioned are about universality. The very idea of ‘human’ assumes that such rights can be claimed by all people. The construction of the dialogue must take into account our commonalities, our common humanity, however-many challenges this stance brings and however problematic such dialogue may be.

This is not meant to suggest that human rights exist in an objective sense (Ife 2001). Though this thesis assumes their universality, this does not imply that human rights will be defined or realised in the same way in all cultures. Universality does not mean uniformity; though they are universal their realisation has to be seen as pluralist.

This thesis also assumes that respecting human rights means active participation in the debate. The design to enable the pursuit of the research question took this assumption into account: to increase participation of IP within the limitations of a case study and help it to realise that its responsibility extend beyond the legal.

Universality is emphasised again and again in international human rights instruments. It is acknowledged here that this does not mean that that all rights will be equally available to all people at all times, only that each person should have
equal access to the same protection and rights in analogous situations (Piotrowicz & Kaye 2000).

The Universal Declaration of Human Rights was signed by most states in existence at the time of its conception, in 1948. Although many more states have come into being since then, by far the vast majority of them are also members of the UN and all the international human rights instruments ratified and signed by these states since then have been developed on the foundations of the Universal Declaration. This is not to suggest that signing and ratifying of international legal instruments means that states enforce such rights within their domains or internationally. Sadly even nations such as Australia and the United States of America have shown disregard not only for such laws and agreements already in place but also in their refusal to participate in the development of recent human rights conventions and treaties.

Nonetheless, human rights are an exception in International Law (Matthew 2002) and actors other than states have an important role to play and this thesis engaged with one such actor.

This study does stand on the values inherent in the Universal Declaration of Human Rights. However, it has to be acknowledged at the same time, that human rights discourse is not static. Human rights are evolving and much analysis of their philosophical underpinnings is also continuing. This study was undertaken to contribute to such dialogue, to diversify and hence enrich it. This includes views rooted in traditions other than western. These traditions differ significantly not only from Humanism but also from other western traditions.

The dialogue in this study has been chosen to be pursued with the assumption of human rights as universal, indivisible and inalienable because the study’s intention was to engage in dialogue in a commercial organisation which could be argued is positioned in a utilitarian model, the opposite of the humanitarian framework in which human rights are traditionally positioned. In addition this thesis is based on applied research, on the practical impact of human rights within an international commercial setting.
Critical legal scholars of human rights claim that rights must be balanced against each other or against communal interests (Matthew 2002). This view however has to be balanced against the view that rights are not a political tool. Used in this manner they would provide an opportunity for inequalities between rich and poor, men and women and indeed, women and children. From a feminist point of view women may well be losers in the potential conflict between their and children’s rights. At the international level this potential conflict has been handballed to the states to sort out. The limitations of rights as political tools are further elaborated upon by Saul (1997) whose perspective has informed this thesis (Section 2.5).

Tensions in the human rights debate are in part an ongoing debate of tensions in Humanism, a philosophical perspective in which they are often positioned (Ife 1997).

### 2.2.2 Humanism and its Tensions

Humanism has been defined as a movement which adopted an idea of the full development of the individual: the ideal of the rich flourishing of individual potentiality. Since the nineteenth century this definition also assumes a non-religious world view based on belief of man’s capacity for self-cultivation and self-improvement.

It furthermore assumes an essential human nature which grounds thought and action and the conception of man as an autonomous being, capable of self-determination to which is joined an assumption that an individual’s choices can make a real difference to a society (Mautner 2005).

In this thesis this can be equated to the notion: a corporation can develop itself to be a responsible corporate citizen that is not relying on the law alone or indeed its economic-rationalist model and can thus make a difference in the communities where it operates. To give us an illustrative example John Carroll (2004) commenting of William Shakespeare’s plays ‘Julius Caesar’ puts it thus:

[Whilst] Shakespeare leaves no lucid, readily decipherable code of behaviour. What remains is something like: be honourable, and all that implies, especially being honest and true to friends; be as gentle as possible given the manifold turbulence and constraint of reality, a reality which includes your own
character, that of those you encounter, and the good and bad fortune of events into which you are cast. You have some influence over that fortune, as a free, rational and wilful individual. Life calls for action, and for doing the rights thing, as opposed to some form of contemplative or religious withdrawal. If you act wrongly [as does Brutus in Julius Caesar] you will be punished in spite of that, what remains of higher significance is your character, and if it is honourable you will leave your mark as a commanding and engaging example of what it is to be human (p. 27).

To give Humanism something to stand on Shakespeare advocates virtue over happiness. In contrast, pursuit of the greatest happiness is said to be the motive for action by the Utilitarian philosophers such as Jeremy Bentham (Shaw 1999) Bentham is seen as a positivist theorist (including legal). Among other limitations (expanded upon in Chapter Four on Methodology) positivist tradition is perceived as not nurturing commitment. Furthermore Bentham promoted the view that sources of rights were in the “pronouncements of human institutions [my emphasis]” (Matthew 2002, p. 273). Such a view does not seem to encourage commitment.

This thesis, however, took the stance that building commitment was very important in ‘living out’ of human rights.

Carroll (2004) is both illustrating how the idea of Humanism was given flesh in a play and at the same time cautioning that what Humanism stands on is a contested position.

Apart from the perceived problematic ‘stance’ Humanism is also criticised because it is tied to the western world view. This view has been criticised for being patriarchal, colonialist, and racist and therefore providing the context for capitalist and colonialist exploitation of people and environment. This is problematic not only because of the rich-poor, North-South, and exploiter-oppressed dichotomies in the world but also because it remains in the same paradigm as the individualism of economic rationalism.

Humanism therefore carries a valid perception that it is also missing structural analysis of oppression and disadvantage. It could, however, be argued that this may be more of an omission than incompatibility.
Internationalism is also an important part of the humanist vision (Ife 1997), however this view can decontextualise human experience and the importance of cultural differences can be undervalued, in turn leading to colonialist or imperialist views of the world.

In addition gender tension is a significant tension in the humanist discourse. Humanism is seen as largely a male construction and therefore reflecting the world view where the public discourse is privileged over the domestic spheres.

Importantly it has to be acknowledged that this system of thinking and the international legal framework in particular has been extensively criticised (Charlesworth & Chinkin 2000; Charlesworth, Chinkin & Wright 1991; Gardam & Charlesworth 2000; Matthew 2002) for over representing the public arena and being at the very least silent in the private (domestic) arena. From a gender balance perspective men are overrepresented in the public arena and many breaches of human rights take place in the private domain of women.

However, just as there are arguments against Humanism or universalism in the human rights discourse, so too are there many strands of feminism which in itself relies on the notion of a “universal woman” (Matthew 2002) at the expense of contextual influences.

Furthermore, none of these criticisms provide a valid argument against one of Humanism’s canons that in order to live humans must act. To be able to act they need a place to stand. Where such a place (in a godless universe is) is a rich debate. The researcher certainly felt many times during this research the meaning of “Quixotic” faith in honour (Carroll 2004). However, the dialogue about human rights from inside commercial context is not well developed. It seemed more promising to engage in the dialogue based on Humanism, even if this view was contested from several positions as explicated above, and from yet to be more fully debated notions of universality, indivisibility and unalienably of human rights, than not start; or worse, contemplate what ought to be done from many perspectives and not act.
Furthermore, in the current economic and political climate to be guided by the humanist ideals is still appropriate if not provocative (Ife 1997). At the very least Humanism takes a stand against the dominance of economic as opposed to social goals or worse still, acting unconsciously.

Humanism was a fruitful way to pursue the research question, given that this was an applied research and it was necessary to make a decision about which assumptions could be consistently used because of its participatory design chosen for building of commitment to implementation of human rights.

Humanism is able to provide the overarching discourse missing from critical or post-modernist traditions and it also provides the broader discourse than feminism despite the gender tensions.

Humanism suits an application such of being open to the widest possible interpretation of human rights such as corporate citizenship. It consequently allows corporate citizenship to be defined in a wide sense; whilst other viewpoints are limited to certain issues. Though Humanism was useful, it was not more correct than other approaches.

2.2.3 Humanism and this Thesis

This thesis makes the assumption that morality is a given for all actors engaged in the global arena. This stance was adopted by the researcher in her engagement with IP, although a prescription or an existence of a problem to be solved was not consciously assumed. The guiding principles of the study - autonomy, consistency and treatment of people and their connection to morality - are principles discussed by Immanuel Kant under the following broad categories:

- Moral worth; and
- Respect for persons.

The first principle can be summarised as follows:
• To have moral worth an action must come from duty, not an obligated duty, but the duty which refers to the motive behind the action;
• Such an action derives its moral worth from this motive and not in the consequences of the action;
• Duty is the constraint to do an act out of respect for moral law (Beck 1990).

Moral law can obligate unconditionally only if given by men and women that have the dignity of law-givers as sovereign beings, not out of obedience to god, tyrant or self-interest. A being who gives the law to herself is freely bound to the law by her own activity. This is what Kant calls autonomous moral will (p. xiv).

Morality is the condition under which alone a rational being can be an end in himself because only through it is it possible to be a lawgiving member in the realm of ends. Thus morality, and humanity, so far as is capable of morality, alone have dignity. Skill and diligence in work have a market value; wit, lively imagination and humour have a fancy price, but fidelity in promises and benevolence on principle (not benevolence from instinct) have intrinsic worth. (Beck 1990, p. 52)

Kant’s respect for the person principle is based on consistency; what can be said about ourselves, applies to other human beings also. “So act that you treat humanity, whether your own person or in that of another, always as an end and never as a means only” (p. 46).

The Kantian perspective guides the work of Donaldson (1989), Bowie and Werhane (2005) and in turn this thesis. Their writing deals with management ethics; for instance Bowie and Werhane (2005), offer an interpretation of Kant’s philosophy for management ethics, namely that human beings are not simply subject to the causal laws of nature but rather that anyone who recognises that she is autonomous should also recognise that she is responsible and therefore a moral being; and if a person is a moral being then she has dignity. Donaldson applies these principles to international business ethics and the responsibilities of multinationals for human rights. This body of work together with the work of John Ralston Saul (1997) who writes from a Humanist world view provides a link between morality, business ethics
and human rights norms and a framework for exploring and analysing the issues of human rights and multinational organisations.

Kant has been criticised for assuming the idea of a ‘rational man’. This is not the place to settle the arguments against this notion. However, this notion is not incompatible with the objective of this study.

In contrast to Utilitarian framework, Kant provides a “nonconsequentialist” approach. His position is not only “notoriously difficult to interpret” (Shaw 1999, p. 18) but also equally as copiously discussed and contested. This section does not pretend to do justice to his philosophy or his critics.

Nonetheless, ‘the categorical imperative’ – in contrast with the Utilitarian stance of allowing factual circumstances to determine what is right and what is wrong – is a moral imperative that – despite the contested assumption of a ‘rational man’ - can be interpreted as binding all rational agents regardless of other considerations to act in a moral way, universally. Such interpretation does inform this thesis: to always act in a way that respects others’ humanity in a way that treats others and ourselves as ends and not means. The researcher did interpret the intent of human rights norms and the research design considerations including her role from this perspective.

This does not mean that the study did not encounter any philosophical tensions. It did. Conducting the study from a Humanist framework and from predominantly international legal view of human rights in a different context – a corporation operating chiefly to a Utilitarian framework – generated tensions discusses in the findings chapters. The study, viewed from this position, held promise of creating useful knowledge in part because of these tensions and contradictions.

2.3 Humanism Applied

As discussed above, this philosophical view is a fundamental view of life that centres on humans; their values, capacities, and worth. Elements of it, taken from John Ralston Saul's interpretation, inform the position of this thesis in the exploration of human rights and international commercial organisations. It is defined as:
An exaltation of freedom, but one limited by our need to exercise it as an integral part of nature and society. We are capable of freedom because we are capable of seeking balance which integrates us into the world. And this equilibrium depends on our acceptance of doubt as a positive force (Saul 1995, p. 165).

He proposes these ideas as central to the Western conception of civilisation, and contrasts humanism to the “narrow and mechanistic certainties of ideology; those assertions of certainty intended to hide the fear of doubt” (p. 166), including the ideology of reason, of which Marxism and Capitalism are but two manifestations. This definition is enlarged upon by adding the dynamic components of seeking new ways to communicate in a clear language, being in tune with reality – with all its complications and contradictions - and embracing uncertainty. In this way Saul provides suggestions on how to put it into practice.

To approach our lives and reality from a Humanist perspective means to engage with these components, to be active, aware and to consciously choose them in our dealings with others. The view that humans play an active role and create their reality through conscious awareness and the language they engage in is supported by the social-constructionist view of the world (Berger & Luckmann 1967; Morgan 1997). Morgan’s philosophical stance also resonates with the view of not passively accepting rigid external power structures. Whilst agreeing with “power theorists” that people get trapped by cultural pressures and social practices around them, he suggests they nonetheless have the potential to enter new consciousness and understandings (Morgan 1997). Furthermore, this consciousness can be “A fundamental source of individual and social change” (p. 275).

The proposition that human consciousness is a positive force is supported by Saul, namely, keeping the elements of humanistic qualities, of ethics, common sense, imagination, memory, intuition and reason in balance. A tension of complementary opposites is then produced. It is this striving for an equilibrium, as opposed to pretending that its full attainment is possible, that gives us a chance of conscious dealings with others (1995). The essence of humanism therefore is to recognise our standards of a civilised life, to be aware when we are acting on them and when we
are not, and to use this knowledge for the common good. This is the antithesis of both ideology and passivity.

This voyage towards equilibrium is predicated on the consciousness of citizens. How important this consciousness is to Ralston Saul’s thinking is demonstrated by the inclusion of the quote from John of Salisbury chosen as the opening sentence in Unconscious Civilisation (1997): “Who is more contemptible than he who scorns knowledge of himself?” (p. 1)

Conscious citizens viewed from this framework would accordingly be interested in the society where they live; they would exhibit tolerance for disequilibrium and would delight in the human condition. In their daily efforts they would take responsibility, practise democratic individualism and entrepreneurial capitalism, speak up and use public language, be creative and give their effort appropriate time. This thesis takes the position that the same qualities and practices apply to corporate citizenship.

Saul characterises ideologies as unconscious states manifested. Ideology is a reductivist view of the world and at its purest form; market ideology only examines economic factors. However, leadership must include broader concerns; therefore, a corporation behaving as a corporate citizen has to accept responsibility for its activities and these must be based on the principles of common good. It must go beyond the simple ideological view of the world. Rejection of a simple market ideology does not mean recommending that it be replaced by a leftist ideology but that of the Humanist view of conscious participating citizens. While the classical Kantian view or rational man can operate as an equally rigid ideology this study interprets it in terms of a more liberal modern approach.

Saul similarly proposes that the rights debate has not been served well by the left or the right side of politics. On the left, rights are talked about as if they were free-standing and unrelated to the existence of society; on the right, rights are seen as a consolation for the view that an individual is required to look after herself in isolation from society (1997).
2.3.1 Corporatism

The idea of corporatism is not new. Links between an organisation as an actor and social domination are found in the writings of Weber (1997) who viewed bureaucracy as the most efficient, rational structure where authority was derived from specific competence and an impersonal order and a parallel process of rationalisation that went with the development of capitalism (Burrell & Morgan 1979). Fromm (1968) foresaw an impersonal social system, where the workers were passive. Morgan (1998) presents “the ugly face” (p. 301) as one of the images of an organisation; that of dominating a society, exploiting the workers. The idea is based on one class dominating another; in the era of globalisation this means world domination. Domination is not just economic; it is also cultural and political.

This view is said to reduce human nature to “economic man” and is based on the notion of power of markets and the pursuit of short-term profit (Birch & Paul 2003; Dunphy et al. 2003). Even though properly regulated, markets are seen as the most efficient way to conduct business; they calculate costs on an exclusive basis. Leadership of society, however, requires the calculation of inclusive costs (Saul 1997). Furthermore, the market-centred model limits society to self-interest and denial of disinterest - doing things for the common good - based on principles. Likewise, using technology within an ideology driven view of the world allows for the treatment of man as a “secondary and inferior machine” (p. 143).

That multinational organisations are not accountable to anyone but themselves is crystallised by Saul (1995) in his definition of corporatism as the rival school of the representative government. That is the meaning of corporatism; it is not just related to or associated with a corporation or related to a government or political system in which the principal economic functions, such as banking, industry, labour, and government, are organised as corporate entities. It is promoted as our world view, our civilisation (Saul 1997).

Corporatism viewed from a Humanist perspective assumes that this legitimacy lies with the group, rather than the individual citizen; bureaucratic regimes servant of elites (Morgan 1998).
According to this view, not only does corporatism contribute to the denial of the concept of the public good, but because groups’ actions are based on the idea of interest, they are self-destructive and cannot take seriously a long-term or wider view. Therefore corporatism is aimless, made up of a myriad of small-picture experts (Saul 1997).

The elites are devoted to management, who in turn use reason and method - the detailed linear argument based upon fixed world views, over content as their means of control. The language of corporatism is likewise specialised and inward looking. A verbal mechanism of individual corporations formalised to describe the public face of an ideal organisation and is used as a weapon of power, it destroys meaning.

Led by market and technology tied to a mechanistic view of the human race fixed on a rush to use technology, corporatism is a discourse of necessity and inevitability and the Taylorist model of the mechanistic human.

Closely connected to the rise of corporatism is the phenomenon of globalisation. Trade has been a major driving force for interaction across the globe for a long time for instance, Venetian city states and the Dutch East India Company. It was in the early twentieth century, with the development of a world capitalist economy when large specialised organisations amassed economic resources and began to dominate world trade (Morgan 1998) that produced economic domination of multinational corporations. In some cases the annual sales have exceeded the economic output of nation states, particularly in developing countries (Dunphy et al. 2003; Giddens & Hutton 2001; McBride & Wiseman 2000).

### 2.3.2 Globalisation

Globalisation may be viewed as:

- An interaction between technological innovation and a world-wide reach of trade (Giddens & Hutton 2001);
- The closer integration of countries and people which has resulted from reduction in costs of transportation and communication and the breaking down
of artificial barriers to the flows of goods, services, capital, knowledge and people (Stiglitz 2002);

- A stage in the development of capitalism, a quantum leap in market scale (Derber 2003), a shift in capital expansion from the state to the private and supranational level (McBride & Wiseman 2000) and increased opportunities for trade and access to technology and corresponding standards of living (Stiglitz 2002).

Globalisation, viewed from a Humanist perspective however, can be equated to an ideology that has been led by those with a vested interest in the push for unrestricted trade. If we view it as an ideology, then the argument about continuous growth in global trade is seen as only one aspect of globalisation. Other aspects, such as slipping standards of living, evaporation of big business tax and a new round of social division and violence could also be argued for (Madeley 1999, 2003; Stiglitz 2002).

In addition, trade does not happen in isolation from political, legal, social and cultural influences. Eschle and Maiguascha (2005) argue that there is a Euro-American worldwide reach not only of material goods, but also of politico-cultural influence with its focus on reason as a source of knowledge and emphasis on the individuated person as the basis of social, political and moral life.

Transnational corporations operate on the global stage and their activities do not fit the traditional capitalist model on which the norms and legislation concerning commercial organisations are based. Instead, they are large, disproportionately powerful (Morgan 1998), risk averse and, as a result of these characteristics, involve themselves in activities not related to creation of goods, services and jobs. Mergers, de-mergers, acquisitions, financial restructures, trading on the money markets, and reorganisations looking for the cheapest means of production in the quest for short-term maximisation of shareholders’ returns on investment simultaneously occupy a lot of energy of their managers and create uncertainty and disruption in local communities (Madeley 2003; Saul 1997).

Does a corporation operating in a global sphere have to accept this ideology and the concomitant narrow view of economic man? One of the factors of globalisation is that it is based on a narrow ideology. Moral expectations limited to the idea of following
local law does not require any real responsibility and is therefore not an act of conscious corporate citizenship.

2.3.3 Managers and Managerial Perspective

Management occupies a central place in advanced societies. It can be seen as a civilising process and a kind of faith based on the assumption that the natural world, human nature and “expertise independent of content of what is being managed” can and must be controlled (Parker 2002).

The strengths of a managerial approach to human endeavour are continuity, stability and the delivery of products from the existing resources based on business attitudes that are put into practice through goal oriented tools (Saul 1995).

Though they are well paid and they exercise influence, managers spend their time solving short-term problems (Saul 1997). This not only limits creativity but also contributes to inequality in society because it limits dialogue (Parker 2002; Rees & Rodley 1995).

The tools, the quantitative methodology, the emphasis on the rational and the enumerative logic privilege the measurable, marginalise discussion and affect the quality of dialogue; denying active discourse where contradiction is difficult. The managerial framework is a method of control. It discounts competing sources of expertise leaving a deficit in democracy, dialogue and deliberation (Zifcak 1997).

Deliberation and dialogue are essential in a democratic engagement. Through dialogue citizens become aware of their interdependence which then forms ethical foundations upon which to make decisions and become free and equal citizens. Constrained ethical discussion impoverishes public deliberation (Habermas 1996).

Managerialist thinking presented as scientifically objective is, when viewed from the Humanist perspective, not value free or morally neutral. Rather it supports an ideology that economy is more important than society (Rees & Rodley 1995).
Management does not have to subscribe to managerialist ideology. This thesis views the function of management from its broadest perspective. It takes the term “management” to be governance by the board and the senior management that answer to the board.

It is a given that good governance exercised by the board of directors of a publicly listed company is supposed to bring the actions of the Chief Executive Officer and the other executives in the company into line with the interests of stockholders. This thesis is concerned with the moral position of management.

Bowie and Werhane (2005) discuss the ethics of management by looking at the question “For whom is the manager an agent?” They analyse this question from two competing theories where:

- On the one hand, primacy is to be given to the stockholders and the manager is the agent of the stockholders; and on the other
- Various stakeholders of the firm have sufficient claims on the public corporation that the manager stands in an agency relationship to them; to balance the interests of the various stakeholders are balanced so that a concern with profits is only one basic function of management.

Taking this definition of management and viewing it from the Humanist framework, the second of the above theories, the stakeholder theory, was the guiding framework better suited for analysing the incorporation of human rights into commercial organisations.

From a stakeholder point of view, the manager is an agent for stockholders, employees, customers, suppliers, the local community and management. Attending to the interests of all stakeholders becomes necessary for the success of the firm. Even when viewing the management role from the orthodox (first of the above theories) view, profitability still depends on cooperation of the stakeholders. The stakeholders’ needs and desires, however, can, and often do, conflict; therefore, the ethics of managers are complex (Bowie & Werhane 2005).
This complexity goes beyond the conflict of interest that arises when a manager puts her interest ahead of others to whom she has an obligation. The conflict of interest can occur when a manager puts the needs of one of the stakeholders ahead of another’s whose interest should also be served. How these conflicts are resolved is the crucial ethical issue when viewing the manager’s position from the stakeholder point of view. This case study provided opportunities for the examination of this question.

That morality requires management for the long term is the position of Bowie and Werhane (2005). In addition, they provide a “good enough business case” (p. 35) to support their view that stakeholder management will do the best for stockholders in the long run, including “arbitrageurs”, the short-term investors. Therefore, they conclude that managers have a moral obligation to manage the firm for the long term and to balance the needs of all of the stakeholders. One of the contributing factors of long-term management is transparency.

Examination of issues arising in this thesis from multiple stakeholders’ perspective resonated with Saul’s proposition of acceptance of doubt and uncertainty as a positive force in becoming a conscious citizen.

2.3.4 Contribution of Humanism

Humanism informs this thesis because it promotes a view of the world consistent with morality in the Kantian sense, that is based on autonomy, responsibility and acting in a moral way for the common good rather than viewing the world from an ideological perspective, a global economic perspective in particular. According to this view, rigid ideologies such as rational-economic, individualistic, market driven, and a short term approach to governance reduce consciousness, stifle dialogue and immobilise action.

Ideology privileges corporatism, and the corporatist view explains certain phenomena and behaviours in multinational corporations, including the assumption that morality gets lost in their workings.
The emphasis of the research question was on how IP behaved as an actor on the international stage in regard to human rights. An actor stepping onto an international stage encounters pre-existing rules and assumptions of international behaviour. These rules have been developed for state actors and are based on assumptions of unequal national resources, and incentives for trade and investments (Windsor 2004).

International business norms, on the other hand, are still being developed and the debate is proceeding along the lines of universalism versus relativism; or alternatively, wealth means responsibility (Windsor 2004).

This thesis adopts the view that both these dichotomies contribute valid arguments and represent the complexities of issues faced by multinational corporations; however, the path that multinationals must tread in absence of international norms is one of contributing to the evolution of such norms.

This case study contributed to this evolution by examining how the experience of IP, a multinational manufacturing corporation, could or could not utilise the existing human rights norms; most importantly it examined how taking an autonomous position brought responsibility for its practices into focus.

2.4 Human Rights and Corporate Responsibility

This section discusses human rights and the responsibilities of multinational corporations from a philosophical perspective in order to assess the performance of a multinational corporation against an ideal actor on the international stage.

2.4.1 On the Nature of Corporations and Responsibility for Human Rights

Hinkley (2000) argues that corporations have, through licences enacted by law, become legal fictions. This gives them rights and privileges equal to individuals without the corresponding obligations of individual citizenship. An individual is: “…destined for society…his morality …formed in this object…endowed with the sense of right or wrong…” (p. 10). Corporations, however, behave according to their own standards, the pinnacle of which is that all acts are in service of showing profit
over time. This standard is well grounded in corporate law, corporate practice and corporate philosophy.

Accordingly, corporations are structured in a manner that provides for their directors’ fiduciary responsibility, a pivotal criterion of corporate practice and legally binding on the directors. Making money for the stockholders is the driving force behind the structure and practices of corporations, including reward systems. Hinkley claims that such a structure also results in an “inability to assign individual responsibility for bad behaviour” (p. 289) This discourages the individual officers, and therefore their corporations, from social responsibility.

Muchlinski (2001) provides another perspective, exploring whether multinational corporations can be held accountable for violations of human rights, given that they have helped to bring about - and have benefited from - a changed economic order, and that we now understand them as participants in the evolution of international law. He also questions what is the proper role of the multinational corporations, private entities. How appropriate is it for them to be made prominent and “quasi-governmental public institutions” (p. 44) in order to be useful social actors?

There are arguments against extending responsibility for human rights to the multinationals. One is that being in business to make a profit and meeting this objective is social responsibility enough. Extending the responsibility to include the role of moral arbiter might see the corporation in a role where it has no expertise or legitimacy, and perhaps interferes in the community where it operates. In addition, if we accept the proposition that human rights are indivisible and universal, which human rights are corporate human rights? Multinationals may be able to positively contribute to social and economic rights of their workforce, but what about political and civil rights? Multinationals are private actors and should therefore be beneficiaries of properly state-regulated human rights environment. In addition, there is a “free rider problem”. The more conscientious multinationals can take a responsible role, giving a competitive advantage to those less conscientious. (Friedman 1975; Friedman & Friedman 1962; Muchlinski 2001) It could also be argued that putting the multinationals in the driving seat for human rights implementation allows states to abdicate their role by default.
Monshipoury, Welch and Kennedy (2003) see human rights as caught in the globalisation process, with more institutions operating on the global level, and these institutions not being “held to the standard of democratic accountability” (2003, p. 969). It could therefore be said that some multinational corporations (as well as the International Money Fund and the European Commission) are operating on the neo-liberal model of globalisation. Preoccupied with obligations to shareholders, they have not equipped themselves to deal with the questions of global ethics, and rely on other actors in the human rights discourse arena. The actions of multinationals stretch beyond national borders and the power of capital is increasing. In addition, there is evidence that many multinationals have contributed to human rights abuses by their behaviour. Examples include neglecting to exercise due diligence over agents, including "corrective action after the event" (2003, p. 974), meaning that they react to a crisis and then make reparations in the community, as for instance in the Nike case (Kanzer & Williams 2003).

Ratner (2001) takes a firm position that multinational corporations are responsible for upholding human rights norms, and that states should not be the only protectors of human rights in the international sphere. He argues that they have “complicity based duties” (p. 512). This argument comes from the legal domain knowingly cooperating with activities that infringe on human rights brings accountability for such infringements.

However, the global economy will not be sustainable without integration between the discourses of commerce and social responsibility, not least by multinational corporations themselves.

This is not to say that no corporation has taken a transparent and deliberate socially responsible position while making money (Handy 1997; Morgan 1998). However, Hinkley (2000) observes that this may not be corporate citizenry, but rather the result of “strong individuals overriding the dictates of the system.”

Individual citizenship is no substitute for corporate citizenship in a world of takeovers, mergers, downsizing, re-engineering and fast moving corporate executives (p. 290).
The drive to reduce costs puts direct pressure on civic responsibilities, and this often leads to the fall-back position: complying with the minimum and the prescribed parts of business regulation. Globalisation enables multinational corporations to look further afield for nation-states where costs are low and regulation is lax. As they lobby governments, multinational corporations become special interest groups setting a powerful example. The pace of legal development, as compared with that of trade and social dynamics, does not keep up, as Hinkley (2000) claims:

> The existing method of regulation will never create corporate citizenship because it does nothing to change the corporate system that is dedicated to self-interest (p. 291).

One possible conclusion is that the law should be changed to include corporate codes of conduct for duties of directors that include responsibility for environment, human rights and public safety.

Employing Senge’s (1993) concept of “leverage”, Hinkley (2000) suggests stimulating the social conscience at the board level in such a way that it causes the least change in the corporate conduct of business; that is, driving for more profit not less. In other words, directors are provided with a good business reason to behave in a socially responsible way.

Sullivan (2003), however, disagrees with this argument, suggesting that a win-win approach casts the human rights debate in cost-benefit terms rather than moral right/wrong.

For multinationals taking an active role in corporate social responsibility, Monshipoury, Welch and Kennedy (2003) add three more propositions to the above arguments

- Reputation capital, a strategy to reduce investment risk;
- Economic-social, where social and environmental sustainability is seen as a crucial advantage in the market; and
- Rights-based, emphasising accountability, transparency and social investment as being keys to social responsibility and global ethics.
By exploring the opposing sides of “voluntary” and “prescribed principles” Monshipoury, Welch and Kennedy conclude that the increased awareness of multinationals that they cannot ignore human rights concerns is likely to lead to modification of their practices, which, in turn, will modify internal cultures, moving the emphasis from legal to ethical.

The case for holding multinationals accountable to human rights standards includes their lack of interest in the socio-cultural welfare or human rights of the vast majority of people living in host countries, where it is precisely because of those economic disadvantages that multinationals choose to operate there. In addition, they receive help from transnational business forces such as the World Trade Organization. They should be actively involved in the enforcement of the international standards for upholding human rights and corporate social responsibility (Monshipouri, Welch & Kennedy 2003)

2.4.2 How Do We Foster Socially Responsible Multinationals?

The language of human rights has itself changed in the course of discussion about where the responsibility for human rights might lie. A “normative consensus” about fundamental human rights is emerging. However, we are far from creation of a “single moral universe” (Monshipouri, Welch & Kennedy 2003, p. 969) rather, communities are linked through a moral connection between the agents and subjects of social action regardless of boundaries.

Muchlinski (2001) provides reasons for an active role to be played by the multinationals:

- Multinationals are already adopting codes of conduct thus defining themselves “outside the purely non-social role”;
- National laws, including the European Union’s social dimension, provide for responsibility to be assumed by the multinationals;
- The rejection of the Multilateral Agreement on Investment; and
- Organisation for Economic Cooperation and Development Guidelines that assert responsibility for international obligations of their host governments and respect
the rights of their employees to be represented by trade unions, in addition to the abolition of child labour and discrimination (pp. 37-8).

Muchlinski concludes that there are compelling theoretical reasons for extending “direct” (p. 42) responsibility for human rights to multinationals. He however, looks for “proper balance” (p. 44), so that multinational corporations are left with such a degree of responsibility that states would cease to concern themselves with their citizens’ conditions of work and life, still less with the behaviour of the multinational itself.

In accepting the indivisibility and universality of human rights, the state is at the heart of responsibility, even though in extreme cases a multinational’s direct involvement can be shown. However, this moves into the argument of proof of direct involvement. Therefore law must meet this gap head-on; it is technically possible to do so, and the issue is that of political will (pp. 45-7).

Muchlinski’s argument can be summarized as follows. States should maintain a strong role in the development and enforcement of domestic laws to protect their citizens’ human rights from being breached by local and transnational international commercial corporations.

These writers, approaching human rights from a philosophical perspective, recommend nonetheless that law be changed and/or better enforced. This still assumes an adversarial approach in which standards are imposed from outside, ignoring the issues of psychological ownership of responsibility.

2.5 Human Rights Legal

This section includes International Human Rights Law, in its broader context of International Law; in chronological order and in commensurate capacity to reflect the holistic context against which the study was conducted. This provided an authority and an overall philosophy that helped to develop the dialogue around responsibility for human rights at IP.
2.5.1 International Law

Human rights are characteristically described as an international movement governed by International Law and its institutions, as well as a movement within and among states (Department of Foreign Affairs and Trade 1998) This definition implies that there is an agreed view that these rights exist across borders of nation-states, universally. This universal validity is difficult to imagine without the International Law and its institutions (Steiner, H. J. & Alston 2000). Therefore the broader context of International Law is briefly discussed first. It can be defined as:

That body of law comprising principles and rules that states recognise as legally binding and that regulate the conduct of subjects of the law and relate to events and issues that, transcending national boundaries, are of international concern (Blay, Piotrowicz & Tsamenyi 2002, p. 1)

Two of the characteristics of this system of law are the voluntary nature of these agreements between nation-states; and that the states are the subjects of the law. The voluntary nature of these agreements means that the laws are not necessarily implemented at the local or international level, at least not with any consistency. Because states are the subject of this law, multinationals can reasonably rely on them for implementation.

International Law then is a system of agreements and conventions agreed to by nation-states, it principally governs the conduct of and the relationship between nation-states. A pre-eminent document of these agreements and the bedrock of International Law is the United Nations (UN) Charter (1945). Drafted in response to the atrocities committed in the name of the state during World War Two, its principle driving force was the maintenance of international peace and security, and this continues to give legitimacy to actions taken by the organs of the UN. The Charter establishes a link between the maintenance of international peace and security and observance of human rights norms by making specific references to human rights (Matthew 2002). It does so by referring to human dignity in the Preamble and to universal respect, observance and taking action in human rights and fundamental freedoms for all without distinction as to race, sex, language or religion in Articles 1,
55 and 56. In addition, Article 68 establishes the Human Rights Commission which was responsible for drafting of an International Bill of Rights (United Nations 1945).

2.5.2 International Human Rights Law

Despite the fundamental link between the international legal order and human rights, International Human Rights Law departs from it in a radical manner. It upturns the dominant view of state sovereignty on which the broader legal order is based, by regulating the treatment of individuals within state borders and providing mechanisms for an individual to protect herself from the state in cases of human rights breaches. It provides for entities other than states to have obligations in international law; individuals are “transformed from being mere objects to some-time subjects of international law” (Matthew 2002, p. 271).

2.5.2.1 Universal Declaration of Human Rights

The fundamental and most often referred to international document on human rights is the Universal Declaration of Human Rights (UDHR), a 1948 declaration by the General Assembly of the United Nations representing a statement of what was agreed to as the basic human rights by the then world leaders. In its historical context, UDHR depicts the world’s community’s strong desire to set down clear guidelines for proper treatment of human beings: “A common standard of achievement for all people and all nations” (United Nations 1948, p. Preamble)

Embodying the first substantive list of human rights, the Declaration provides for civil, political, economic, social and cultural rights. Included are the right to life, liberty and security of the person (Article 3), the prohibition of slavery (Article 4), the recognition of the person before the law (Article 6), the right to freedom of thought, conscience and religion (Article 18), the right to freedom of opinion and expression (Article 19), the right to social security (Article 22), the right to work (Article 23), the freedom from discrimination including equal pay for equal work (Article 23) the right to an adequate standard of living (Article 25) and the right to participate in the cultural activity of the community (Article 27).
Requiring no ratification and therefore not legally binding, UDHR is nonetheless a powerful instrument. It is regarded as a foundation of the international human rights system. Its moral weight is such that the UN consistently invokes its authority, and no nation-state has ever publicly stated its opposition to it.

Whilst the founders and intended audience are the nation-states, the UDHR calls on “every individual and organ in society” to play their part in securing and observing of the rights enshrined in it. Thus the UDHR gives authority to “an organ of society” to take part in the active preservation and promotion of human rights in their dealings with people and communities with whom they engage. So moral authority, consistent practice by the states (that can be interpreted as customary international law) and stated authority for non-state actors to implement its principles are all contained in the UDHR.

The drafters of the UDHR intended that all states regardless of their cultural heritage or political system would uphold the rights listed in the Declaration (Matthew 2002). From this we may conclude that human rights were seen as universal and held by all humans. UDHR is a General Assembly (embodying all state members of the UN) declaration which adds to the perception that human rights as enshrined in it are to be viewed as universal. In addition it assumes that the rights are indivisible and inalienable.

2.5.2.2 Treaties

Behind the UDHR was the expectation that a treaty would follow to cement the intent into an International Bill of Rights. Ideological differences in the post Second World War, however, split the rights listed in the UDHR into two treaties: the International Covenant on Civil and Political Rights (1966) (ICCPR), and the International Covenant on Economic, Cultural and Social Rights (1966) (ICESCR). The divide between civil/political and economic/social/cultural represents two views of rights. Civil and political rights such as right to freedom of thought and religion and freedom of opinion are aimed at limiting the state’s power over an individual citizen. Economic, social and cultural rights, such as the right to work, the right to leisure, and to an adequate standard of living can be seen as the socialist promise of a
communal existence where a state must provide for its citizens (Matthew 2002, p. 275).

The Covenants are instruments of international law, ratified by and binding upon the nation-states. They define the rights of individuals vis-a-vis states that have an obligation to report on their human rights performance to the Human Rights Committee, a UN body. In addition, ICCPR provides a complaint mechanism enabling individuals to report human rights abuses. The Covenants recognise labour rights as universal human rights (Rees & Wright 2000).

Whilst not holding multinationals directly responsible, Article 5(1) of both Covenants prescribes the limitations on individual or corporate actions in relation to the fundamental rights: “No person or private entity may engage in an activity which treads upon any other person’s rights and freedoms” (Frey 1997, p. 163).

Within the context provided by the UDHR and the two Covenants, the UN system has developed treaties devoted to particular rights or rights for groups of people. Relevant to this study are the Conventions listed below that have been developed as part of this process:

- Convention on the Elimination of All Forms of Discrimination against Women (1979) (Office of the United Nations High Commissioner for Human Rights 1979b);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatments or Punishment (1984) (Office of the United Nations High Commissioner for Human Rights 1984);

These Conventions, in most instances, reflect the international socio-political movements of their respective historical moments and are firmly rooted in the agreements by states about state responsibilities. Nonetheless, they provide
guidance for the conduct of other international actors, including multinationals (Amnesty International 2002).

2.5.3 International Labour Organisation

The International Labour Organisation (ILO) governs the rights of workers in the workplace, a category apart and at the same affiliated with the UN system.

The ILO is a UN affiliated agency that promotes social justice through the establishment of labour rights standards. The ILO convention development process differentiates itself from the processes of other UN bodies. by including workers, governments and employers in formulating specific conventions; hence these are sometimes referred to as tripartite conventions. They are formulated to protect basic labour rights, including child labour, freedom of association, forced labour and equality of opportunity and treatment. These conventions are binding on states when ratified by states’ legislative processes and registered by the state at the ILO.

- Convention 29 (1930) concerning Forced or Compulsory Labour (International Labour Organization 1930);
- Convention 87 (1948) concerning the Freedom of Association and Protection of the Right to Organise (International Labour Organization 1948);
- Convention 98 (1949) concerning the Application of Principles of the Right to Organise and to Bargain Collectively (International Labour Organization 1949);
- Convention 100 (1951) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (International Labour Organization 1951);
- Convention 110 (1958) concerning Conditions of Employment of Plantation Workers (International Labour Organization 1958b);
- Convention 111 (1958) concerning Discrimination in Respect of Employment and Occupation; (International Labour Organization 1958a)
- Convention 122 (1964) concerning Employment Policy (International Labour Organization 1964);
- Convention 131 (1970) concerning Minimum Wage Fixing with Special Reference to Developing Countries (International Labour Organization 1970);
- Convention 138 (1973) concerning Minimum Age for Admission to Employment (International Labour Organization 1973);
Convention 169 (1989) concerning Indigenous and Tribal Peoples in Independent countries (International Labour Organization 1989);

From the dates of some of these conventions it is obvious that the ILO and some of the conventions pre-date the UN. The ILO was part of the UN’s predecessor, the League of Nations; furthermore, the international debate about the rights of workers and conditions of work is older than both these institutions. These Conventions whilst incorporating the inputs of workers and employers, aim for state signatories to enact them into their domestic laws.

Dealing specifically with the social issues and multinational enterprises, the ILO approved the


This Declaration invites governments of States Members of the ILO, the employers and workers organizations concerned and the multinational enterprises operating in their territories to observe its principles. The Tripartite Declaration is a voluntary instrument calling upon multinational enterprises to behave in a socially responsible way, working together with local business, governments and trade unions. Similar to the UDHR, it is an aspiration instrument calling for voluntary action. It does not impose any legal obligations on multinational enterprises or governments.

The ILO conventions and instruments therefore name and discuss labour practices as well as the broader principles of socially responsible behaviour for multinational enterprises. They are more focussed and more specific about workers rights than the other UN conventions dealing with human rights. Nonetheless, no direct legal liability of multinationals stems from them.
2.5.4 The Global Compact

The Global Compact is an UN instrument designed specifically for the multinationals to “embrace and enact” in their corporate practices (United Nations 1999). It is a multi-stakeholder network for companies, labour organisations and civil society to provide a global forum for cooperation and dialogue for pursuing principles concerning the following:

HUMAN RIGHTS

- Businesses are asked to support and respect the protection of international human rights within their sphere of influence; and
- Make sure their own corporations are not complicit in human rights abuses.

LABOUR

- Businesses are asked to uphold the freedom of association and the effective recognition of the right of collective bargaining;
- The elimination of all forms of forced and compulsory labour; and
- The elimination of discrimination in respect of employment and occupation.

ENVIRONMENT

- Businesses are asked to support a precautionary approach to environmental challenges;
- Undertake initiatives to promote greater environmental responsibility; and
- Encourage the development and diffusion of environmentally friendly technologies.

The Compact offers a forum for multinationals to participate in the development and enactment of international human rights norms.
2.5.5 The United Nations Norms


The document is seen as the most comprehensive “attempt to codify the human rights responsibility of private commercial actors” (McBeth 2004, p. 2)

Whilst the Norms do not add any new provisions to the existing human rights standards they do express them all in one place and in a way that clarifies the obligations of the multinational corporations and stipulate binding obligations, including:

- Prohibition on participating in or benefiting from international crimes against the person, including war crimes, torture and forced labour, among others (Para 3);
- Ensuring security arrangements comply with human rights standards (Para 4);
- Prohibition on giving, receiving or benefiting from bribes (Para 11); and
- Contribution to the realisation of the rights to development, adequate food and water, health, housing, education and free speech (Para 12), and preservation of the environment (Para 14).

In addition the Norms specify that breaches of rights contained in the Norms would oblige the perpetrator of these breaches to provide reparations.

The governments, signatories to these Norms, are obliged to give effect of these Norms for the foreign corporations based within their borders and for locally incorporated corporations operating outside their borders.

Whilst still the responsibilities of the nation-states, the Norms nonetheless offer an opportunity for the multinational corporations to play a role in the protection of human rights where the jurisdiction of a host state may be less than that of their home state.
The Norms indicate that the corporations cannot hide behind the governments failing to enforce the Norms in their territories.

Thus the Norms give a clear position on the responsibility of multinationals to protect and enforce the human rights standards along their supply chain (Chambers, Kinley & Joseph 2005).

2.5.6 Security Forces

The guidelines for the employment of security forces are provided by the following two documents:

- UN Code of Conduct for Law Enforcement Officials (Office of the United Nations High Commissioner for Human Rights 1979a); and

2.5.7 Organisation for Economic Cooperation and Development

Independent of the UN system and comprised of 30 member countries is the Organisation for Economic Cooperation and Development (OECD). It calls itself a forum in which governments work to address economic, social and environmental challenges of interdependence and globalisation. Its purpose is to provide comparative data, analysis and forecasts to underpin multilateral cooperation. These activities are carried out to promote policies designed to achieve sustainable economic growth and a rising standard of living in member countries and other countries in the process of economic development and to contribute to growth in world trade on a multilateral, non-discriminatory basis (Organization for Economic Cooperation and Development 1960). The OECD developed Guidelines for Multinational Enterprises (2000) containing voluntary principles and standards for business conduct in human rights, disclosure of information, anti-corruption measures, taxation, labour relations, and environment and consumer protection. The guidelines are a multilateral code of conduct that the member Governments promote.
The Guidelines are implemented through National Contact Points (in Australia and in many other countries, a government office) which promote them, gather information on national experience and report to the OECD Committee on International Investment and Multinational Enterprises. This reporting point gives the context for these Guidelines; they are a part of the OECD instruments dealing with international investment.

2.5.7.1 Cases

In this thesis discussing the outcomes of the legal cases where a multinational was sued for breaches of human rights brought insights in addition to those available from the provisions outlined above. The cases were analysed from the perspective of a multinational as an actor on the international stage and what IP could learn from these proceedings.

Shell

This case (Wiwa v Royal Dutch Petroleum Co. 1998 US 96 Civ 8386) charged Royal Dutch Petroleum (Shell) with complicity in human rights abuses in Nigeria. The plaintiffs were the families of Ken Saro-Wiwa and eight other Ogoni activists. The case was brought before the United States courts under its Alien Tort Claims Act (ATCA). The Act allows foreign citizens to sue companies with representation in the United States’ courts over violations of international law committed outside of the territory of the US.

The particular abuses at issue were the November 10, 1995 hangings of Ken Saro-Wiwa, John Kpunien, two leaders of Movement for the Survival of the Ogoni People (MOSOP), the torture and detention of Owens Wiwa, and the shooting of a woman who was protesting the bulldozing of her crops, in the preparation of a Shell pipeline, by Nigerian government troops called in by Shell.

These were very serious abuses of human rights and they were committed by Nigerian government troops.
Nonetheless, Shell has been the defendant in this litigation since 1997. It has appealed to the US courts to dismiss the complaint on the grounds that:

- The case should be heard in the Netherlands or England, where Shell is incorporated; and

It lost on both grounds. In addition, the plaintiffs, on March 2001, sued Brian Anderson, the former Managing Director of Shell Nigeria. Shell and Brian Anderson stood accused of participation in crimes against humanity, torture, summary execution, arbitrary detention, cruel, inhumane and degrading treatment among other violations of international law (Earthrights International 2005).

This case demonstrates that a multinational corporation, despite its agreements with the local government can be held responsible for its behaviour at international law. Furthermore, the case demonstrates that, despite being incorporated outside the United States, a corporation could be sued in the US under ATCA because it had a presence in the US, that is, it had representatives and it sold its goods there.

In addition Basic Principles on the Use of Force and Firearms by the Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials provide guidance on use of security forces (Office of the United Nations High Commissioner for Human Rights 1979a, 1990b)

**Nike**

In 1996, a number of allegations that Nike was mistreating and underpaying workers at foreign facilities arose in the United States.

Nike responded by issuing a press release stating that it paid “on average, double the minimum wage “ and that its workers were protected from “physical and sexual abuse”(Kanzer & Williams 2003, p. 1)

In 1998, Marc Kasky, a California resident, sued Nike for unfair and deceptive practices under California’s *Unfair Competition Law*, namely that Nike made “false
statements and or material omission of fact” (OYEZ US Supreme Court Multimedia 2003) concerning the working conditions under which its products were made (Kasky v Nike 2002 Cal 24 SCt 939).

In September 2003, Kasky and Nike settled the case by agreeing that US $1.5 million be paid to Fair Labour Association, a Washington-based organisation for program operations and worker development, education and monitoring.

The Nike case was significant because it dealt with the practices of Nike’s contractors; it also demonstrated that contract manufacturing does not remove the responsibility for practices employed by the contractors.

2.5.8 Conclusion Human Rights Legal

The legal provisions for human rights in the international arena are plentiful if vague, and are spread over a large range of documents and sources. The provisions, discussed in this literature review, provided an authoritative text for the researcher to build a dialogue with IP.

2.6 Human Rights, the Advocacy View

Non-governmental organisations (NGOs) have become increasingly important actors on the international stage. Many NGOs have voiced opinions about the responsibilities of multinationals in the area of human rights. A selected number of these are included here to:

- Examine their role and influence on the discourse about human rights; and
- Examine their view on the responsibilities of multinational corporations for human rights.

Choosing which NGOs to include is an analysis in itself; there are so many of them and they comment on the topic from many positions: religious, vocational, and industry based.
This thesis is concerned with the universal, indivisible and inalienable human rights; and with an international commercial organisation with operations in several countries encountering human rights issues in its country of origin or any of its host countries. Therefore NGOs that are transnational in their scope have been included, whilst those that appear to be based on regional interests or use religion as their philosophical position for existence have not. Furthermore, this review is concerned with advocacy NGOs, as opposed to operational NGOs (Shreve 2004).

A definition of an NGO for the purpose of this thesis is:

A groups of individuals or associations, “that belongs neither to government nor to the profit making private sector” (Hewitt de Alcántara et al. 2000, p. 92) encompassing international NGOs as well as local civil society organisations (Sullivan 2003); not established by intergovernmental agreements; a self-governing, private organisation capable of playing a role on the international stage (Gamble & Ku 2000).

The four NGOs included below can be viewed as movements that promote and defend human rights. They are prominent. They have expressed a specific interest in the effects of multinationals’ activities on human rights and are seen as prioritising their work around the intersection of human rights and the activities of multinational corporations (Ratner 2001).

2.6.1 Amnesty International

Amnesty International (AI) describes itself as independent of any government, political ideology, economic interest or religion (Amnesty International 2005b) and as “An international human rights organisation devoted to researching, exposing and campaigning against human rights violations around the world” (Khan 2003).

It is based in the UK, has about forty five years experience in human rights and thirteen years’ experience in the area of human rights and corporations. It works through specialised groups in countries around the world. by mass mobilisation, shareholder resolutions tabling, and by using the Global Reporting Initiative and the
UN’s Global Compact and Human Rights Norms for Businesses as authoritative resources for establishing a dialogue with the business sector (Khan 2003).

AI takes a firm position that whilst multinational corporations’ interest in human rights is well meaning and increasing, this is so as a result of pressure from outside such as risk to reputation, litigation and shareholders divestment. From AI’s position, human rights cannot be left to the market to sort out; legal accountability, at the domestic level within the international framework, works best to make companies take human rights seriously. This means strengthening the domestic law and developing international legal provisions (Khan 2003). AI provides human rights principles for business (2002) and other information (2005a) but does not provide risk assessment or human rights training.

2.6.2 Human Rights Watch

Based in the United States this organisation describes itself as the largest human rights organisation in the world; an independent NGO supported by contributions from private individuals and foundations worldwide. It stands for victims and activists to prevent discrimination, uphold political freedom and bring offenders to justice. It conducts fact-finding investigations and exposes human rights violations, and publishes the findings in books and reports to challenge governments and those who hold power. Tracking developments in seventy countries in the world, it follows issues in several categories of human rights, including women’s rights, and children’s rights (Human Rights First 2005).

Human Rights Watch does not appear to take a prescriptive position on business. The human rights responsibilities of corporations are included in its special projects. Limited research of these projects provided examples of language that suggests contest, exposure and “stings” (Human Rights Watch 2005). This is consistent with its stated approach on human rights in general; namely, that sharp vigilance, accurate reporting and timely protest can prevent breaches and abuses of international standards of human rights. Its examples include campaigns for new international treaties on child soldiers and landmines, providing evidence to tribunals for war crimes and playing an active role in legal action against “those who hold power”, for instance Augusto Pinochet and Slobodan Milosevic.
2.6.3 Human Rights First

Formerly known as the Lawyers’ Committee for Human Rights it operates from and with primary interest in the United States to

Create a secure and humane world by advancing justice, human dignity and respect for the rule of law. We support human rights activists who fight for basic freedoms and peaceful change at the local level; protect refugees in flight from persecution and repression; help build a strong international system of justice and accountability; to make sure human rights laws and principles are enforced in the United States and abroad (Human Rights First 2005).

It is a body that primarily advocates for changes in international and domestic human rights and labour laws.

Human Rights First has shown its support for the UN mechanisms for the participation of the multinationals in ensuring human rights norms. It has provided its opinion extensively on the UN Global Compact and in particular the Responsibilities of Transnational Corporations and Related Business Enterprises with Regard to Human Rights (United Nations 2003). Human Rights First has thus been participating in the development of these instruments on their way to adoption by the UN Commission of Human Rights. Such “commenting”, as it is known in the parlance of exchange of opinion between NGOs and the law making bodies, is a consultative process to make these Norms more accessible to the NGOs, the people affected by human rights violations, and the multinational corporations.

2.6.4 Oxfam

Oxfam “works with poor people, influences powerful people and joins hands with people” through development, emergency relief and campaigning (Oxfam 2005a). Its policy papers (Oxfam 2005b) suggest a wide range of issues including the reform of policies of intergovernmental organisations such as the World Trade Organisation, the World Bank, and the EU in order to prevent poverty and make trade fair.
Though it does not provide specific guidelines for multinational corporations through its focus on poverty reduction and relief it comments on activities of corporations and how these affect the people where these corporations operate. The mining industry ombudsman provides an example. It was established to give a voice for people of the host country (e.g. Indonesia, Papua New Guinea), whose human rights have been affected by the operations of multinationals, and to undertake direct advocacy work in the country of origin (Australia) where such an office had not been provided by the government concerned.

2.6.5 NGO Initiated Norms

In addition to human rights movements, there are other NGOs concerned with human rights and multinationals. They approach the issues of human rights from a specific perspective, for instance dealing with an industry or an interest group (Castan Centre for Human Rights Law 2005; Egede & Wells 2004; Euroactiv 2005).

There are other documents that are relevant to the discussion of human rights and multinationals. Thought they are not discussed in detail in this thesis, they were used as necessary in the study to give an overview of the kind of human rights issues that have emerged from the practices of some multinational corporations. They are divided into two categories: those that provide codes and principles and those that provide reporting and auditing systems.

2.6.5.1 Codes and Principles

- Transparency International, publishers of *The Business Principles for Countering Bribery*;
- The Calvert Women’s Principles, an ethical investment group affiliated with the UN development Fund for Women;
- The Caux Principles for Business, a group of business leaders promoting morals in capitalist activities;
- Clean Clothes Campaign Code;
- The American Apparel and Footwear Association, publishers of Worldwide Responsible Apparel Production Principles; and
- Business for Social Responsibility.
2.6.5.2 Reporting and Auditing

- Institute for Social and Ethical Accountability publishers of *Accountability AA1000*;
- The Global Reporting Initiative; and

2.6.6 Advocacy and This Thesis

Civil society and human rights movement actors express their voices and comment on breaches of human rights by multinationals and on legal developments. Their voice is influential globally and this influence is likely to continue.

These bodies are political actors, independent of international institutions and states. However, it could be argued that they are not representative and that they employ a prescriptive, activist voice to bring attention to human rights violations. Despite an increased constructive engagement between NGOs and business (Santoro 2003) to create social value, and the literature for implementation at individual enterprise level, there are several characteristics of their activities that bear examination when looking for a construction of a dialogue between international actors. For instance:

- They rely on mass media for attention;
- At the expense of detail and focus on the implementation of the existing human right norms (Monshipouri, Welch & Kennedy 2003; Ratner 2001), they pay a lot of attention to changes to the soft and hard human rights law;
- They use shaming violators as their main tactic (Ratner 2001);
- Whilst they make arguments based on high standards of transparency and reporting they are not accountable to anyone other than their members or donors; and
- They target companies with high profile brands for attention (Sullivan 2003).

These characteristics suggest an adversarial approach, a prescriptive stance and an ad-hoc scrutiny. The process is not democratic, transparent, or participatory. Activism
is a vehicle for the NGOs existence; it does not mean a consistent or congruent approach to create understanding, clearer, more tailored human rights norms, or constructive action. Indeed, it could be argued that sporadic and targeted attention to human rights is activism for getting attention and that this provides a platform for some NGOs to fall prey to a “visceral anti-TNE (transnational enterprises) bias” (Ratner 2001, p. 533).

The researcher, familiar with the variety of inputs into the human rights debate, was nonetheless reminded that had she opened the World Wide Web in her role as a manager she would not be able or willing to make sense of the intents of some of these bodies, the positions they might take in their approach to commercial operations, and therefore what kind of reputation risks were involved in engaging with any of the NGOs.

Managers practising in commercial contexts do not have the skills or the time to become prudently informed about engagements with NGOs. Therefore, NGOs offer a limited resource for a multinational corporation. Any engagement has to be carefully negotiated and may not contribute to an autonomous approach to education or to implementation of human rights norms in commercial operations.

2.7 Conclusion

The philosophical debate surrounding the topic has come out on the side of clearer and increased responsibilities for protection of human rights by the multinational corporations. How to achieve this leaves plenty of room for a broad and extensive debate on the topic.

This study also found that the existing legal provisions were adequate and plentiful. Nonetheless, they were not readily accessible by the decision makers in the corporate world.

The advocacy view of human rights was found to be less than easy to sort into a form that is transparent and accessible. Nor did it provide an independent view. This makes this broad network difficult to interpret by an individual corporation.
The legal provisions, the guidelines by intergovernmental organisations, and activities of NGOs for the most part take a prescriptive and an adversarial stance in their interpretation of their role and of human rights norms.

There is a lack of formal ethical theory at international level; yet, led by the economic and the philosophical debate in the academic, legal, business and civil society communities, international legal developments in hard and soft law are gathering momentum. They are developing more international provisions for responsibilities for upholding human rights.

Therefore, what was missing in this debate was knowledge about the interface between an individual multinational corporation and the prescriptive and/or adversarial positions taken by the three streams of knowledge reviewed in this chapter.
Chapter 3 Consulting for Change

3.1 Why include it?

An organisation is not static. Dunphy (2003) compares it to an ocean liner: “moving with momentum on a trajectory powered by past decisions and by collective experience embodied in a corporate culture” (p. 274).

So making contact, getting access, developing trust, and developing a working relationship to discuss incorporation of human rights into its practices was an encounter between a researcher/consultant and established business practices, traditions and culture. It was an intervention in this organisation and a learning experience for all concerned.

This section reviews the theories of organisations, organisation change and management consulting that enabled this study to be undertaken.

3.2 Organisational Theory

Schein (1980) defines an organisation as:

the planned coordination of activities of a number of people for the achievement of some common explicit purpose or goal, through division of labour and function, and through a hierarchy of authority and responsibility (p. 15).

Contained in this definition is an image of a system conceived and connected to produce an output. Thus a brief discussion of Systems Theory as it has been employed in the study of organisations follows.

Based on the theoretical foundations of life sciences, looking at the world through a systems lens invokes concepts of connectedness, relationships and context. Systems theory accommodates notions of integrated wholes with properties more elaborate than the sum of their parts while at the same time these wholes are
enclosed by and interconnected with other systems. The relationships are interactive through boundaries that are permeable, yet distinct (Burke 2002; French, Zawacki & Bell 2000; Mink, Shultz & Mink 1979).

Organisations viewed from this perspective are wholes with interacting components, ongoing living systems made up of people and the dynamics and internal logic that occur when a group of people is engaged in an endeavour. Included in them are superior-subordinate relationships, relationships between groups of people, communication processes, and the ideas and values that guide the organisation and the power relationships. Though much attention is paid by organisation theorists to these internal workings, organisations are not self sufficient. They are dependent on the external environment. They are open systems.

To enter into such a system means to be able to recognise the internal dynamics to a sufficient degree to establish a conversation, trust and a dialogue. Organisation change studies have produced several theories guiding such encounters. To enter such a system with intent to explore how human rights can be incorporated into operations also means to be mindful of tensions in the balance between the internal dynamics and the organisation’s connectedness and relationships with the external contexts.

3.3 Change Theory

To survive, especially in the long term, organisations must change and adapt to their respective environments, but typical changes consist of fine tuning; installing a new system...improving quality of products or changing the structure to improved decision making (Burke 2002, p. 1).

The researcher could add from her management experience “change anything that will at least in the short term reduce costs”.

Included in this quotation are two principles informing this research:

- Change in an organisation is about adaptation to external pressure, be it capital markets, technological innovation or consumer demands; and
• Change is motivated by the desire to survive.

To deal with the complexities of organisation change the literature discusses types of change, levels of change, and processes by which change occurs.

3.3.1 Types of Change

3.3.1.1 Evolutionary and Revolutionary Change

Evolutionary change consists of incremental steps to fix a problem or to change a part of a larger system, as alluded to by Burke (2002) above. He claims that 95 percent of organisation change happens this way and most of the time organisations survive by continuously fixing problems and improving the way things are done.

Revolutionary change, on the other hand, can be seen as a response to a jolt, a "perturbation" (p. 59). The theory of this type of change is informed by concepts derived from findings in several disciplines including paradigmatic shifts in scientific discovery (Kuhn 1962). It would most likely manifest in organisations through strategic orientation which demands significantly different patterns of operation. This type of change occurs in leaps, spurts and disruptions, and affects "deep structures", the highly stable and entrenched choices, the organisational culture (Gersick 1991; Schein 2004). This type of change is rare because changing the culture of an organisation is difficult (Schein 2004) and because it is hard to make a case for change (Burke 2002), particularly when an organisation is going well according to its existing criteria for success.

Another way to look at the two different types of change is to view them as transactional as opposed to transformational type of change. The former assumes incremental, continuous improvements, whilst the latter requires total system events and the attention of all members of the organisation (Burke 2002). Transactional or incremental change could also be viewed as merely maintaining the status quo of an organisation, whilst the "sustainable" approach to surviving on the globalised stage requires it to look beyond the incremental approach (Dunphy et al. 2003).
Changes in the environment surrounding multinational commercial corporations are happening fast, sometimes faster than the organisations are able to react to from within. Economic reforms, increased international competition and the forces of globalisation are producing the volume and the rate of such change (Dunphy et al. 2003).

Correspondingly, the pressure on multinational corporations to meet their corporate social responsibility, including the responsibility for upholding the human rights norms, is also increasing. Though seemingly unrelated to the daily operational activities of a multinational commercial corporation, the issues surrounding this responsibility have a potential to threaten its sustainability; their social contract to operate could be threatened (McIntosh 2003a) and their reputation could be damaged (Dunphy et al. 2003; McIntosh 2003b).

This could be interpreted as a paradigm shift from perceiving commercial organisations as rational-economic entities to viewing them as corporate citizens. Clarifying its approach to corporate citizenship then becomes an important part of strategic effort for an organisation’s development and survival.

### 3.3.2 Change and Sustainability

A sustainability perspective of an organisation presented by Dunphy (2003) was helpful. This perspective views corporations as the fundamental cells of modern economic life and as such they need to be modified to contribute to the health of the planet, the survival of humans and development of just and humane society. This modification involves reshaping some of the traditional values of organisations.

The reshaping of the traditional values is not anticipated to be a quick process; Dunphy suggests a sustainability model comprised of the following phases:

- Rejection;
- Non-Responsiveness;
- Compliance;
- Efficiency;
- Strategic Proactivity; and
- The Sustaining Corporation (p. 14)
This model informed this thesis, which assumed that incorporating international human rights norms into the practices of multinational corporations was an important part not only of corporate social responsibility but also sustainability and the survival of corporations. In addition, the above model helped to show that an incremental or transactional change approach to human rights assumes a compliance stance on the part of a multinational. This further confirmed that the incremental/transactional approach to change was not consistent with the values of human rights philosophy.

The OD model, on the other hand, was based on the incremental change model; it was born out of it, even though it represented an advancement on the existing theories of change at a time when most managers used an incremental approach to steer their organisations to adapt to their environments (Dunphy et al. 2003).

If a large amount of organisational change occurs through evolutionary change (Burke 2002; Dunphy et al. 2003) it also follows that this body of experience has influenced the literature on organisational change. It means that the tools for transformational change are less well developed (Dunphy et al. 2003).

The international human rights norms were framed by their qualities of indivisibility, inalienability and universality. While these issues are problematic in the philosophical arena, in this thesis, because the basis for the intervention was the International Human Rights Law, starting with the Universal Declaration, it is accepted that these qualities are fundamental. Contested that view may be it nonetheless suggested a transformative approach to organisation change; a demand on a multinational to be mindful of its stance as a corporate citizen on the global stage.

In contrast, a transactional approach, adjusting a corporation’s practices to meet human rights norms in a particular place at a particular time, otherwise known as a culturally relative approach, cannot be satisfactorily reconciled with these defining qualities of the norms and values of international human rights.
3.3.3 Level of Change

Looking at change in an internal perspective, from within an organisation, there are three levels of change: at the individual level, the group level and the whole system level (Dunphy & Dick 1982; French, Zawacki & Bell 2000).

Change at the whole system level hardly ever begins there. Though beginnings are more likely at an individual or a group level, change at these levels will affect the whole system. The system response to change comes in resistance to revolutionary change because the old culture is very powerful. This resistance can appear as an insufficient sense of urgency, as apathy and as diversionary tactics (Burke 2002).

3.3.4 Types of Strategies for Change

With the underlying assumption of change as a planned, conscious attempt to change a whole system, Chin and Benne (2000) group strategies for organisation change into three types:

- Empirical-rational;
- Normative-reeducative; and
- Power-coercive.

The first of these, empirical rational processes, are based on the assumptions that people are guided by reason and will change according to their calculated self-interest.

Based on different set of assumptions, where people are seen as active participant and intelligence is seen as an outcome of relations between them – social intelligence – that is communicated through meanings and norms; is a change in a normative culture. Such change is more than change at the rational level. It is change in thinking, in habits and values at the personal level and consequently change in structure, roles and relationships at the group level.

Kurt Lewin is credited with extending this assumption by seeing the interrelation between research, training and action. He claimed that people must participate in
solving human problems in a collaborative relationship in order to change and to learn (Lewin 1948).

Chin and Benne (2000) outline two types of strategies for implementing change from the normative-reeducative standpoint:

- Organisation development aimed at improving the problem-solving capabilities of a system; and
- Taking an individual as the basic unit of any system and therefore implementing change through fostering of growth within individuals that make up the system.

This approach was expanded upon by other writers on organisation change (Burke 2002; French, Zawacki & Bell 2000) and includes the following additional characteristics:

- The client system is involved in the planning of change and the planning of the outcomes of diagnosis and solutions to problems. Included in the data about the client system is how the system sees itself and its problems;
- It is assumed that the problem cannot be solved by simply acquiring more technical information; rather, the change effort concerns values, attitudes, norms and the system’s internal and external relationships;
- Non-conscious elements must be brought into the conscious sphere and be publicly examined and reconstructed;
- Methods and concepts of behavioural science must be chosen collectively, and used selectively and appropriately in dealing with the situation; and
- The change strategy includes the use of a change agent who works collaboratively with the client system to locate the needs for re-education.

3.3.5 How Change Is Implemented

The organisation change model chosen for this case study was Organisation Development (OD) because of its humanist values and its compatibility with the normative-reeducative strategy for change.
The OD tradition views organisation change as:

- Planned;
- System wide;
- Managed from the top (Beckhard 1969);
- Focused on action (French & Bell 1995);
- Emphasising the collaborative management of organisational culture (French, Zawacki & Bell 2000);
- Assuming implementation through teams across the organisation; and
- Making transparent its existing status, planning collaboratively for any changes and then implementing these across the organisation (Egan 1988).

Implied in the above characteristics of OD is an active process involving a client system and a change agency; organisation consulting.

3.4 Consulting Phases

The consulting function can be unpacked by examining two of its components: the consulting phases and the client/consultant relationship in which the roles of consultant and client are played out in a dynamic engagement.

The consulting process can be separated into several stages and this segmented approach informed this case study (Block 2000; Lippitt & Lippitt 1978; Neumann, Kellner & Dawson-Shepherd 1997).

These stages were neither neat nor discrete. In practice, they overlapped. The selected stages that arose in the process of consulting and informed this case study are discussed below.

3.4.1.1 Entry and Contracting Phase

The entry process can be particularly demanding as a consultant cannot gain sufficient clarity about the organisation and the true nature of issues/problems involved until an agreement is reached. Yet without an agreement the consultant cannot gather valid data on which to make informed decisions and therefore
negotiate for a contract where the presenting problem will be sufficiently explored to arrive at the “real” problem. So the whole organisation development cycle, the consulting process, has to be kept in mind during the entry and contracting phase to enable a mutual understanding of the contract with an authorised person (Burke 2002; Neumann 1997).

The contact, entry and contract stages are nonetheless characterised by an identification of a client that is capable of giving the authority for the researcher/consultant to negotiate a minimum agreement about the purpose of consultancy, the activities and the individuals or groups of people that will be involved. Issues that arise at this stage include, on the client’s side, the surfacing concerns about exposure, loss of control, the credentials and experience of the consultant and the cost and timing of the change effort (Block 2000; Neumann 1997). Correspondingly, for the consultant there are issues of politics and power, including the roles of the client’s boss and the consultant’s supervisor. The consultant must understand enough about the politics of the situation to see how it will affect the project implementation. It is tempting to collude with the client in pretending that organisations are not political but solely rational (Block 2000; Coghlan & Brannick 2005).

3.4.1.2 Diagnosis and Discovery

The problem identification and diagnosis phase concentrates on finding ways to separate the symptoms from the underlying layers of the problem in a coherent and simple way.

The research design incorporated the consulting process into the framework of action research, and envisaged the diagnosis to be a dynamic and cyclical activity; the analysis of data to be at once a part of the discovery process, and of the implementation process (Cherry 1999; Dick 1992; Kemmins & McTaggart R 2000; Lewin 1948).

This meant that when difficult issues arose during data collection, the issues had to be recognised as part of the data. Observations about the process therefore became
both a part of the decision making about the next phase and the formulation of the findings (Block 2000; Schein 1998).

3.4.1.3 Feedback and Decisions to Act

The feedback and decision to act phase includes the important activity of clarifying the goals and planning for action. This means that the data need to be reduced to a manageable number of items that are under the client’s control to action (Block 2000; Neumann 1997).

Nonetheless, all the data have to be faced and articulated at this phase, the personal and the organisational data, the client’s management style, the politics of the situation, and the people’s attitudes. This holistic approach to feedback of the data is important to test at this stage for two reasons:

- It is unique information and may not be available from anywhere else; and
- It forms the context in which the recommendations may be implemented.

This calls for a focus on here and now. The feedback process is the mirror of the dynamics that create the need for the project and consultant services (Egan 1988; Schein 1998; Schón 1991). The skill for consultants at this phase is to not take the process personally or to ask questions about the sufficiency of structure, direction or support for the project (Block 2000).

A clients’ resistance encountered at this stage is assumed to be due to having to act on difficult organisational issues. This is tough, a relationship has been formed, there is a desire to proceed, yet the going gets complex (Block 2000).

3.4.1.4 Engagement and Implementation

The taking action and cycling feedback phase contains important decisions about how to involve people, because this determines their commitment at each stage. This calls for the design of an engagement with participation rather than presentation by consultant or even the main client. Opportunities for high interaction are needed, including difficult public exchanges. Trust is built by dealing with the difficult issues early and publicly and by taking risks and creating room for doubt in the beginning.
Packaged solutions early in the name of speed are to be avoided (Argyris 2004; Block 2000).

For the consultant this means consciously crafting the conversation to influence the existing culture and resisting the temptation to move quickly to action. Such conversations are structured toward personal responsibility, questions of purpose and meaning, and what will be unique about the matters under scrutiny. It includes paying attention to place. The structure of the way the clients and consultants come together has impact on the attitude and commitment of clients. The room, how people are seated and how the meetings are run carry strong messages about intentions and who is important to success (Block 2000; Mackay 1998).

3.4.1.5 Termination

Contract completion, continuity, support and termination are the last phases. This is acknowledged as a logical conclusion to the phases of consulting but is not discussed in detail here because it was not the focus of the study.

3.4.2 Consulting Roles

The OD approach to organisational change assumes that consulting is a process of providing help where the consultant is not responsible for doing the task but is helping those who are. It is aimed at improving the future functioning of the client system (Steele 1975):

The helping process is assumed to be always a collaborative problem solving process in which the helper has as much to learn as those that are helped.

(Lippitt & Lippitt 1978, p. ix)

In addition, the relationship to the client is personal, involved and process oriented. The engagement is long-term and system oriented.

Nonetheless, the roles consultants engage in involve moving and adapting to roles aligned along a continuum from content knowledge or expertise, at one end, and process consultation at the other. Starting at the most directive end of this continuum,
moving through phases of balanced partnerships of effort to the mirroring of the process under consideration they have been described as:

- Advocate;
- Informational expert;
- Trainer educator;
- Joint problem solver;
- Alternative identifier/linker;
- Fact finder, a process counsellor; and

To engage in any of these roles involves giving feedback, providing meaningful data, facilitating assimilation of data and making allowances for interpretation and sense-making by the client.

The different roles reflect the client/consultant relationship and the consequent focus of the consultant’s activity. This activity differs according to the choices made between the client and the consultant about the degree of directiveness on the part of the consultant.

The client is concerned about trusting the consultant to help them to solve the problem while at the same time respecting the client’s position and person (Egan 1988).

The most powerful thing a consultant can do to attend to these concerns, to have leverage, and to build client commitment is to:

- Behave authentically, stating what you are experiencing to the client; and
- Complete the business of the consulting phase by attending to issues as described above in “real time”, when in the throes of each phase (Block 2000).

It is possible to move through phases and skip some of the task requirements, for example, to act on the desire to get the project going and downplaying the early
resistance and scepticism. However, failing to deal with issues as they arise may mean that they intensify in later phases (Argyris 2004).

3.5 Role of Consulting for Change Literature

Though this chapter deals with the concepts and theories of organisational behaviour, the important issues that literature on consulting for change raises are those of the position of the consultant and the worldview from which to analyse organisations. In this study these have to be examined from a humanist perspective. Therefore the adequacy of traditional consulting for change principles and concepts are examined for their appropriateness for implementation of human rights practices as part of the implementation phase in the study.
Chapter 4 Methodology

4.1 Introduction

Behind the qualitative interpretive case study chosen to conduct this research is the methodological framework that informed it. This chapter outlines the constructivist/interpretivist paradigm, the qualitative strategy of inquiry, and the research methods employed.

Research design being the logic that links the research question to the data collection and analysis (Yin 2003), the interpretive case study approach was selected in order to answer the research concerns in an area where little previous research existed and where no theory was being tested.

The chapter includes a discussion of the ontological and epistemological location of this research, the reasons behind the choice of constructivist qualitative research tradition, methodology and method. It also describes the steps taken to ensure rigour and an examination of how the ethical concerns were attended to. Embedded in all the research steps and data analysis is the role and position of the researcher, which is also discussed in the chapter.

4.1.1 Case Study

Expected to catch the complexity of a single case and looking for details of interaction with its context, a case study is: "The study of the particularity and complexity of a single case, coming to understand its activity within important circumstances" (Stake 1995, p. xi).

A case study design is employed to gain an in-depth understanding of a situation and the meaning for those involved. The interest is in the process, in the context rather than specific variables; in discovery rather than confirmation (Merriam 1998). Concentration is on the case, a "bounded system"; with emphasis on interpretation where the researcher is placed in "the field", collecting data, recording, examining the
meaning and redirecting data collection to refine or substantiate those meanings (Stake 1995, 2000).

Yin (2003) emphasises that when contextual conditions are highly pertinent to the phenomena under investigation, a case study methodology is particularly suited because it is an inquiry that:

- “Investigates a contemporary phenomenon within its real-life context; especially when
- The boundaries between phenomenon and context are not clearly evident; and it
- Copes with distinctive situation in which there will be many more variables than data points” (p. 13).

To study human rights within a real-life context, the researcher needed a willing client system. Human rights is a complex and threatening subject; therefore, to study a willing client system was a special opportunity to reach the coalface of what can be implemented and, particularly, to translate prescriptive literature into action in a commercial organisation. Approaching IP as a case offered the following opportunities for creating knowledge:

- The researcher did not know IP before this research commenced. This made the creation of potential knowledge available from a constructivist and interpretive point of view between the participants a mutually exploratory journey framed by “what can be learned from the single case?” (Stake 2000, p. 436);
- It was a manufacturing organisation, with its own plants in third world countries where it encountered human rights practices, as opposed to just managing contract suppliers from a distance;
- It was a multinational organisation incorporated in Australia, with presence in the Americas, Europe, Africa and Asia. Therefore this was a case exploring an Australian multinational manufacturing company, where existing research was scarce; and
- IP did not have a pressing issue regarding its existing human rights practices. Therefore its approach was that of exploration and education about the topic
and context of human rights, making it a sensible choice for research in pursuit of this research question.

Stake (2000) adds a further dimension informing this research, namely case study is not so much a methodological choice but a choice of what is to be studied: “As a form of research, case study is defined by interest in individual cases, not by the methods of inquiry used” (p. 435).

**4.1.1.1 Advantages and Disadvantages**

The decision to employ a case study methodology came from a desire to understand a complex situation of incorporating human rights into organisational practice and to retain the holistic and meaningful characteristics of organisational and managerial processes in a real-life situation. In addition case study methodology is unique in its ability to deal with a full variety of evidence: documents, artefacts, interviews and observations (Yin 2003).

To elicit knowledge about how to implement human rights, the researcher collected data from a variety of sources and analysed it including, her interpretations and validations of these interpretations with the participants from IP.

Concern about case studies as a research strategy are first, rigour; second, that they provide little basis for scientific generalisation; third that they are too long and unreadable; and fourth, that they are difficult to do (Yin 2003).

However the same criticism can be levelled at any qualitative approach or any approach that is not relying on adherence to strict procedural methods as a guarantee of rigour.

Nonetheless, in this study, rigour was evaluated against the criteria for evaluating interpretive research. The study does not claim to generalise scientific theory, merely to produce new knowledge in the field and to tell a story that relies on persuasive style (Angen 2000). The researcher has never disagreed with Yin that the study was difficult to do.
4.2 Philosophical Assumptions

In considering the elements of the design of inquiry, this study did not consider the positivist paradigm position as an approach that was suitable for answering the research question from the start. Explanation, prediction, control, verifying hypotheses and cause-effect linkages respectively point to the voice of the researcher as a “disinterested scientist as informer of decision makers” (Lincoln & Guba 2000, p. 166). Such a voice was rejected on the grounds that it was incompatible with the philosophy of human rights and the researcher’s view of her role as a consultant to commercial organisations.

The four alternative knowledge claims outlined by Creswell (2003) were evaluated before refining the design employed. These were:

- Postpositivism, a deterministic philosophy in which causes determine outcomes;
- Pragmatic knowledge, where the problem and how to solve it is the most important focus of research;
- Advocacy/participatory knowledge, a position that advocates for action to help marginalised people; and finally
- Socially constructed knowledge, where meaning is socially constructed.

The socially constructed knowledge position was chosen after the others were evaluated against the overall philosophical framework of Humanism, and after some of the initial data collection and analysis pointed to the limitations of each of these. For instance, although postpositivist assumptions include the proposition that absolute knowledge can never be found, its methodology rests on testing of hypotheses (Creswell 2003; Denzin & Lincoln 2000).

Likewise the pragmatist framework was rejected because of its stated claim that knowledge can be best gleaned by emphasis on a problem and actions of solving it. After a preliminary data collection phase it became evident, that IP was not in pursuit of a solution to an immediate problem, and constructing the activity this way could have alienated the researcher from the organisation.
The advocacy/participatory perspective, on the other hand, informed this research in its stance on action and emancipatory outcomes of research, an agenda for change that may change the participants' and the researcher's practices (Heron & Reason 2001; Kemmins & McTaggart 2000; Park 1999). In particular, it influenced the research design in its collaborative dimension; that is doing research “with” rather than “on” or “to” others (Heron & Reason 2001). The design of this study employed a participatory approach to invite and encourage participants at every stage to be active collaborators in the pursuit of knowledge about human rights as it applied in their work situation. However, the advocacy/participatory approach did not serve this case study well when its emphasis on disenfranchised groups, such as women, racial and sexual minorities, and people with disabilities was examined against the early data. Likewise, its stated aim of creating a political debate about how to help people to unshackle themselves from “unjust structures” (Creswell 2003, p. 11) would take the study into a stance more compatible with critical theory. Employing critical theory would have meant embracing an inquiry that critiques and transforms, assuming that the nature of knowledge was structural/historical, and that knowledge accumulation was expected to be by historical revisionism and generalisation by similarity (Lincoln & Guba 2000). This stance was rejected early in the study because of its limitations when viewed from a humanist perspective and because the scope of the study did not offer an appropriate setting for the full expression of this theory. In addition and most importantly, the voice of the researcher as an advocate and activist (Denzin & Lincoln 2000; Lincoln & Guba 2000) was considered inappropriate given that there were many human rights advocates in the field, but there was little knowledge about how to create a dialogue with and within an international organisation.

In contrast, constructivism proposed that the voice of the researcher be that of a passionate participant, and most importantly, a facilitator of multivoice reconstruction (Denzin & Lincoln 2000; Lincoln & Guba 2000). The notion of multivoice reconstruction spoke to the aim of this inquiry: to find out how human rights can be incorporated into a live commercial organisation. It held promise for accumulation of knowledge from a position of lived experience, that is, human rights as they are seen from within an organisation, from interaction where knowing is active, not discovered but constructed.
4.2.1 Humanism and Organisational Analysis

As a link between the Humanist view of the world and analysis of organisations, the research design employed Burrell and Morgan’s framework of sociological paradigms, specifically radical humanism (Burrell & Morgan 1979). The ontological position taken in this thesis is described by Burrell and Morgan as a social constructionist route where actors act on a stage that they consciously construct (Mills 2001).

Burrell and Morgan employ “radical” to indicate change to the status quo by doing social research in organisations, whereas “radical humanism” focuses on consciousness, viewing human ideas as imprisoned within ideological processes dominated by powerful actors. Potential for change is seen as dependent upon making actors aware of patterns of dominance. This is in contrast to their paradigm of “radical structuralism”, which views human action as shaped by socio-economic contradictions.

The radical humanist seeks to expose at every turn the underlying assumptions from which theories of organisations are derived. Through awareness we are more able to freely engage in the construction of social reality dedicated to human liberation as opposed to dominance (Mills 2001).

4.3 Lifeworld Ontology

Lifeworld ontology is a way of describing the research view of the creation of reality through conscious engagement and is illuminated by the following quote:

The world of our lived experience, the lifeworld, is the very ground from which all understanding grows; what we know is always negotiated within the culturally informed relationships and experiences, the talk and the text, of our everyday lives (Angen 2000, p. 384).
The approach holds not only that individuals seek to make sense of the world in which they work and live but it also emphasises that the creation of meaning is biased towards the framework of the participants:

They develop subjective meanings of their experience….varied and multiple, leading the researcher to look for complexity of views, rather than narrowing meanings into a few categories or ideas. The goal of research, then, is to rely as much as possible on the participants’ view of the situation being studied (Creswell 2003, p. 8).

In addition to lifeworld ontology and reliance on the participants’ view, the approach in this research called for invention of concepts and models to make sense of an experience (Schwandt 2000). As the results show, this necessarily came to involve the researcher as one of the participants.

4.4 Researcher Immersed in the Context

The process of listening and reconstructing the “theories” (meanings) used by the actors in a situation stands in opposition to bringing the researcher’s theory into the actor’s world. It means to build a path toward a theory from observation and intuitive understandings (Merriam 1998).

To do this and to discover how the actors make sense of their lives

The researcher must immerse herself in the actors’ world…to get ‘inside’ reality as defined by them so as to be able to identify and describe the actors’ interpretation of reality and the process by which they are constructed (Cherry 1995, p. 35).

By immersing in the actors’ world and interpreting it, the researcher creates understanding that is inseparable from the context in which she is immersed (Angen 2000), in order to gain an inside view (Gillham 2000) and to find out about the processes leading to action. It allows the researcher to move beyond the theoretical to the applied setting.
4.5 Grounding Knowledge

Qualitative researchers, to make sense of the setting and the context, gather data personally and make interpretations of what they find. These interpretations are influenced by the researcher’s experience, background, and preferences (Crotty 1998).

For knowledge to be valid, however, it must be authenticated by the people in the situation from which it was constructed (Schutz & Luckmann 1974). This approach is discussed by Blaikie (1993), and is known as a dialogic approach. One of the characteristics of the dialogic research approach is that it is iterative; the researcher, in establishing the adequacy of meanings usually generates more data, which is then analysed and cycled again (Cherry 1995).

The research question also demanded that the researcher understand her role in the implementation of human rights in a commercial setting. This called for reflective knowledge derived from the recording of thoughts, feelings and ideas behind the choices, conversations and decision-making processes during the research process. By examining this role of working in an area where little research existed, creating both practical and theoretical knowledge, it seemed fitting and necessary to incorporate a reflexive dimension, where the process and the methods chosen were also examined (McTaggart 1997).

Using basic techniques of grounded theory (Strauss & Corbin 1998), the researcher fed the themes back to participants to ensure the themes were meaningful in the IP context. Therefore, the thematic analysis became a collaborative one. The choice of this method was influenced by its promise of developing theory from everyday-world experience and usefulness for practice (Charmaz 2000; Merriam 1998; Pidgeon & Henwood 2004).

4.6 Making Knowledge Useful and Available

An epistemological stance of travelling along the subjective path and engaging with the co-constructed reality was combined with the researcher’s preferred position that
knowledge thus generated must also be capable of being used in the world, in order to make a difference in the world (Reason & Bradbury 2001). Given the setting, a live organisation interested in evaluating its human rights practice, it became most important to examine the knowledge for practical use through the research process (Heron & Reason 2001).

The knowledge pursued was created by participants in their examination of human rights issues in their workplace and by the researcher interpreting the conversations, creating the dialogue, framing the questions, feeding back the data to the participants and by reflecting on this data about human rights consulting in a commercial setting.

Burrell and Morgan (1979) incorporated the discussion of power into social research. If we take the position that reality existed “out there” to be discovered by the researcher, then the researcher could claim ownership over this discovery. On the other hand, if reality is socially constructed by the “actors” in the situation (Berger & Luckmann 1967), then knowledge would be co-created and therefore jointly owned by the researcher and the people participating in the research.

4.7 Inquiry Strategy/Methodology

Interpretive lifeworld ontology and the consequent cyclic and reflective generation of knowledge calls for a methodology that will fit this framework. Given that the research question dealt with the generation of knowledge from an engagement with a fluid reality, an iterative process of generation of knowledge and reflection-in-action (Schön 1991), it was appropriate to employ a methodology that allowed for a discovery of insight and for the practical application of such insight.

4.8 Quality and Rigour

In addition to the ontological and epistemological considerations, ethical, political and ideological considerations had to be incorporated into the research design.

The rigour of this research was enhanced by a practical stance on human rights, a methodology that reflected the assumptions of international human rights, and the reflexive role of the researcher.
4.8.1 A Practical Stance on Human Rights

The research concern was grounded in the human rights ethical and values system. This included human rights education, and a democratic, transparent process, with the intent of empowering the participants as well as creating knowledge that could be used for further research and by IP in its practices.

Human rights is not only a contemporary phenomenon as far as commercial organizations are concerned; it is also a threatening topic. The precise boundaries of where the topic of human rights merges with the operations of multinational corporations is difficult to draw and is subject to debate (Aldred 2000; Avery 2000; Waddock 2002). This confluence is also best explored by case study research (Gillham 2000). In addition, after the initial contact and preliminary discussions with IP it became obvious that we were dealing with a virtual organisation in a global setting. This gave further support for the choice of methodology, because the researcher would have little control over events and could best answer her research question by catching the complexities of a single case (Stake 1995).

By the time a sufficient understanding of the nature of IP was developed, including the complexities of exploring human rights from within a “live” organisation, some research effort had been invested, and, more importantly, expectations within the IP system that this research would be conducted and that the participants would have a say in its development had been raised. So it became important to stay within the contract, to continue the research to explicate the knowledge being created and make it accessible to the people who generated it. The advocacy approach initially employed was modified to a more general framework of socially constructed knowledge about making sufficient sense of human rights within IP’s setting, constructing a common meaning of human rights, and interpreting of the context and the process of the journey from the initial engagement to implementation at IP.

The necessary research question became more about the “how” and “why” of the implementation of human rights, about explanation, dealing with “operational links” (Yin 2003, p. 6) tracked over time.
The research question was practice based and one of the stated values guiding this practice was to work “with” people and not “on” people (Heron & Reason 2001). This included the sharing of knowledge generated through the research and also the researcher’s ideas and experience about the subject matter in the commercial setting, and endeavouring to have something meaningful to say within the context of the participants (Angen 2000).

4.8.2 Methodology Reflects the Assumptions of the Topic

Choosing an interpretive methodology enabled a deepened understanding of human rights and how to help commercial organisations become more aware of topic. Consistent with the belief that understanding human rights makes us more fully human, an interpretive research “should provide a thoughtful, caring and responsible answer to ‘How do we become more fully who we are as human beings?’” (Angen 2000, p. 388). Taking this approach meant taking risks and dealing with a lot of uncertainty, including uncertainty around quality and rigour. However, discussing human rights in a context of a commercial multinational organization does add two strands of rigour, the moral and the practical, to the tightrope of this uncertainty. These two strands provided a relevance to my chosen topic. The converse of this, a pretence of neutrality, would provide a particularly jarring example of an irresponsible stance, a “denial of humanity” whilst pretending to be studying the meaning of human rights.

All research agendas must be questioned as to their underlying moral assumptions; and

Ethical validation” requires practical and transformative answers to the questions posed (Angen 2000, p. 389).

This method of inquiry, a cooperative approach between the researcher and the researched, has political and ethical implications that include responsibility for the inclusion of different voices, respect for a fair debate and, at least, an explication of vested interests (Angen 2000).
The term rigour was chosen to discuss the considerations of quality in this research. This point is a part of the interpretive approach; it stands distinct from “validity” used by writers from both the qualitative and quantitative traditions. This is acknowledged in this study by retaining the term “validity” in their quotes.

Making carefully considered choices is one of the criteria of rigour in interpretive inquiry. According to this view, rigour in interpretive research is about:

- broad principles that must be carefully considered in each instance;
- legitimacy and trustworthiness;
- moral soundness; and a
- “fidelity to phenomena, a faithfulness necessarily inclusive of our own experience and the experience of others” (Angen 2000, p. 386).

This study has been about practicalities of defining human rights in a commercial organization and what, if anything, can be done about them in daily operational practice. The research question aims for an expanded understanding of meanings of human rights involved in the everyday work life of research participants. This includes the question of what operationalised human rights in a commercial organisation look like in practice and what an organisation can do to enable them to be incorporated in its practices.

McTaggart (1998) shares the view that examining change with moral justification and “careful attention to the manifoldness and particularity” (p. 211) constitutes rigorous social research.

Criteria for rigour in interpretive research can be categorised into three broad strands:

**Qualities of the researcher** including: people skills, resilience, patience, persistence in the face of ambiguity, passionate involvement in the topic and forming close relationships; particularity with carefully chosen questions, humility, respect for people, taking into account diversity of interests and values; a commitment to self-reflexivity and self-critical reflection, an account of own transformation;
Practical and educative value to the research participants, the consulting role and profession; actions and practices that are catalytic, educative, empowering of participants, that, increase consciousness about injustices, identify nature and sources of inequalities and injustices, make visible the ways in which those with more power exercise and benefit from power, engage those with less power collaboratively, identify potential changing making strategies.

Presentation of research and findings are part of rigour. They include writing about the research and its findings to make them accessible and of use in the research community. Do they hold generative promise? Are they fertile and do they raise new possibilities for a dialogue about human rights, moving beyond our present understanding of human rights and multinationals? (Angen 2000; McTaggart 1998; Merriam 1998; Patton & Johnstone 2002)

4.8.3 Researcher’s Role Was Reflexive

The intricacies of incorporating human rights into commercial operations became apparent early in the study. The gap between international human rights theory and practices of multinational organisations in regard to human rights as documented in the literature appeared wide. From the point of view of a manager imbedded in a commercial organisation, this gap was one of a language of human rights that would make sense in a commercial setting; of finding a way through the manifold international instruments; of legal cases; and finally of practical steps to be taken by a socially responsible multinational organisation. So the intent of collecting this open-ended, emerging data was to develop and build upon the themes emerging from the data. There were no a priori theoretical notions or theories about incorporating human rights into a commercial operation to test.

Throughout this process, the researcher played two roles, that of a researcher and a resource person. In the researcher role, the theoretical and political stances were explicated, decisions about methodology were made and a detailed journal about the practice kept. Upon entering IP, the researcher became a resource person engaged in bringing about awareness and change in IP’s practice of human rights. This was an active role in the process; it included engaging with clients and bringing to the client system information about human rights, about how it fits into the corporate
citizenship context. It also included the sustainability of a global entity and the decisions IP had to make to position itself within the understanding of these contexts and pressures and the changes that this may entail to its corporate culture.

Denzin and Lincoln (2000) offered a helpful metaphor for a qualitative researcher at this stage of the process, that of a bricoleur; a ‘Jill’ of all trades, “kind of a professional do-it-yourself person” (p. 4) An interpretive bricoleur pieces together a set of representations that are fitted to the specifics of a complex situation The research question certainly anticipated navigation of a complex situation. The findings of this study were anticipated to have several representations: the experience of the researcher, the changes within IP, implications for corporate practice within IP and outside IP and the methodological implications. “The solution (bricolage) which is the result...is an emergent construction” (p. 4), a construction that is very apt to this under-researched field.

4.9 Methods

4.9.1 Choosing an Industry Partner

The criteria for choosing an industry partner to conduct research into human rights practices in a multinational organisation were developed and refined at the beginning of this research, and emerged as follows:

- First and foremost, there had to be willingness to examine the industry partner’s practice;
- Second, to meaningfully explore human rights beyond a local setting and practices based on local legislation, an industry partner must have live experience in an international arena;
- Third, to conduct qualitative research, key people and sites had to be available for face-to-face interaction in the place where research was to be conducted; and
- Fourth, there had to be a preference for an industry where research was needed.
4.9.2 Getting Access

Finding an interested industry partner was driven by the initial research design, which was in turn based on philosophical stance and the skills of the researcher. Starting with informal discussions about human rights with people who had work experience in multinational commercial organisations generated sufficient energy to provide links to people who had worked or were still working in “live” multinational organisations. The researcher met with five such people in total one at a time, she discussed the research topic, summarised the information gathered and sent a written summary to each person for clarification, comment, and permission to use the information in order to progress the effort of finding an industry partner for the research. These discussions led to contacting IP and a key informant, Bruce, as he is called in this thesis. The researcher sent the Plain Language Statement and her Curriculum Vitae as an introduction to the face-to-face meeting with Bruce. The meeting was a discussion about human rights as perceived from within a multinational commercial operation and, most importantly, what the research could achieve for both parties.

4.9.3 Contracting

This meeting led to an exchange of Letters of Agreement between 5\textsuperscript{th} August and 2\textsuperscript{nd} September 2002. These included definitions, conditions and approval for research. The working relationship was maintained and renegotiated through monthly meetings with Bruce.

IP was a suitable choice for this research because of the following factors:

- Access and willingness to take part in research was established in the early meetings;
- An important function is present in Australia and this means two things: one, there is a basis for the cultural understanding of concepts of organisational life and human rights; and two, there was an opportunity to use multiple methods, face-to-face interviews, in-depth interviews, direct observation, and analysis of artefacts;
• IP operates its own manufacturing facilities in several South East Asian countries, as well as Mexico and the UK; other functions such as marketing and sales are represented around the globe.

On the other hand, there were limitations. For instance there are many geographical sites, cultures and languages represented in IP and this influenced the sample for the interviews as well as a communication gap. Access to people at sites other than Melbourne was also very time-consuming.

4.10 Data Collection

Six different methods of data collection were used:

• Interviews;
• Document analysis;
• Workshops;
• Text analysis;
• Direct observation; and
• Journal keeping.

Unstructured face-to-face interviews were chosen to create the initial meaning of human rights practices at IP to begin the process. The interpretation of these meanings was then tested within the same department but at different global sites of IP. The next step was to validate the aggregated data with all the participants and to write a report for feedback and planning purposes. The plan was complemented by further interviews in South East Asia, the manufacturing region of IP, and the analysis of IP documents. Further cycles of feedback, validation and a summary followed, before the research proceeded to in-depth explorations of how to implement change within IP to incorporate human rights practices into daily operations. Simultaneously, the researcher kept a journal and generated themes that helped to design and develop the Interpreter role as discussed in Chapter Seven, The Champion and the Interpreter.
4.10.1 Interviews

To get a wide view of IP and how human rights was perceived and/or could be implemented, fourteen people were contacted, ten responded and were interviewed in a series of three different types of interviews. In addition, ongoing contact over the period of the project was kept with two of the participants.

To explore realities of implementing human rights as experienced by the respondents in their work setting, interviews were employed as a method of data collection. Initially these were designed to open the discussion about human rights issues within IP. These interviews started with the initial exploration of the topic within IP, relying on normal everyday organisational conversation to elicit information (Minichiello 1995) about human rights issues and practices.

There were three unstructured face-to-face interviews between August and September 2002, one with the initial contact person and two with Bruce, all conducted in Melbourne.

As the complexity of the topic emerged a “topical direction” (Flick & Merritt 2002, p. 125) was followed by semi-structured interviews. The content of these interviews focused on the understanding of human rights issues and practices within IP, without fixed wording or ordering of questions, but using open-ended questions and encouraging discussion.

Six semi-structured interviews were conducted, one face-to-face in Melbourne and five by telephone with people in Brussels, the US, Kuala Lumpur and Sri Lanka between October 2002 and April 2003.

Each telephone encounter with the participants was initiated by e-mail introduction by Bruce, the “project sponsor”, followed up by the researcher’s sending the Plain Language Statement, the Consent Form and a background paper, Human Rights – Education and Implementation in a Commercial Organisation (Appendix 1). This was then followed up by a telephone call by the researcher to make arrangements and explain the duration and nature of research questions, discuss confidentiality issues,
and ask for permission to audiotape the interview. At the appointed time, the participants rang the researcher and the telephone interviews were conducted. They lasted between thirty and ninety minutes.

In-depth interviews were employed with Bruce and the Enabler (Ludwig as he is known in this thesis) as the need to make sense of how human rights could be implemented at IP became central to the progress of this research. (Williamson, Bow & Charles Sturt University. Centre for Information Studies. 2000)

Thirteen interviews were conducted with Bruce and four with Ludwig.

These were “repeated face-to-face encounters between the researcher and the key informant directed towards the informants’ perspectives” (Taylor & Bogdan 1984, p. 77) of their experience of human rights and their understandings of IP’s organisational dynamics expressed in their own words (Minichiello 1995). The researcher explored the question of how to incorporate human rights at IP by employing a recursive model of interviewing (Minichiello 1995), relying on the natural flow and treating IP as a unique situation. To counter the concern of going off on tangents, the researcher refocussed the conversations by listening analytically, asking for clarification, employing probing questions including devil's advocate questions and posing the ideal (Minichiello 1995, p. 90) as the interviews progressed. Each interaction directed the succeeding step in the research by the collaborative planning of actions to be undertaken before the next scheduled meeting.

Therefore, four types of interviews were conducted: unstructured face-to-face, semi-structured, face-to-face and telephone, and in-depth.

Thirty one such encounters (2002, 8 times, 2003, 15 times, 2004: 8 times) provided data for this research (Appendix 3).

4.10.2 Document Analysis

The documents analysed for this research include public records; IP documents and other physical materials, and researcher-generated documents. The latter were
compiled as an outcome of the data collection and analysis, and are discussed first because they were produced and analysed iteratively as a necessary and important part of data collection.

4.10.2.1 Researcher Generated Documents

A lot of reference material on human rights concentrates on reporting the human rights abuses by multinationals. It is written from an advocacy position or alternatively from a legal position, arguing about what the international law provides for in this area and what it means in legal practice.

Literature dealing with the questions of “how do you?”, “what are the mechanisms, stages and steps?” of implementing human rights in a multinational organisation was not readily available when the research commenced.

During the data collection and data analysis phase of the research, the researcher searched the literature about human rights and multinationals for the following purposes:

- To create an understanding in the mind of the researcher about the aspects of human rights in the international arena that are pertinent to or practicable for a commercial organisation, IP in particular;
- To collect information on other commercial organisations and how they interpret the human rights literature in their public statements about their human rights practices;
- To interpret international human rights legal cases where multinational corporations were involved in legal proceedings, for a managerial context at IP; and
- To learn about the context, about the intersection between human rights norms and legal concepts with the human rights issues of a multinational commercial organisation.

The documents generated from this research include segments in the three-monthly reports of data collection and analysis sent to the client. Also sent were A Proposal
for Key Stakeholders within IP, Why Include Human Rights Education and Implementation into IP Culture? Ratification of Human Rights Conventions By Country Table, summaries of the Nike and Shell Cases, United Nations Global Compact Summary and an ongoing record of the process, Background to the Project (Appendices 4-9).

4.10.2.2 IP Documents and Artefacts


4.10.2.3 Text Analysis

In September 2002, Bruce wrote the initial briefing paper *Human Rights – Education and Implementation in a Commercial Organisation* for distribution to the potential interviewees, his colleagues in the Global Human Resource team at IP (Appendix1). In addition, Bruce wrote an e-mail introducing the researcher and the topic. The wording was analysed for understanding and knowledge that Bruce had on the topic of human rights practices, as well as what the starting points were for the proposed dialogue about this topic.

In January 2004, Bruce wrote the *Compelling Reasons for Proposed IP Statement on Human Rights – Draft for Discussion* and the *Human Rights Statement* for his superior officer and for anticipated distribution to the CEO and the Board of Management.

The wording was analysed for how the research information was made to fit into IP. In addition, Bruce’s questions about what human rights might mean for his organization were also analysed.
The researcher-generated documents, prepared for the organization were also analysed, as they reflected the requests made of the researcher to translate the human rights literature into the commercial organisation parlance.

The researcher’s journal and field notes were also analysed.

4.10.3 Site Visits and Observation

The researcher visited the Melbourne premises of IP over almost two years of research. In this time, the company combined its two sets of premises as part of its reorganisation. The researcher waited for meetings in reception areas, conducted meetings in glassed offices. She, with permission, made notes about the movements and changes in the environment, read company information on public display, and talked to the receptionists. More specifically, she kept a journal recording field observations and events that at times kept Bruce from meeting at the appointed time, or responses from people contacted for the study apart from the data captured in the interviews. She also visited the Malaysian manufacturing plants. The purpose of the visit was to see the manufacturing process, the premises, the work environment, the people at work, and the publicly displayed company information. These observations confirmed the reported differences in approaches to work, composition of workforce, power and authority. The observations from the inspection were incorporated into her analysis in Chapter Six.

4.10.4 Workshops

Four workshops were conducted; three in Melbourne and one in Kuala Lumpur. Bruce and the researcher participated in three workshops, two in November and December 2003, and the third in January, 2004. These were designed to synthesise the research data and combine the findings into the “Proposal for a Human Rights Strategy at IP”. This proposal was drafted for the Global Human Resource Management Director, the Chief Executive Officer and the Board of Management of IP, all located in New Jersey, USA. The workshops were of one-day, two-hours, and half-day duration respectively.
The first workshop was a discussion and recording of the draft proposal and the identifying of other data that would be needed, and the background to the project. Most of the day was spent on the structure of the proposal, on analysing existing data, and, on the language that would achieve the intended impact, that is, adoption of the proposal at the highest level of management of IP.

The intention of the second workshop was to incorporate the additional data, seen as missing in the proposal drafted by Bruce. These data were intended to flesh out the compelling business reasons for IP’s demonstrated social responsibility position. However, the task of obtaining the additional data from IP proved to be too difficult for Bruce. The researcher furnished additional analysis as well as new information from outside of IP. The time was spent in discussing what makes a convincing case in implementing human rights at IP. Hence, further data about the influencing factors and the language of the proposal were collected and analysed jointly.

The third workshop was planned as one of the outcomes of the second. It took place in three weeks and lasted for four hours. Bruce wrote the Compelling Reasons for Proposed IP Statement on Human Rights – Draft for Discussion and the Human Rights Statement (Appendix 15), with minimum input from the researcher. Researcher-generated documents, Background to the Project, Why Include Human Rights Education and Implementation into IP Culture?, Corporate Citizenship and Sustainability, United Nations Global Compact Summary were appended to the proposal which was posted to the Global Human Resources Director and to two of the participants in the research, Human Resources Director, Europe, and the Senior Vice President, Head of Global Manufacturing, for their comments and feedback.

The fourth workshop was designed to test the prototype model and to validate the basic concepts in the model, as well as to expand it. The intent was to use the model to broaden and deepen the study within the Operations department. The outcomes of the workshop were summarised and validated with the participants. The study then incorporated the questions designed for the operations environment (Appendix 16).
4.11 Data Analysis and Interpretation

Data were analysed continuously during the data collection phase of the research. The researcher listened to the audiotapes after interviews, wrote and read the transcripts from these tapes, and wrote regular journal entries. The researcher also sent data back to participants who had supplied it for validation and comments. Then researcher’s and participants’ ideas, hunches, tentative themes and new questions to pursue were included in the next phase of data collection. Simultaneously, the researcher explored the human rights literature for support of her tentative themes and for making sense to the participants of how human rights could be implemented at IP.

4.11.1 Listening to Tapes

Each interview and meeting was recorded on audiotape. After the interview or meeting the researcher listened to the tape for three purposes:

- To clarify in her mind what transpired at the encounter;
- To summarise the information and feed it back to the other party in each encounter; and
- To make a record of the data.

Twenty-one tapes out of 32 encounters were transcribed verbatim for the record.

4.11.2 Feedback to Participants

Written feedback and sometimes the audiotape were sent to each participant for verification of data.

4.11.3 Collaboratively Planning the Next Step

In addition to verification, participants were invited to respond and to include their ideas and feedback to complete the dialogue.
4.11.4 Analysing Documents

IP made its documents available for this study. These were:

- **IP Human Resources Manual** which established the extent to which human rights practices were explicated in policies and procedures intended to provide guidance to managers and supervisors in their daily management practices.

- **Staying out of Trouble**, a booklet prepared to deal with the ethical issues at IP, including a slide presentation designed to explain the ethical issues for operations.

- **Third-Party Social Accountability Policy**, a policy covering social responsibility, including some human rights issues in IP’s contractual arrangements with its suppliers.

All were analysed by the researcher and the analysis was incorporated in the feedback provided to the client for actioning.

4.12 Validating the Findings

The researcher maintained contact with IP through meetings, in-depth interviews and workshops with Bruce. Periodical contact was also maintained with other participants, in writing. Therefore the researcher was able to check meanings and emergent themes. The continuity of contact and the rigorous discussion of data and how to use them, were the foundations on which this research maintained its rigour (Merriam 1998).

In interviews the researcher stayed close to the actual work life of the key informant by checking that things and happenings were called by the names used at IP and by checking perceptions and confirming meanings throughout the process. In addition, the researcher probed, cross-checked and used recursive interviewing techniques (Minichiello 1995) to pursue a close fit between what was said and what was acted upon. These interviews were conducted along the same principles as the in-depth
interviews. They used open questions, checking of meanings and names, asking for validation throughout the process, and frequent summaries throughout each interview.

After each data collection episode, the researcher recorded, interpreted and summarised the data for validation of content and meaning with each participant. Written summaries and, if desired, tape recordings were sent to each participant for verification of data.

Every three months, the researcher wrote a summary of aggregated data collected from interviews, meetings and the analysis of documents, and of correspondence combined with the analysis of human rights issues, as well as an analysis of what the findings could mean for action within IP. The researcher sent selected sections of these reports to people whose data were contained in them. The aggregate report was then sent to the key informant, who in addition followed a “completely transparent” process in directing the project through IP and furnished all participating parties with all the reports sent to him by the researcher.

In addition to aggregating data from interviews, documents and observations, interpreting and summarising them into themes, the researcher integrated these themes with literature research about human rights and multinationals. The information was used at IP events such as training and planning conferences in order to include a human rights strategy into the everyday policies and practices of IP.

The prototype of the model was tested in the Operations Department and feedback was incorporated into the final version (Appendix 16)

4.12.1.1 Analysis Using Grounded Theory

Using basic techniques of grounded theory, the themes derived from the data were fed back to each of the participants to ensure they were meaningful in the IP context. Therefore the thematic analysis became a collaborative one (Charmaz 2000; Pidgeon & Henwood 2004).
4.13 Ethical Issues

4.13.1 Transparent Contracting

The engagement with IP followed an exploratory process which the researcher introduced herself to the key informant, and discussed the topic and her research interest. Letters were exchanged about the scope, length, aim and participatory nature of the study. The initial sample of people was suggested by the key informant, with a “snowballing sample” pattern following thereafter. Confidentiality for IP was agreed upon; this meant keeping IP’s identity protected in any publications or presentations to anyone except the participants.

4.13.2 Informed Consent and Transparent Data Collection Process

Thereafter, each person was invited to participate and sent a Plain Language Statement. Each participated in an informed consent process. The forms were periodically adjusted to include particular circumstances including confidentiality issues, so that the participants were aware what would happen to the data they supplied. The interviews were conducted in a face-to-face setting and over the phone from countries outside Australia. All were audio-taped. At the beginning of each tape, consent for taping was sought and given, even though this was previously specified in the consent form. Copies of taped conversations were made available to participants.

4.13.3 Data Transcribed and Fed Back

An ethically cleared professional tape transcriber or the researcher transcribed the conversations. Data from these interviews were analysed and fed back to participants in the first instance. Once perused and commented upon and, with their permission, given for use in an aggregate form, the data were then periodically summarised in written reports. Feedback to the key informant included these written reports, and further collaborative decisions were made based on the analysis. The analysis was based on company documentation, literature on human rights, and the interviews.
An issue that arose was that of keeping the identity of participants anonymous and at the same time respecting the company protocols with the “project sponsor”, the chief informant and the client. These protocols included Bruce’s having information about access to sites. These were attended to by keeping Bruce informed about the questions to be asked and why, but no individual responses to these questions were discussed with him.

4.13.4 Respect for People

The researcher brought to this inquiry her experience in organisational settings, her human rights sensitivity, and good interaction skills, including questioning, responding and clarifying (Strauss & Corbin 1998). She is genuinely interested in the topic and had no other tool or currency than acting at all times with respect for IP, its people, and their stories, in order to stay engaged with them and continue her research.

4.13.4.1 Doing It in their Framework

Another consideration was showing respect for research sites that were spread all over the globe. One issue was “local time”, another was privacy. Most importantly, there were also issues of cultural diversity and sensitivity. On each occasion, the time differences were respected and interviews carried out in the participants work time. All arrangements for the timing of interviews have been made by e-mail. This was first of all the normal work procedure within the global IP; secondly, it allowed the participant to chose a time and keep control about the level of engagement with the researcher without “being put on the spot” by being contacted by phone, let alone a mobile phone, unless specific instructions had been given to the researcher to do so at a specific time. This was followed meticulously.

4.13.4.2 Transparent Setting

When contact was made the researcher described where she was, namely in a private space protected from interruptions, and, secondly, that she had taping equipment, a loud-speaker telephone, and notes that she referred to. Identical notes
were also supplied to each participant prior to each encounter. Each of these points was discussed on each occasion. In addition, despite receiving the signed consent forms, the purpose of the study was discussed and its methodology and method, including number of questions, the time allocated for them and the purpose of asking them.

4.13.4.3 Respecting Diversity

In addition to being an experienced manager, cognizant of organisational language, the researcher obtained information and coaching from her key informant regarding the cultural sensitivities of each site, the use of respectful and appropriate titles, modes of address, pace of delivery, hierarchical arrangements, the different labels within the hierarchy in each site, and gender issues (how men are addressed and how women are addressed). As this was a global corporation, the researcher also anonymously ascertained the nationality of each participant in order to be respectful to their position within the company and in their society. Part of this came from her; she had previously worked with Americans, Europeans including Germans, English, and Dutch, (including in their countries), and people from South East Asia in her work roles. During her study, she had access to Thais, Indians, Malays and Chinese. She had also worked in a war zone of a Muslim country and had studied International Law with people from all over the world. She had taught human rights in a class consisting of students from at least ten different countries, and from several religious traditions, gathered in a war zone.

4.14 Conclusion

The constructivist interpretivist framework and the interpretive case study approach were appropriate choices for the pursuit of the research question of “How Does an International Commercial Organisation Incorporate Human Rights into Operations?”. These approaches informed an iterative and collaborative data collection and analysis process. This approach was suited to the research question because of the complex and controversial nature of human rights contained in it. In addition, the relativism of two social realities, one of a commercial setting and the other of the international legal framework of human rights norms, was accommodated by the
framework. The approach was also consistent with the humanist view of the world and of autonomy, respect for persons, their capacity and moral worth. This was in turn consistent with the underlying universal values of human rights.

Adherence to these principles generated data that afforded a mutual creation of knowledge; that is the meanings of human rights for the participants, who then collaborated in shaping these into a usable form. It enabled an analytic interpretation of data by focussing on further data collection used to refine and evolve the analysis. Thus the process enabled the humanist principles to be “lived” by the people who participated and owned the knowledge generated. This knowledge was then thematically arranged to represent the key concepts for the findings chapters that follow.

- The roles that were constructed to perform the study;
- The operational processes examined to generate the data enabling a holistic understanding of the responsibilities for human rights by a multinational corporation, by an inclusion of different voices and an opportunity for a debate of vested interests; and
- The Model for education and implementation of human rights at a generic and theoretical level.

The constructivist interpretive approach was the process that created a platform for the leadership that propelled the study.
Chapter 5 Industry Partner

5.1 Introduction

The purpose of this chapter is to describe IP as an organisation and its appropriateness for a case study on the implementation of human rights in multinational organisations.

The chapter includes IP’s basic description, its history and behaviours and attitudes towards human rights. Included in its description are its business - what it does -- its market position, where it operates, how it is structured, and the people that work there. Its brief history is included to provide the context for its current position as a global corporation interconnected with the global economic and social trends.

The behaviours and attitudes in relation to human rights as encountered by the researcher at the beginning of the project were included as mosaic pieces of IP as it was then: what it knew, what it wanted to do, why it wanted to participate, what were the behaviours that shaped the project.

5.2 History

IP started in 1905 as a family business manufacturing household products in Melbourne, Australia. It experienced a steady growth from its inception. In the early part of the twentieth century, managed by family members, it expanded its product range, became more efficient through innovation in production techniques and continued to do so into the 1950s when it expanded its domestic retail channels and broke into markets beyond its Australian base. In the 1960s, IP’s sales and markets were good; it was cashed up and it made its first acquisition, a take-over of its biggest Australian competitor. By the end of the decade, however, it was a prime takeover target and DP made its move.

In the 1970s, the demand for IP products combined with its marketing strategy brought record orders, which stretched its Australian production facilities to the limit. To meet the demands for its products in Asia, Europe and the United States, in the
face of delays in shipping of finished goods from Australia, and of simultaneously increased costs of shipping raw materials from South East Asia to Australia, IP built manufacturing plants in Malaysia. The volume of sales doubled in this decade.

In the 1980s it further expanded its manufacturing base through acquisitions as well as building plants in Sri Lanka and Thailand. At the same time the demand of the United States market base and IP met it by the acquisition of two local factories followed by two substantial plants in Mexico.

At the end of this decade, all manufacturing ceased in Australia, and at the end of the 1990s, IP moved its headquarters to the United States. In 2002, IP changed its name to reflect its emergence as an independent multinational corporation.

Throughout this growth and expansion of its manufacturing bases, IP continued to invest in its research and development. This investment meant improved product design, successful marketing strategies, an education campaign for use of its products, and involvement in the education of the users.

5.3 Description

5.3.1 IP Business and Structure

IP developed designed and manufactured household, personal care and professional health care products. It was divided into three regions globally, Asia Pacific, Europe and the Americas. In each region there were divisions of Marketing, Operations, Science and Technology, Supply, Finance and Accounting, Human Resources, Information Technology and Business Development. These divisions and support services were managed from a variety of locations, Human Resource Management for Asia Pacific was located in Melbourne, Australia, for example.

It had 28 facilities in 16 countries. These included manufacturing plants in India, Malaysia, Mexico, Sri Lanka Thailand, UK and USA. Its largest manufacturing facilities were in the Asia Pacific Region, followed by Mexico. In addition it had offices in Australia, the United States and Belgium, and packaging and warehouse facilities in South Africa and France.
IP was described in interviews as a “twenty-four/seven” operation, meaning it operates shifts in manufacturing around the clock, while other transactions were conducted across the globe by people operating in different time zones. ¹

5.3.2 Governance and Management

Statutory Head Office was located in Melbourne and the Operational Head Office in USA. There were six members of the Board of Directors. Three including the Chairman of the Board resided in Australia, with the remaining three in the USA. All members of the board were male.

The senior management people were located as follows:

Australia

- Company Secretary and General Manager, Corporate
- Senior Vice-President and Regional Director, Asia Pacific

USA

- Managing Director and Chief Executive Officer
- Senior Vice-President, Human Resources and Communication
- Senior Vice-President and Chief Finance Officer
- Vice-President Global Supply and Logistics
- Senior Vice-President and General Counsel
- Senior Vice-President and Chief Information Officer
- Senior Vice President Science and Technology
- Senior Vice-President and Regional Manager, Americas

Malaysia

- Head of Global Manufacturing

¹ Interview with Bruce, September 2002.
Belgium

- Senior Vice-President and Regional Director, Europe²

All the senior managers were male³.

5.4 Employees

IP employed 13 000 people with the following regional distribution: 84% in Asia, 12% in Mexico, 3% in North America, 1% in Europe.⁴ The employees comprised many national, cultural and religious groups, including Buddhist, Christian, Muslim and Hindu. Thought the gender composition of its workforce was not explored in detail, all participants raised this issue. It was reported that women were preferred for work in the South East Asian manufacturing sector, that in some plants they represented 90% of the workforce, and that they were not proportionally represented in the supervisory and management positions. The majority of employees in the manufacturing sector were locals with the exception of two plants in Malaysia, where IP employed migrant workers.

5.5 Finances

IP was an Australian public company listed on the Australian Stock Exchange. In addition to its home stock exchange, it had listings on the London and New Zealand exchanges. In the US, IP Limited shares were traded in the form of American Depository Receipts (ADRs) on the NASDAQ. Although it was Australia listed, it was managed as a US dollar company. Fifty percent of sales and 70% of costs were in US dollars or linked currencies.⁵

Its financial strategies included the strengthening of its balance sheet by reducing fixed assets, debt and working capital and increasing shareholders funds. One visible part of this was its Share Buy-back strategy. On the financial markets, Standard and Poors and Moody ranked it as BB and stable.

² Interview with Bruce, October 2002; Interview with Ludwig, April 2003.
³ The Governance and management segment was extracted from IP’s 2004 Annual Report and Website accessed 29th June 2005.
⁵ Kuala Lumpur workshop 1, July 2004.
5.5.1 Industry and Market Position

IP saw itself in three kinds of businesses: occupational, professional and consumer. It was the number one market leader in the professional and occupational segments and number two in the consumer market of its industry. It had a vision to be a “global leader in its business⁶, providing exceptional solutions, products and value to customers”.


Sales: US 49%, Europe 36%, Asia Pacific 15%.

Production: In contrast, Asia Pacific leads production with 62%, followed by the Americas with 35%, and lastly Europe with 3%⁷.

As is apparent from the above data, one of the issues for IP was that the bulk of production was not located in countries with the largest markets for its products.

5.6 Human Rights at IP

This section deals with processes and structural issues, the context against which this study was conducted. It nonetheless has to be stated that the products that IP manufactures and sells do not per se raise any human rights concerns.

For the researcher, approaching IP with a proposal to carry out a preliminary study to identify key areas/questions of human rights impact and possible strategies for education on and implementation of policies and strategies was a step into a previously unknown organisation. For IP it was a new venture, an exploration of what human rights meant in its operations and for its newly formed global identity and culture.

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⁶ IP Documents, wording has been substituted by the italicised text to protect its anonymity.
This section was included in this chapter to achieve two objectives; one, to explore why IP was interested in participating in this study; and two, to identify what kind of behaviours and attitudes its people exhibited to make the study possible, that is the pivotal behaviours and attitudes made the discussion about human rights in a commercial organisation accessible and their incorporation feasible.
5.6.1 Exploring, Willingness to Have a Go

The research proposal was drafted on the basis of a short literature research, experience in commercial organisations and some human rights work in non-commercial settings. This was used as a discussion starter.

The proposal produced the first piece of data: the insights on human rights practices offered by an informal contact at IP, an “expatriate” a white, Anglo-Saxon male engineer with substantial experience in South East Asia.

Expressed in comments such as “I offer these comments as a strictly private opinion and not the opinion of my current employer”\(^8\), the threatening nature of human rights dialogue in the context of a multinational commercial organisation presented itself from the start. Much anecdotal data were offered during the discussion as well as informative insight, based on experiences with previous employers around the world including South East Asia.

Despite this, sufficient good dialogue and exchange of ideas and trust developed between two people who had not met before to gain an introduction to the Regional Director Human Resources Management Asia Pacific at IP, we will call Bruce. This was significant not only for the progress of this research project; it had implications for human rights research in multinational corporations. A considered approach and a deal of energy were required to establish a relationship where human rights issues could be discussed in the context of IP. The distinction between the legal, activist and organisational application had to be interpreted first to arrive at a starting point for human rights at IP.

5.6.2 Entry, Access and Risk

The proposal was amended as a result of the initial exploration and it struck a chord with Bruce. Right at this, entry, stage, the behaviours and attitudes of IP as an organisation became clear, Bruce was about to depart on a regional South East

\(^8\) Interview with CE, Sept 2002.
Asian trip and the researcher’s next three interviews were with his colleagues who worked in Europe and the United States.

So the first conceptual challenge was to introduce the topic into the broader organisation, whilst the human rights issues were defined from the South East Asia manufacturing experience. The people concerned had only met face-to-face once before. The researcher was unknown to all of them. More importantly there was no perceptible dialogue around human rights or any concrete policies or strategies for managing them at IP. Therefore, the other challenge was to provide a conceptual understanding of human rights that was specific enough to be real for IP yet make sense in very different environments, such as Europe, North America and Australia.

The first contact with IP also demonstrated that it was a “virtual” organisation. The office was sparsely staffed; there were no other people visible, including an un-staffed reception desk at the very entrance. Subsequent data confirmed that people were working in jobs where responsibilities were spread over a large geographical region.  

Bruce’s perception of his position in the Asia Pacific region echoed this.: “a white Australian male” operating in an environment where his immediate direct reports were “by dotted line” to his subordinates while the real power and consequently the important decisions were made by the operational managers at each work site, Malaysia, Thailand Sri Lanka and India. His contact was by electronic mail and personal visits to the sites from Australia. He never met with his team as a group. In addition to this he was aware that this project needed a “buy-in from ‘the top’”, “the top” being mostly in America, his immediate boss, the Global Director of Human Resources and the Chief Executive Officer, both “sitting next to each other and at the right hand of the board”.  

A decisive action by Bruce, taking a stand, was demonstrated in two ways, first by his drafting the paper outlined below, and second by his entering into a contract with the researcher to proceed over a period of eighteen months. The contract included confidentiality provisions, once more demonstrating the discomforting nature of the

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9 Site visit Melbourne, September 2002.
10 Interview with Bruce, September 2002.
topic. These two steps, nonetheless, were catalysts for the evolving journey and formed a psychological contract. Both took risks: the researcher by committing her time and effort to an organisation that was hard to access, and Bruce by raising the subject from his position.

5.6.3 The Key Contacts

Bruce drafted the initial definitions and areas in a document entitled “Human Rights - Education and Implementation in a Commercial Organisation”, for distribution to potential participants in this research.

He gave himself a title of “project sponsor”, a definition signifying Bruce’s ownership of the project at IP. Whilst this title comes from a traditional experience of managing other human resources projects, it was significant to the study of implementing human rights strategies, policies and practices into commercial organisations. Research suggested that the philosophical reference base of the driver of human rights projects was very important to the effectiveness of these efforts. (Ashford 1998; Gini 1996).

Part of IP evolvement into its new shape was the appointment in 2003 of a new Vice President, Head of Global Manufacturing; whom we will call Ludwig. Ludwig was based in Malaysia. Despite managing his demanding new role, he agreed to participate in this project and stood for the principles of “fair and equal treatment of all people” as a starting point of his philosophy to leadership and management. Drawing on examples of mistreatment of people where human rights were neglected or disregarded, he solidified the definitions of the type of human rights incidents that occur in a manufacturing environment and practical ways to address them in business. These examples, coming from an operational background, served as “the bones” (Goldberg 1986), as awareness markers, establishing a language and a lever for discussion of human rights issues and practices within IP.

The stand that Bruce took around the Human Resources function and human rights within it required vision and courage. He acknowledged that the policies needed updating to represent IP’s current position, let alone to bring IP into an awareness of

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11 Interview with Ludwig, April 2003.
responsible global citizenship. At the same time he spoke and acted in accordance with the existing policies to build credibility for human resource management in South East Asia, and most importantly he provided an influential voice in the global context.

Significantly, although Bruce’s boss, the Global Human Resources Manager in the USA, received the document “Human Rights - Education and Implementation in a Commercial Organisation” and gave his approval to proceed with the study and the project, he did not respond to the researcher’s invitation to participate in the study.

5.7 The Existing Policy

The existing policy in the Human Resource Management Manual was articulated in the following statement: “To promote the development and welfare of a productive and motivated workforce.”

The suggested practices to achieve this included promptness, fairness and consistency. At the level of general principle this was an excellent benchmark and it prompted the researcher to look for how it was translated into practice in particular contexts. The Manual was seen as a “living document” enabling changes in accordance with the company’s and people’s needs as well as with statutory requirements. However, it was written in the time of DP and had not been updated as a result of merger activities.

The researcher examined IP’s policies for their explicit and implicit advice to those responsible for implementing human rights at IP, and looked for clarity for managers and supervisors. Would people reading these policies know what to do within their sphere of influence? Further, the researcher looked for links between these policies and IP’s managers’ and supervisors’ performance: was it measured in general and, in particular, were there any performance measurements for human rights issues? From her stated preferred position of a global approach to human rights, she also looked for how well the policies catered for global application.

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12 IP Human Resources Manual
13 Interviews Human Resources Staff February 2004.
As foreshadowed by some of the participants, in the policy on recruitment, selection and employment, the intent described above was translated into explicit guidelines:

There is to be no discrimination on the basis of age, gender, marital status, parental status, pregnancy, race, religion, colour, nationality, citizen status, sexual orientation, disability or political conviction.\(^{14}\)

Likewise the policy on equal opportunity was backed up by detailed guidelines for non-discriminatory practice. Policies that provided for occupational health and safety and for elimination of harassment in the workplace included further guidance for managers.

Comparing IP’s stated philosophy and guidelines contained in the recruitment, selection and employment policies with its performance management program revealed a significant inconsistency. On the one hand, the philosophy and guidelines clearly indicated that managers and supervisors had responsibility for implementing particular human rights policies and practices, but these responsibilities were not specifically considered as part of the performance management process and were not included in the manager’s Key Performance Indicators. The Key Performance Indicators were agreed upon at the local level, the manufacturing sites and did not include any human rights performance indicators. In addition, Bruce’s power in his position as Regional Human Resources Director was ambivalent. The question had to be asked whether human rights policies as articulated in the Manual were implemented and how this was communicated?

The status of the Manual reflected the position of human resources management function at IP. Explained in part by physical moves, dispersed staff and globalised functions, the policies reflected a historical stance. It alluded to local and international issues and did not reflect a global company with a consistent and transparent approach to human rights.

\(^{14}\) IP Human Resources Manual
A working definition of human rights for the purposes of this project will include the following:

- That IP, in its commitment to provide for the safety, health and welfare of its employees globally, will develop and employ policies and practices that encompass the following:
  - Legal compliance with all local law/s;
  - Fostering respect for individuals and appreciation of their value and contribution to the success of the business;
  - Fostering greater understanding of cultural/social values and customs of the discreet workforce generally;
  - Providing a workplace that is free of discrimination, harassment, and abuse of any kind (including bullying).
  - Enhancing career opportunities for the local nationals and their indigenous people.

Incorporating these principles and the following human rights considerations:

- Discrimination
- Equality of opportunity
- Learning and development opportunities
- Harassment (including sexual and bullying)
- Child labour
- Foreign Workers
- Ethnic Labour issues (Appendix 1).

The number of issues identified in this document was comprehensive and demonstrated Bruce’s understanding of human rights. Whilst discrimination, equal
opportunity, learning and development opportunities and harassment are considerations in any organizations, child labour, foreign workers and ethnic labour. Issues are more important than this. These are not only human rights issues that concern multinationals but are also issues that do not clearly fall within the responsibility of an individual multinational.

The consequent interviews established a dialogue around the proposal and gave the project confirmation and acceptance. It confirmed the global connections of the human resources management team and gave Bruce, as the project sponsor, an additional stream within the function, that of managing a human rights project from the platform where they were most likely to yield real data for IP, that is manufacturing in South East Asia, where 90 percent of IP people worked in a complex social and legal environment; in isolation from the head office.

5.8.1 Regional Perspectives

Initial interviews suggested a diversity of views on human rights at IP. These could be classified geographically, into European, American, South East Asian and Australian.

5.8.1.1 European Perspective

From the European perspective, the philosophy behind the document was compatible with the policy and practices of the European arm of IP which included the Middle East and Africa: “Where no policies or laws exist then either American or UK standards, whichever are considered to be the strongest, would be applied as standards for IP.”

The practices included diversity in recruitment that matched the workforce to the needs of the market.

At the same time there was a perceived need for global standards, transparency, positive communication and consistent means for bringing harassment and violence in the workplace to the attention of human resources management. Furthermore, clear and effective escalation processes for grievances were needed.

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15 Interview with HR1, November 2002.
5.8.1.2 American Perspective

The American perspective included Canada and Mexico. It drew a distinction between American and IP culture. The American law posed restrictions to the implementation of IP policies, America being a litigious society. It restricted diversity, for example. Though IP hired through agencies specialising in recruitment of minorities; women were underrepresented in the supervisory and management positions and African Americans were seriously underrepresented in the workplace generally. “We make sure that we attend to Equal Employment Opportunity issues and have audits to make sure we have passed.”

Furthermore, the fear of harassment or discrimination in the workplace stifled dialogue:

   In terms of harassment, the American culture has created restrictions to minimise litigation. America’s effort to minimise harassment has created a fear in how people behave, what they say, and the interaction in the workplace. This fear stifles creativity and blocks communication and camaraderie. This is in contrast to, for instance, treatment of sexual harassment in the workplace in France.

5.8.1.3 South East Asian Perspective

The views on the proposed “Human Rights - Education and Implementation in a Commercial Organisation” from this region presented data about the diverse political, social and economic environment in which IP operated. Several new dimensions of human rights were added by the South East Asian perspective, notably freedom of association and the issues surrounding the right to organise and bargain collectively. Also a “layer of inequality” was introduced in the data from this region, a “Caucasian top executive layer and an all-Asian management layer under it”.

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16 Interview with HR2, November 2002.
17 Ibid.
18 Interview with HR3, April 2003.
The over-representation of women in the low-skilled jobs was also most stark in this region, up to 90% in some plants. Here the plants operated around the clock, where issues of night-work supervision arose, and where in some areas economic pressures on workers were at the survival level.

Despite efforts by the researcher and encouragement from the Executive Management data collection in Sri Lanka was limited. There were strong voices talking about the local laws and constitutions but these were expressed on broader principles in contrast to specific issues raised by the European and the American participants.

5.9 Conclusion

Being a global commercial organisation IP presented several features that were informative for human rights research:

- Firstly IP manufactured finished goods, which were the core of its business, at a variety of locations around the globe. In addition it sourced some finished goods, some components, and all of its raw materials from suppliers in countries where it needed to be conscious of human rights issues that arise at places of work;
- Secondly, the structure of IP reflected its business strategy and chain of command; which in turn determined the channels and character of its communication as well as its policy development and administration, including its approach to human rights. For instance, global supply issues were managed from the head office in USA an this left room for human rights issues to be removed, or even ignored;
- Thirdly, IP’s dominant market position was a motivating force for its business strategy, including the protection of its market share. This included decisions concerning its operations and its approach to its public stance in the world, including its social responsibility, of which human rights is an important part;
- An additional feature of IP’s was that it was a virtual organisation. The geographical spread and “twenty-four/seven” operations had implications for people within IP, in terms of the way they communicate with one another, the
solitary experience of their jobs, the travel, the ability to influence and sustain a momentum for policies and the very nature of management and leadership;

- IP policy had not caught up with IP practices and environmental pressures on it, at least in some regions. Apart from absence of a central policy, information about IP’s business and human resource management policies was not available in local languages. A robust voice about adherence to local laws expressed by the participants from all regions was a finding that revealed the absence of a global position on IP’s part.

These features culminated in the need for scrupulous transparency, confidentiality and cultural sensitivity on the part of the researcher, the project sponsor and the senior management participating in this case study.

The chapter concludes with findings that are informative features in terms of human rights:

- The traditional concept of what is an organisation has changed; suppliers are not independent organisations, legal responsibilities have changed, a head office is in the first world, while the manufacturing is in the third world. The factory floor may not be a part of the company. Therefore the supply chain management issues become critical;
- Human rights are a controversial topic. Therefore, before anything else could happen, confidentiality and anonymity had to be attended to; they are critical to human rights research;
- Transparency and trust are vital for human rights research and discourse for several reasons: human rights is a threatening subject, communication in a multinational is limited by distance, and confidential or sensitive company documents from diverse locations must be made available for analysis. This required having both a local contact and people with an international outlook available for ongoing dialogue was important.
- The timing of strategic operational and financial decisions exposes a corporation to social responsibility scrutiny about sourcing and marketing activities. IP was undergoing leadership, identity and structural changes at the
time of this research. These changes contributed to preparedness for exploration of its human rights attitudes and behaviours; and

- Human rights activities raise issues of cultural relativity. People from very different backgrounds, nationalities and geographical locations appeared in the research right from the start. This meant, on the one hand, cultural sensitivity on the part of the researcher for ongoing access was important, and on the other that issues of the cultural relativity of human rights topic would have to be included in the research.

Therefore, from the very beginning, this study raised key issues that feature in the discourse of human rights and multinational corporations.
Chapter 6 On the Ground Realities, Human Rights and IP Manufacturing

6.1 Introduction

The purpose of this chapter is to highlight human rights concerns facing IP in its operations. From an analysis of IP’s conduct against international human rights instruments, the themes of foreign workers, raw materials, contract manufacturing, employing security forces, discrimination, sexual harassment, trade unions and labour laws emerged. These themes provided the foundations for the development of the model in Chapter Eight.

This thesis develops a process for implementing a human rights policy in a multinational commercial organisation. It does this by identifying two key areas for consideration: one, how best to establish a human rights dialogue with a multinational and, two, an analysis of existing practices in the context of human rights in order to ground such a dialogue in real data – IP’s experience.

The characteristics of the roles enacted by the Interpreter, the Champion and the Enabler in establishing this dialogue are analysed in the next chapter. This dialogue provided a through-line on which the milestones and the processes of human rights education and implementation were placed. It was in the search for the milestones and for the clarity of the process of education and implementation that the themes presented in this chapter emerged.

These themes asserted themselves even though this study did not focus on “if and where IP was breaching International Human Rights Laws”. Nonetheless, if ignored, these practises would expose IP to being complicit with breaches of human rights laws along its supply chain. It could be argued that such breaches were more likely to occur along the supply chain if IP maintained an uninformed position with the corresponding voids in its policy. So from a position of this thesis, of taking autonomous responsibility and acting in a moral way for the common good, these themes could not be ignored. They were awkward to shape into a coherent argument; however, they provided data for the ongoing research and for the model.
It could be asserted that IP was responsible for upholding human rights norms along its supply chain (Hinkley 2000; Monshipouri, Welch & Kennedy 2003; Muchlinski 2001; Ratner 2001; United Nations 2003) without detailed analysis of its practices and reference to the legal provisions used in this chapter. However the explication of IP’s practices provided potent examples from which to build the educational effort and the commitment to change needed to incorporate human rights law into its practices at IP.

Furthermore, the themes provided data for direct action by IP to reduce the risk of a human rights breach that could dent its reputation, and for input into its supply chain and human rights policies. This was also important as the intent behind this research was to generate useful data intended for action by the participants in the research.

The existing practices of IP as articulated in the data are therefore analysed and the human rights concerns they raised are explicated. However, this chapter does not pretend to be a comprehensive exploration of all human rights issues at IP; that would be beyond the scope of this research. This is an examination of a number of illustrative examples to support policy development.

The human rights issues discussed in this chapter invited two kinds of interpretation. One, there was no place for complacency on IP’s part. And two, the patchwork of practices behind these issues, once collated in one place, provided pointers to the kinds of human rights policies and practices, and the investigation required, to implement human rights in a multinational corporation.

This chapter examines IP’s supply chain management, IP’s dealings with its suppliers and contractors, and a sample of the human rights concerns affecting its employees. These two categories of human rights concerns divide the chapter. Starting from the broader view, managing the supply chain is examined from a strategic perspective of IP’s operations, whilst the treatment and management of IP’s employees is grouped as internal human rights concerns under the heading of human resources management.
In addition, the very division that occurred in the data and made for an awkward construction of the chapter was, on reflection, data about a real disconnection in the human rights discourse.
6.2 Managing the Supply Chain

Managing the supply chain is more than hiring services and buying goods from suppliers. A multinational corporation conscious of human rights has a responsibility to manage the processes of buying raw materials, semi-finished goods and hiring of services that goes beyond financial considerations and local law provisions. The examples drawn from IP’s experience explicate this responsibility.

6.2.1 Foreign Workers

In human rights literature, people who are living and working in a country other than that of their birth or citizenship are referred to as migrant workers (Office of the United Nations High Commissioner for Human Rights 2004). In Malaysia, where IP employed people belonging to this group, they were called foreign workers.

Though the state of Malaysia actively recruited foreign workers, the Malaysian law privileged Malaysian citizens in their right to be employed ahead of foreign workers. Foreign workers were not allowed to join trade unions. Thus the state of Malaysia did not adhere to the ILO’s Guidelines on the Right of Association and the Right to Organise and Bargain Collectively\(^\text{19}\). Malaysia also did not have a minimum living wage provision (Frost 2004; Pillai 2000), and NGOs were prohibited from visiting the “camps” where foreign workers lived (Frost 2004, p. 2); as a result, foreign workers in Malaysia were in a vulnerable position (Office of the United Nations High Commissioner for Human Rights 1990a).

6.2.1.1 Existing Practice

Faced with shortage of local labour in Malacca and Kedah, IP employed 500 foreign workers at these manufacturing plants. The majority (70-80%) of them came from Indonesia, with the remainder from Vietnam. They represented 15% of IP’s workforce in Malaysia.

\(^{19}\) International Labour Organisation Conventions 87 (1948) concerning the Freedom of Association and Protection of the Right to Organise; Convention 98 (1949) concerning the Application of Principles of the Right to Organise and Bargain Collectively.
IP hired foreign workers through agencies accredited by the Malaysian government. The workers were employed on two-year contracts and IP paid the workers’ salaries plus their social security and a fee to the agency. IP did not have information about the size of the agency fee charged to each worker, “But at a wild guess it might be 60% if not more of the total package.”

In comparison, the salary package of local workers consisted of their salary plus employee providence fund, social security and health insurance. Therefore, whilst costing IP the same if not more than the local workers, IP hired foreign workers when needed and left the distribution of the salary package in the hands of the agencies.

There was no information available at IP about what kind of induction the foreign workers received from the agency to living in Malaysia. It was known at IP that they lived in accommodation provided by the agencies, where strict rules and curfews were applied, and that passports and travel documents were held by the agencies.

At IP they were reportedly treated the same as other workers, though it was acknowledged that on a two-year contract they did not have opportunities for advancement equal to those of permanent workers. They were trained on the job and participated in the standard company induction.

### 6.2.1.2 What Does the Law Say?

The International Convention on the Protection of the Rights of All Migrant Workers and of their Families (1990) provides for state parties to take measures to ensure that migrant workers and their families are informed free of charge in a language they can understand of their rights under Article 33 of the Convention.

The examples above demonstrate that there were breaches by the agencies of several Articles in the Convention, for example:

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20 Interview with Ludwig, July 2004.
• Being informed; Article 37 provides “before the departure, or at the very least at the time of their admission to the State of employment of all conditions applicable to their admission”;
• Discrimination; Article 25 provides "Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work and terms of employment”;
• Arbitrary Expulsion; Article 22, paragraph 4 provides “The person concerned shall have the right to submit the reason he or she not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security (1990a).

The parties to the Convention are states and the state of Malaysia has not ratified this Convention (Office of the United Nations High Commissioner for Human Rights 2006). Nonetheless, from a position of a human-rights-mindful corporate citizen, it was in IP’s interest to be informed and to clarify its responsibilities with regard to the foreign workers it employed. It also had an opportunity to influence those working and living conditions of the foreign workers.

The rights of migrant workers in South East Asia and their connection to the multinationals operating there had attracted the attention of the ILO’s Global Alliance against Forced Labour. At its 2005 conference, the chair of the panel of international advisers declared, after examining the issues of labour migration across Asia that “Accountability along the chain has to be very clear and reach all the way up to the multinational” (Levett 2005).

6.2.1.3 Implications

In low-skilled and low-paying jobs, migrant workers tend to be the most vulnerable class of employee. Lack of language skills, lack of local knowledge, and restricted movement in the broader community leave them vulnerable, including to health and safety risks because they tend to seek substantial amount of overtime work (Business for Social Responsibility 2003).
Tenaganita, a Malaysian NGO, reported serious violations of human rights committed by the agents of the state towards the migrant workers. This included imprisoning those caught without papers - a violation of the Malaysian Immigration Act (1959/1963), corporal punishment – whipping, and in some cases unexplained deaths. The families of these workers were not informed about their whereabouts or indeed their deaths. These workers did not know where to go for redress. In contrast, the recruiters who operated outside the law were not prosecuted. From these observations, Tenaganita concluded that Malaysia had developed an exploitative system of labour where rights to redress and justice were denied (Fernandez 2003).

An informative example conveyed from IP experience resonated with the NGO reports:

A young Indonesian woman, a foreign worker in Malaysia, had a friendship with an Indian man. After they were “found out”, presumably by a local law enforcement agency, the Religious Court of Malaysia deported her to her village, while he was allowed to continue to work in Malaysia - at IP. In this case, rich in opportunities for IP to make a stand regarding human rights of one of its workers, IP had no say in her fate. It did not get an opportunity to assist her in the choice of her defense, or the court in which she was to be tried. It was not aware of her predicament. In contrast local people of Muslim faith who were Malaysian citizens had a choice between the Religious or Civil Court if charged with a similar offence. In addition IP did not even know that it had lost one of its good employees until she disappeared, having been deported.

6.2.1.4 Suggestions for IP

IP had a choice point to consider its responsibility to monitor how the foreign worker aspect of its supply chain was managed and administered by its chosen agencies. This included being familiar with the whole process.

From the legal perspective:

21 Interview with Bruce, February 2003.
• What kind of bilateral or regional agreements regarding the treatment foreign workers is Malaysia party to?
• What kind of obligations did the agencies have not only to the legal system but also to multinational corporations?
• Was there a forum for grievances and complaints for the workers? if so:
• IP could have arranged for assistance for a member of its staff.

From a management perspective;

• What kinds of induction programmes were provided for the foreign workers, in particular, foreign workers originating from Vietnam, because of their language differences?
• What kind of financial agreements were the workers required to sign?
• How much were they paid?
• Were they medically insured and provided with medical care?
• What were their living conditions?

Furthermore IP had a responsibility to enter into a contract with its agencies in regard to being informed of any alleged breaches of the law by any foreign worker. This would enable IP to consider an appropriate process for assistance in such instances.

To manage its foreign workers arrangements IP needed to develop:

• A detailed criteria for selection of agencies and include these in the Third party Social Accountability Policy22 put in place;
• A contractual process with selected agencies; and
• An independent monitoring process to implement and enforce its policy provisions.

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22 Appendix 10.
6.2.2 Raw Materials

The raw material used by IP was a natural material grown in South East Asia. This material underwent two refining processes between harvesting and being used in manufacturing by IP. Its immediate suppliers were large multinational companies located in Thailand (two), Malaysia (three) and India (two).

The supply chain beyond these direct suppliers to IP widened to one hundred links.

6.2.2.1 Existing Practice

The raw material was monitored very closely for quality as this in turn affected the quality of IP’s finished products. This meant that there was a process in place for communication about sources and processes. To attend to human rights concerns, the Third - Party Social Accountability Policy had been written and was being tested at the time of this case study.

The policy made provision for some of the human rights issues that were discussed in this case study including

- Child labour;
- Involuntary labour;
- Coercion and harassment;
- Non-discrimination;
- Health and safety;
- Compensation;
- Collective bargaining;
- Protection of the environment; and
- Subcontracting.

However, foreign workers and use of security forces were not addressed in this policy.

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23 Appendix 10.
The policy was not framed in a language consistent with the International Law Conventions (see 6.2.2.2 below) applicable to the issues contained in the policy. This detracted from clarity and consistency in its intent and philosophy.

Employing the guidelines from these conventions would remove ambiguity in terms such as:

- Child;
- Employee;
- Supplier; and
- Manufacturer.

Making the wording of the policy consistent and clear would communicate to IP stakeholders in a clear manner the full intent of the policy.

The monitoring of compliance with this policy appeared to rely on “reasonable good faith” of contractors and subcontractors down the chain and self-assessment of direct suppliers. The policy stipulated that employees of suppliers should be made aware of the policy by having it published in the local language and prominently displayed within the workplace. This demonstrated that IP recognised that subcontracting on the part of an IP supplier extended social responsibility down the chain. This was confirmed in the subsequent parts of the policy by inclusion of sections on monitoring, compliance, publication and contracts.

The requirement to attach names of subcontractors to the terms of the policy was a good example of making the IP supply chain transparent, which in turn helped the effectiveness of this policy. Inclusion of the above adjustments would make this policy adequate for third party contracting; for external use.

Internally, the policy had to be managed in detail to be effective. This detail included designating a person responsible for its implementation and developing a process of contracting that included written, sworn, and statutory compliance by subcontractors.

Though IP also reserved the right to independent auditing, there was no process or policy specified for non-compliance. This was a major deficiency. A staged approach
for dealing with non-compliance based on existing performance management principles should include:

- A transparent monitoring process;
- A warning in the first instance;
- An offer of an education process to increase skills and motivation for compliance; and
- Refusal to do business with a non-compliant contractor.

A comprehensive approach in managing third-party contractors would serve as an analytical and educational tool to educate suppliers and employees about IP’s approach to human rights. This would lead to a demonstrated awareness and transparency of the complete supply chain by IP.

Obtaining materials for its manufacturing, be they raw or partly manufactured goods was managed from the United States by the Strategic Sourcing Group. IP was organised into in-house manufacturing and strategic sourcing and from the perspective of the Global Manufacturing Manager IP plants were just one part of the global supply chain.

This was significant. Viewed from an economic perspective this was a rational classification of IP’s own plants. From a human rights perspective, however, IP had control over the working conditions of its employees while at outsourced plants any breaches of workers’ human rights were still in its sphere of responsibility; yet there was no direct or indirect control over the working conditions in these plants,

Strategic Sourcing Group obtained raw materials and part-finished goods needed for manufacturing IP’s products. In addition, finished goods bearing the IP brand were also bought from contract manufacturers. Raw materials were bought from refineries and part-finished goods from a variety of subcontractors.

6.2.2.2 What Does the Law Say?

Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (the Norms) provides guidelines for several
issues that are part of IP’s practices in its raw materials procurement. First of all they make a link between the activities of commercial corporations’ activities and human rights protection in general:

Within their respective spheres of activity and influence, transnational corporations … have the obligation to promote, secure the fulfilment of, respect, ensure respect of and protect human rights recognized in international as well as national law, including the rights and interests of indigenous peoples and other vulnerable groups. (United Nations 2003)

This includes the following:

- “their officers – including managers, members of corporate boards or directors and other executives - and persons working for them have, inter alia, human rights obligations and responsibilities and that these human rights norms will contribute to the making and development of international law as to those responsibilities and obligations;
- each transnational corporation or other business enterprise shall adopt, disseminate and implement internal rules of operation in compliance with the Norms;
- they shall periodically report on and take other measures fully to implement the Norms and to provide at least for the prompt implementation of the protections set forth in the Norms;
- apply and incorporate these Norms in their contracts or other arrangements and dealings with contractors, subcontractors, suppliers, licensees, distributors, or natural or other legal persons that enter into any agreement with the transnational corporation or business enterprise in order to ensure respect for and implementation of the Norms;
- Further, transnational corporations and other businesses enterprises shall conduct periodic evaluations concerning the impact of their own activities on human rights under these Norms” (United Nations 2003).

Referring to the rights of workers, the Norms provide, inter alia, for transnational corporations to:
• “Respect the rights of children to be protected from economic exploitation as forbidden by the relevant international instruments and national legislation as well as international human rights and humanitarian law;
• provide a safe and healthy working environment as set forth in relevant international instruments and national legislation as well as international human rights and humanitarian law;
• provide workers with remuneration that ensures an adequate standard of living for them and their families. Such remuneration shall take due account of their needs for adequate living conditions with a view towards progressive improvement; and
• ensure freedom of association and effective recognition of the right to collective bargaining by protecting the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without distinction, previous authorization, or interference, for the protection of their employment interests and for other collective bargaining purposes as provided in national legislation and the relevant conventions of the International Labour Organisation” (United Nations 2003).

The legal status of the Norms is not settled. Nonetheless, they are International Law in the making, and, more importantly, they restate the existing International Law, which retains its force. (Chambers, Kinley & Joseph 2005) For instance the rights of children are specifically provided for in international law:

• The right to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Furthermore, state parties shall:

• Provide for a minimum age or minimum ages for admission to employment;
• Provide for appropriate regulation of the hours and conditions of employment; and
• Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article (Office of the United Nations High Commissioner for Human Rights 1990c).
Labour rights under consideration here are provided for by ILO Conventions:

- Convention 100 (1951) concerning Equal Remuneration for Men and Women workers for Work of Equal Value;
- Convention 87 (1948) concerning the Freedom of Association and Protection of the Right to Organise;
- Convention 98 (1949) concerning the Application of Principles of the Right to Organise and to Bargain Collectively;
- Convention 131 (1970) concerning Minimum Wage Fixing with Special Reference to Developing Countries;
- Convention 155 (1981) concerning Occupational Health and Safety; and the Working Environment; and

### 6.2.2.3 Implications

IP was aware of working conditions, all the way to the workers on plantations. The literature search of international legal provisions and NGO field observations confirmed that there are reasons to investigate these conditions further. For instance, whilst there were no reliable estimates of child labour workers, it was reported that foreign workers, illegal immigrants not counted, made up to 45 percent of plantation workers. Though it was thought that these foreign workers had replaced local child labourers, there was no information available about child foreign workers employed on plantations in Malaysia. In addition, plantation workers were on daily wages (Frost 2004), which meant that there was a greater opportunity for employers to exploit the workers as well as to hide illegal practices.

This presented an opportunity for IP to develop and amend its Third Party Social Accountability Policy to incorporate changes as suggested above at 6.2.2.1 for implementation in its existing network of subcontractors and suppliers. In addition, there was an opportunity to take the policy into full consideration in its strategic plans, including its structure for sourcing and in particular for contract manufacturing.
6.2.3 Contract Manufacturing

IP was looking for factories in China that would use IP knowledge, equipment and other assets to make products under the IP brand. The intention was that IP would not own these factories, but would lease them to these manufacturing concerns until the manufacturers had made enough surpluses to purchase the assets and manufacture goods for IP under exclusivity contracts. A comment that IP did not want to “own” the employees was also made; “It does not mean that we do not care how they are treated, but it does give us a higher level of flexibility.”

IP was aware that it employed practices and offered working conditions that were superior to both those provided for by the local laws of some of the countries in which it operated and to those offered by other multinationals in the same area. Its conditions compared favourably with international standards. For instance, China in particular was recognised as being “behind” in labour standards and therefore perceived to be “more flexible” by those looking for cheaper manufacturing costs.

IP’s experience gained from its own plants and research in the region suggested that Chinese workers were the most productive in the region. An example of this research was discussed at the Kuala Lumpur workshop. It talks about “a simple economic equation” behind the willingness of young Chinese women from central China to work in places in southern China where IP was looking for suitable subcontractors to manufacture its products (Appendix 13)

6.2.3.1 What Does the Law Say?

The Nike case (Kasky v Nike 2002 Cal 24 SCt 939) demonstrated that contract manufacturing was considered to be a part of the supply chain, and that the parent company had responsibility for its contractors’ human rights practices (Kanzer & Williams 2003; OYEZ US Supreme Court Multimedia 2003).

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24 Interview with Ludwig, July 2004.
6.2.3.2 Implications

IP was aware of hazards that came with contract manufacturing, including a greater exposure to breaches of human rights. Though the examples cited (Chapter Seven, by Enabler) are based on breaches of local environmental law, it was quite clear that the same principles and processes would apply to breaches of human rights. The experience was about contract manufacturing; the parent company employed responsible policies and provided its own monitoring of suppliers yet was still caught colluding in breaches of local environmental laws. Furthermore, the company and the person responsible found out about its position from the daily press. This experience was one of the driving factors that motivated IP to produce the Third Party Social Accountability Policy.

Despite this awareness, strategic moves to China were planned on the assumptions that as long as people were reportedly happy, and were reportedly doing better economically than they otherwise could, then the state and the local business enterprises were responsible for upholding local laws, conditions and practices. Furthermore, it would be acceptable and socially responsible for IP to engage in business in such an environment.

However, the above picture of what it was like for the Chinese workers in this situation can be contrasted with the findings of Chan (Chan 1998) who found breaches of labour standards and human rights in China that included:

Workers who work outside of China state-owned industrial sector and are victims of labor rights violations, many of them are “migrant workers”, from countryside who labor in so-called township and villages enterprises as well as foreign-funded enterprises. (Chan 1998, p. 1).

Chan’s research listed forced and bonded labour, subsistence or below subsistence wages, intimidation, physical violence, corporal punishment and control of bodily functions.
IP’s observations were echoed by the research conducted by the Brotherhood of St Laurence, an Australian welfare organisation with concrete experience in manufacturing in southern China:

The majority of workers are young women aged 17-25 years who have migrated from surrounding rural provinces to work in the burgeoning industrial district. Their primary aim is to earn as much money as possible….they appear to have a relatively low level of education, and for the most part are not well informed of their labour rights….employed in repetitive, low skilled jobs. (Lillywhite 2002, p. 3)

However, the Brotherhood’s research also produced findings that echo that of Chan. It found that all workers from rural areas were vulnerable because of their temporary residential and employment status. For instance, worker accommodation was dehumanising. It was difficult for workers to raise grievances without risking reprisals. Fines and disciplinary action were common. Conditions were set by unilateral management decisions; workers had to comply and they did not participate in co-determination of their workplaces in any way. Freedom of association was not possible and there was no evidence of collective bargaining because union positions were held by managers and supervisors.

This suggested that appearances can be misleading as “State-of-the art facilities…divert attention from poor labour conditions” (Lillywhite 2002, p. 4).

The Brotherhood and Chan research suggests that supplier management was crucial to strategic decision-making and to building organisational culture in a socially responsible and human rights conscious manner at IP. Its corporate and social responsibility included all its global activities, including investment in exclusive contract manufacturing. Therefore it had an obligation not only to include direct and independent monitoring of practices that demonstrated observance of the parent-contracting company policies and local laws but also to choose business partners that had acceptable human rights practices. Thus strategic decisions included more than “flexibility” of labour and the cost of manufacturing. They included research prior to choosing a business partner; direct involvement during the manufacturing process to develop an open and transparent relationship, and an ongoing education and
monitoring to ensure working conditions that were compliant with the international human rights norms and legal provisions.

### 6.2.4 Employing Security Forces

IP employed security forces in all its manufacturing plants in Asia. This was not an unusual practice, most factories did. At IP this function was outsourced to security firms or private providers, some of whom were former members of armed forces. Their job was to make inspection rounds within factories:

They are there mainly for the protection of people on site. The people can see that they are soldiers from their stance, their disciplined behaviour and their dress, they are camouflaged.  

The carrying of arms not being allowed on IP premises, they carried sticks. Then there was the issue of numbers. At the time of potential violence at union negotiations at some plants, numbers were tripled. In Sri Lanka, this potential for violence was seen as rooted in the external political factors and the history of the country. In India, violent union negotiations were also reported.

There were no specific provisions for employment of security forces in the Third Party Social Accountability Policy. Yet the employment of security forces, “Can be among the most dangerous in terms of human rights violations and harm to companies' reputations” (Frankental & House 2000, p. 45).

Companies employ them because:

- They find themselves becoming the target of people’s frustration with the perceived failures of governments, where social and economic development is poor and/or rule of law is weak; and yet
- Where protests about such political or social conditions are met by repression of human rights, that is where the greatest danger lies for a company to be implicated in such abuses.

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6.2.4.1 What Does the Law Say?

The Shell case (*Wiwa v Royal Dutch Petroleum Co.* 1998 US 96 Civ 8386) demonstrated that a multinational commercial corporation could be held accountable under the United States *Alien Tort Claims Act* for human rights abuses committed by security forces hired by the government of the state (outside of the US) where the multinational corporation operated and where complicity could be demonstrated.

IP was vulnerable to being exposed to similar claims because it:

- Had a presence in the United States and was looking to strengthen this presence at the New York Stock Exchange; and
- Had operations in a conflict zone, Sri Lanka, and in Malaysia and Thailand, where it hired security forces.

Apart from making provision for the employment of security forces in its Third Party Social Accountability Policy, preventive measures available to IP were:

- Contracting specifically with government or private security bodies that they comply with the international legal provisions on human rights obligations;
- Monitoring individual providers of security services for any breaches of human rights; and
- Making the IP’s policy on human rights absolutely clear to the contracting parties (Frankental & House 2000).

This case study does not provide any data from Sri Lanka to make specific recommendations; nonetheless, the reluctance of the managers from IP’s Sri Lanka operations to participate in the study, combined with the anecdotal evidence gleaned from other areas, suggested that this was a possible area of vulnerability for IP. It was left unexplored.

The guidelines for employment of security forces were provided by the following:
• UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and
• UN Code of Conduct for Law Enforcement Officials

However, these are guidelines only and are not legally binding on multinational corporations in the countries under consideration in this study.

6.2.5 Conclusion of Supply Chain Management

The data examined in this Chapter suggested that IP was exposed to risks of breaches of human rights norms in the following:

• Use of child labour;
• Rights of migrant workers;
• Labour standards; and
• Use of security forces personnel.

These risks arose from IP’s assumption that it was responsible only for those practices under its direct control. This is not so legally or morally. The human rights norms and legal provisions point strongly to responsibility all along the supply chain.

IP was not acting as if it was aware of and responsible for its total work force. It did not have in place policy standards or contracting and monitoring processes to protect itself from risks of complicity in human rights abuses of its total workforce.

IP’s existing practices and the implied assumptions behind them pointed to IP making decisions about being the leader in its industry on the basis of the most productive, and the cheapest way to manufacture its products. It was making decisions and policies concerning its social responsibilities as an add-on to the predominant economic assumptions, or alternatively, by delegating its responsibilities to its suppliers or its host states, some of which were not signatories to the applicable International Human Rights Conventions or were not compliant with such conventions despite their obligations to the contrary.
6.2.5.1 What Kind of Changes Were Needed at IP to Implement a Human Rights Conscious Supply Chain?

IP’s Third Party Social Accountability Policy needs further development or clarification as suggested above at 6.2.2.1. Apart from the Third Party Social Accountability Policy, an examination of existing practices concerning the use of security forces is warranted. The purpose of such an examination would be to determine if these practices complied with the international norms and if separate policies, tailored to the country where IP employed them, was needed in addition to the policy.

A process for the screening of potential business partners and suppliers by the Strategic Sourcing Department and according to the standards in the policy was also needed to make the process consistent through IP’s global operations. Likewise, a monitoring process for the entire supply chain was also needed. To attend to the management of the entire supply chain in a human rights conscious framework, an all inclusive policy, a top down strategic approach which recognises human rights responsibilities in IP’s entire sphere of influence, was warranted.

The model outlines an approach for developing a human rights statement. It also recommends an education process for attending to the attitudes behind the current practices that would make such a statement meaningful and publishable. However, all of the above issues lend themselves to further exploration and scrutiny, not only at IP. Their implications reach into any multinational manufacturing setting, for instance:

- The experiences of women in the examples presented here were not explored and such exploration was warranted at the very least from the legal position, against the provisions contained in the Convention on the Elimination of all Forms of Discrimination against Women (1979); and
- The adaptation and questioning of what kind of standards and polices need to be developed for the employment of security forces in the commercial settings to supplement and augment the existing guidelines employed by this thesis. Guidelines specific to non-war zones and areas where there is no obvious civil
unrest deserve some research to counteract the military model from which the UN guidelines grew.

6.3 Human Resources Management

The human rights concerns listed below were raised by the middle management in IP’s manufacturing sector based in South East Asia. These findings are therefore limited. Nonetheless, in the overall picture of human rights practices at IP, they warranted examination as they provided an opportunity for managers to examine their human rights responsibilities in workplaces under their direct control and examples on which an educational strategy could be based.

6.3.1 Discrimination

Discrimination in employment on the basis of gender and of cultural/religious background was named by all of the participants. In addition, the researcher recorded comments that “Women were better suited to mundane work”\(^{27}\), and were more dexterous with the fine materials of some products.\(^{28}\) Women were underrepresented at the management level in manufacturing at IP, up to 15 percent of managers were women, while the majority of workers were also women.

6.3.2 Sexual Harassment

Sexual harassment was mentioned as a human rights concern in all of the countries where interviews were conducted. This did not mean in all of the plants or that the practice was widespread. The study did not measure frequency. Nonetheless, sexual harassment was named and, in particular, the lack or reporting of such incidents was seen as a concern by the participants. When probed, participants named various reasons, such as power or cultural practices. Nonetheless, the incidents were not reported, despite IP’s existing and known policies in place to help the victims of harassment as well as the managers.

\(^{27}\) Interview with Middle Manager (1), September 2004.
\(^{28}\) Interview with Ludwig, July 2004.
An informative example of how IP policy on sexual harassment could be employed was conveyed by Bruce:

In this example, a local supervisor, the wife of a senior supervisor also employed at IP, sexually harassed a female foreign worker. The supervisor touched the worker’s breasts. The worker objected and despite this the supervisor did it again. The worker then complained to management. The local management “shook a finger at the supervisor and then tried to hose it down.”29 The worker took her complaint to her Human Resources Manager, also a woman, who took it to Bruce.

Bruce, whilst not considering the offence itself as serious, took it seriously because the worker objected to being treated in this manner. Satisfied that the offence did occur and despite the “I am your boss, you put up with it”30 local custom and the local laws that require IP to go to court if they wish to terminate employment of a Malaysian citizen, he applied IP policy. Mindful that the offender’s husband was an innocent victim and that the perpetrator did not see her behaviour as wrong Bruce offered her a choice of being taken to court or resigning. She resigned.31

This example demonstrated that the IP policy could be implemented in a cultural environment where women foreign workers were seen as fair game. In addition, it was Bruce’s perception that as a result of applying the IP policy, a strong message went to the management team that sexual harassment meant you were out of the business. Human Resources Department continued to monitor for instances of sexual harassment and enforced the company policy. The place settled down and the profile of Human Resources Department policies was raised.

6.3.3 Trade Unions

Two issues were highlighted by interviewees: how IP dealt with union members who were “troublemakers”32 and how union members denied the freedom of choice to

29 Interview with Bruce, May 2003.
30 Ibid.
31 Ibid.
32 Interview with Middle Manager (1), September 2004.
non-union members. Whilst IP policy on union membership was perceived as silent in the instance of “troublemakers”, these were also silently dealt with on the factory floor and possibly discriminated against or disadvantaged in their career advancement.

In one of IP’s plants in Thailand, the non-union members were bullied, ostracised, and harassed to join the union. This was observed by the managers on the factory floor and in the eating areas. In addition, these union members were observed deliberately using negotiating tactics that were culturally offensive to some people present at these negotiations.

Thus there were inadequate policy provisions in place to comply with the Convention 87 (1948) on the Freedom of Association and Protection of the Right to Organise, and Convention 98 (1949) concerning the Application of Principles of the Right to Organise and Bargain Collectively. In addition to this IP policy was silent on these local manifestations of bullying.

6.3.4 Labour Laws

All interviewees in the Manufacturing Department spoke about the local labour laws. Strategically, these laws were viewed as yardsticks to be used in establishing how IP policy measured against them. Was IP

- Compliant?
- Providing adequate policies for management?
- Providing pay and conditions to its workforce that were more generous than those provided for by the local laws?

The management participating in this study provided examples that demonstrated this was so. However, implementing the local laws or company policies was not easy. This was due in part to lack of respect for workers. For instance in Thailand, a developing country with plenty of labour available, two people per family have to work just to survive. This meant that workers were not communicating freely with the management about their grievances out of fear of losing their jobs.

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33 Interview with Middle Manager (2), September 2004.
6.3.5 Conclusion of Human Resources Management

Attending to the internal human rights concerns in a piecemeal fashion would at least be a positive step for IP to meet the human rights responsibilities, although it was not certain from the data that the concerns were connected to the management of the supply chain. This connection could be explored further as suggested below. IP managers at all levels in this study were consistent in their recommendations for attending to these concerns such as that one-on-one coaching was the most effective educational measure, and furthermore was best taken at a timely moment close to an incident of breach of human rights. In addition, they all called for more education for managers and staff. In particular, an induction programme for all staff, educational programmes at the middle management and supervisory levels for people management skills, and the “sorely needed” Industrial relations training.

These suggestions, whilst possibly generalised and reflecting the changes IP was undergoing at the time, nonetheless resonate with the findings that emerged from the examination of the supply chain. If a comprehensive induction programme were implemented, it could accommodate the needs of the foreign workers in Malaysia, and industrial relations training would expose the inconsistencies between the IP policies and the local labour laws. IP would then be obliged to examine a global approach to its employment conditions and to its policies for an equitable and consistent treatment of people, regardless of where they were employed.

Nonetheless the gap in the interpretation of the meaning of human rights between two adjacent levels of management, the executive – the Global Manufacturing and Senior Factory Managers, appeared wide. This gap could be further explored by the following:

- Are the internal issues symptoms of the lack of international citizenship perspective on the part of the parent company?
- What are the implications of an equitable treatment of people across state borders?
6.4 Overall Conclusions and Recommendations

The findings in this chapter have contributed to building the overall picture of the complexities of the interface between the multinational corporation and the implications of the International Human Rights norms and principles for its total operations. These findings established that IP was at risk of breaching human rights norms at the international level along its supply chain. It did not have in place adequate policies on the one hand. On the other, its practices, whilst not blatantly in breach of any of the norms examined, were ad-hoc. The two did not necessarily meet. In some instances, it was left to the local managers to manage in absence of robust, transparent and consistent policies. In other instances, human rights sensitive issues were managed from afar, from the head office in the United States.

Its internal human rights issues presented a lesser risk. This was not because they were not serious. They were, and the examples revealed practices at IP’s manufacturing plants that did not meet the standards of IP’s existing human resources policies. They also showed that a global policy and an education process were needed to bring the working conditions of some of its workers in line with standards compliant with International Human Rights norms.

The implications of these findings were far-reaching for IP; they pointed the way for implementing changes in its policy, procedures, structure, practices on the ground and education of management. These changes also called for a total system approach. When implemented these changes would bring about a transformational change, shifting IP from a compliance position to taking a corporate citizen perspective of itself, of the accompanying social responsibilities, and ultimately of its sustainability.

6.4.1 What Do these Findings Say about Human Rights Research?

Viewing a multinational corporation from an international citizen perspective generated a set of findings that called for responsibility for upholding the International Human Rights norms in its total sphere of influence. Therefore it had to be explored at the governance level of the corporation. Decisions for implementing such
responsibilities were far reaching and could not be implemented in a piecemeal fashion by location or domestic law standards.

The internal interpretation of human rights produced another set of findings. Although they were probed at a deeper level of IP (Appendix 14), they appeared disconnected from each other, at least as a part of daily management of operations. This study does not claim that they have been explored to their full potential; however, there appears to be a discrepancy in the interpretation of human rights just one rung down the organisational hierarchy.

The researcher was confronted by this seemingly unconnected data: the question remained of how to interpret the International Human Rights norms and combine the perceptions from within the corporation into a coherent and representative approach to upholding these norms.

Therefore, the model was constructed to offer an overall picture, including starting points at the appropriate level of the organisation. However, how to interpret perceptions of middle managers, factory managers, and the coal face, far from the policy makers in another country or even their immediate boss, in the light of global responsibilities deserves further investigation.

Specifically, the international conventions and norms identified through the process in this chapter provided the anchoring points for the model. They identify which legal provisions have to be included in the policy and also give information about the host state. Without this anchoring knowledge the exploration of what to do and where to start can be vague and frustrating. In this case study, the Kuala Lumpur workshop provided the links between the broad policies, the actual links in the IP supply chain and the consequent legal implications. Future research could replicate this process and explore if a multinational corporation’s policy would vary should different legal provisions be involved.

The findings in this chapter therefore point to two sets of recommendations: action by IP and pointers for further research. They highlight the need for IP to:

- Be aware of its total workforce;
• Use these findings for developing a company-wide human rights policy;
• Educate its middle management in people management consistent with this policy; and
• Implement its human rights policy in the whole of its sphere of influence.

To act on these findings would:

• Strengthen IP’s position as a transparently responsible international citizen and actor for protection of human rights in the communities where it operates; and
• Further IP’s goals of transforming itself into a global corporation that remains a leader in its industry.

IP was an organisation that was interested in good corporate citizenship. It was open to exploring of what it needed to do in order to put the policies and processes in place to develop and maintain a culture compliant with international human rights norms and principles.

Yet without the awareness of its total role on the international stage, as well as in the communities where it operates, IP would not be sustainable in the corporate social responsibility context. The findings of this chapter were a catalyst for such awareness. At the same time they provided the conceptual bones of a framework to be expanded into the model and also pointers to further exploration in the field of human rights and operations of multinational corporations.

Looking below the surface of the operations of a responsible and willing multinational corporation revealed several human rights concerns. The findings here indicate where to look for human rights breaches and also point to how “slight adjustments” (McIntosh 2003b) could make a difference to the upholding of human rights and the recognition of “the sphere of influence” (United Nations 2003).

In addition, further research is needed to make the connection between the internal and external human rights concerns in manufacturing corporations whose operations are spread over different parts of the world.
Chapter 7 The Champion and the Interpreter

7.1 Introduction

This chapter is about the roles played by the protagonists in the study. Their effort, convictions, language, conversations and struggles provided the ground from which the concepts as well as actions could grow. To record these qualities and behaviours is to attest that human rights does not dovetail easily with notions and driving forces of commercial organisations. In addition to requirements of their work roles the protagonists invested themselves into the project to a level from where authentic signposts for human rights education and implementation emerged.

The names for the roles were chosen by the researcher after eighteen months of data collection, analysis and feedback were completed. The researcher became “Interpreter” the key informant became “Champion” and a senior executive became “Enabler”.

The Interpreter emerged as a role for the researcher, specific to human rights research. This title represented a culmination of what made her role in this case study after various approaches to organisational consulting were practised, critically examined and then enlarged to meet the needs of human rights consulting and research.

The Champion viewed himself as “Project Sponsor” throughout the life of this research because that title was congruent with IP language and culture. In the eyes of the Interpreter, however, his role was much broader. He defended the cause of treating people in a decent and equitable manner, he espoused the meaning of human rights at IP and he continuously challenged the Interpreter about the fit between the broader human rights concepts and the needs of IP. He was thus championing two sets of principles, those of the people working at IP and also those of IP as a whole, that the dignity and needs of both be respected.

Enabler’s role became apparent right from his first appearance in the research process, eight months after the research project at IP started. His engagement was a relief for the Champion and for the Interpreter for two reasons: the Enabler brought
experience about human rights from another commercial organisation and he expressed informed support when approached by the researcher.

7.2 The Interpreter

The process of research enabled identification of features of this role; these were establishing credibility, tensions of working across traditional sectoral and intellectual boundaries (McIntosh 2003b), containing expectations, working from the margins, developing an authentic voice, developing tools, carrying the momentum, modelling, straddling the divide, and moral leadership.

In pursuit of the research question, two roles developed in parallel: that of a researcher and that of a consultant on human rights in a commercial context. These roles were initially informed by the action research tradition and International Human Rights Law; both roles were then shaped by her engagement with the people at IP from which arose the role of the Interpreter.

Process consultation, a methodology of consulting for change, was employed at the beginning of the study and was found to be less effective or accurate a description than Interpreter. Labelling the role “Interpreter” acknowledges the additional aspects of undertaking a human rights project. The concepts of consulting were transformed; by definition human rights were transformational and not part of the everyday conceptual framework of organisational life or IP’s experience of change.

Incorporating human rights into a commercial context required a change of a different order. IP had to redefine itself as a corporate citizen. This, in turn, required transformational change, not just in terms of the implications of any particular human rights policy as was conceived at the beginning of the study, where human rights in a multinational context was perceived by the client and the consultant as an anticipated problem to be solved or a gap in compliance to be identified and closed.

The exploration and definition of this role provided knowledge about how to construct a dialogue about human rights within a multinational corporation. It also uncovered some of the pitfalls of the traditional consulting approach chosen by the researcher.
7.2.1 Establishing Credibility

Not being known to IP prior to this project, the researcher approached Bruce in writing and this contact resulted in a face-to-face interview. This critical stage, constituting a contract with him as the client, enabled the researcher to have an introduction to Bruce’s superior, his peers and, following one round of feedback, his subordinates. The contact with Manufacturing Operations did not occur until this round was completed and it could be reasonably assumed that this would not have occurred had the credibility and trust not been established at the initial level. The operational level of IP was higher in its organisational structure than Human Resource Management but was at the same time at the coal faces of possible human rights breaches in its practices.

The proposal was an important document for obtaining access. It had to be framed in a language that spoke to a commercial environment and yet be clear about its intention of implementing international human rights norms (Appendix 2).

Providing feedback from the initial interviews was a point at which the researcher modelled transparency and the values espoused in her proposal, and stated that the data belonged to the participants and were not going to be used anywhere without their prior perusal, comment and consent.

The initial interviews on which this feedback was based took place with the IP Human Resources managers located in Europe and the USA, Bruce’s peers, and were timed immediately after that year’s Human Resources conference. The interviews could be interpreted as a testing ground for the researcher’s acceptability as a consultant.

Talking to Human Resources managers was also a testing ground for developing a sufficient context to continue with the study. It was where the existing conceptual framework about the management of people was most sympathetic to the study of human rights. It was where an opportunity existed for human rights concepts to be shaped into a form acceptable within IP.
Communicating the intent of the research so that it fitted into IP’s existing culture was the first act of interpretation. At this stage the credibility of the researcher was her responsibility and was heavily dependent on her ability to listen and pay attention to how researching human rights may have been interpreted by the people at IP (Mackay 1998); it was not something to be found in the examination of the consulting process. Though she did not employ a prescriptive or adversarial stance, it was nonetheless an educative stance (Lippitt & Lippitt 1978; McIntosh 2003b).

Taking the study deeper into the field, into manufacturing, was more complex. The conceptual framework established that manufacturing was the place to look for harder data and for possibilities of implementation. It was important to have some tools ready for testing of implementation, and also to be simultaneously open to new data.

In addition, the researcher’s experience of having been responsible for meeting budgets and “hard” performance targets was also called upon in building rapport and even greater level of trust than was required in making the transition from in-principle understanding of the human rights issues to on-the-ground realities at IP’s production plants.

Credibility in this case study was built by:

- Presenting a proposal balanced in its approach to the benefits for the organisation and to the responsibilities of multinationals towards international human rights norms;
- Keeping within the agreement at all times;
- Providing regular feedback (Bellman 2002; Block 2000);
- Building tools incorporating the data and the research from the human rights literature; and
- Speaking plain language, their language (Mackay 1998; Senge 1993; Senge & Society for Organizational Learning. 2004), as opposed to the expert or advocacy language of the human rights field.
The process of establishing credibility was built by both the non-prescriptive approach and on interpreting the human rights literature and norms into constructs to test within IP operations.

7.2.2 Tensions with Organisational Theory

This section is included to acknowledge that the researcher’s role evolved out of the tension around the meaning of the research question and that this had consequences for the nature of her relationship with people at IP.

Organisational consulting for change was viewed by the Faculty’s Management School from its preferred framework of a psychodynamic model. It offered rich pickings for an examination of the client-consultant relationship and interpersonal power dynamics.

Adding to this pressure of examining aspects of the consulting relationship when dealing with an issue important to the researcher, was the researcher’s temptation to examine her background and life experience, a fertile ground for examination of the violation or denial of human rights. The awareness that these feelings could surface was important apart from satisfying the criterion of academic rigour. Working in the field of human rights field can bring these issues to the surface. An Interpreter has to be able to acknowledge them and take these subjective influences into account; yet they cannot become a hidden energy for advocacy or blame.

In addition, the researcher was painfully aware of the importance of establishing a robust relationship with the client. Not only did her research depend on it, but also her work experience and organisational consulting literature concerning the failure to have a clear contract with the right person, the client, confirmed this.

It also had to be acknowledged that this stage was difficult, messy and seductive. “They want me” she wrote in her consulting journal. In a research journal this could be written as “They are giving me access to do this research!”

Despite all of this, examination of the client-consultant relationship was a well-trodden path in organisational research. Furthermore, it was the researcher’s view
that she had reasonably well developed skills in this area. This was confirmed by the level of access and acceptance to examine a contentious issue at IP, where she was as an unknown entity.

Furthermore her key informant, Bruce, was not interested in exploring and reflecting on his position and relationships at IP or with the researcher past the “credibility and synergy” position, which had been achieved at this stage. To get into sufficient depth at IP the researcher had to have access first and foremost.

Consistent with his intent, Bruce was modelling the continuation of the dialogue on the basis of a partnership and not on a process of studying him, his position or his management style. The researcher felt that there was more to be gained in partnering him and understanding where he wanted to go. He wanted to take the researcher with him on his journey and not doing something apart from human rights. This also gave the first glimmer of the Champion role. The Champion was interested in the cause of human rights and at the same time in keeping his independence and independence of IP’s position.

A certain amount of collusion developed around self-interest on both sides of the relationship. Bruce was interested in finding out about how IP fared in comparison to academic measures of human rights norms performance. This interest was matched by the researcher’s passion for knowledge about human rights in the unexplored area of her research question. Importantly, both Bruce and the researcher still wanted to explore human rights, though from different perspectives.

At the same time, in the beginning of the engagement with IP, the School appreciating the importance of the entry and contracting stage of the consulting process, applied maximum pressure to define the quality of the relationship and the direction of this research. Process consultation at its most powerful was exercised on the researcher by two competing actors while she was building her role at IP. In parallel, this approach was not working at IP. The holding of this tension and choosing to change her role is a marker of the Interpreter role.

Nonetheless, there was evidence about the shift in emphasis, derived from the beginning of the process, at entry/contracting stage. It was at once a part of the
reality of examining human rights, as opposed to a management process/problem, and at the same time one of the critical junctures for clarifying the scope and the expectations of the project.

The core of the research question seemed to need a different model for analysis. This engagement was not about identification of “wrong” that has to be fixed; not a problem solving scenario, nor about conflict. It was about creative tension, about exploring the possible with the client.

How was this tension to be best explored? Specific to the human rights debate, the Interpreter was conscious of advocacy, and of rhetorical, educational and adversarial approaches. She found these to be inappropriate, particularly at the beginning of the relationship with IP when she was consciously keeping a neutral position to maintain access, and to develop trust was important for the case study to continue and open up.

Keeping a neutral position and clarifying the meaning of what can be implemented is another marker of an Interpreter of human rights in a commercial context. Otherwise it could have gone in one of two ways: the known way of organisational consulting or onto an advocacy path.

This meant that the researcher had to first interpret the meaning of her research question from within a challenging if not hostile context at the School while at the same time holding on to her client relationship. She did this by staying with her intention. This study was about human rights and she had a contract with the client. The consequences of this decision were twofold:

- A sense of liberation that came from pursuing her true interest in the case; and
- A sense of surrendering power to the client system, when issues of the readiness for change and commitment to invest in the study were not explored.

The sense of liberation gave the project a new lease of life; the surrendering of power was a kernel of a lingering doubt about the discipline and authority that were
appropriate to the study. Thus an ideology applied in a reductivist manner was challenged by acceptance of doubt.

### 7.2.3 Clarifying and Containing Expectations

The process of finding out how human rights could be discussed from within IP was iterative. The researcher followed her research design of collecting data, analysing them and feeding them back to the client. The feedback included categorised raw data combined with research from academic sources.

Putting IP’s experiences and understandings into a broader context simultaneously built trust and credibility with the participants, and yielded further data. Nonetheless, it proved time-consuming in generating specific findings to be implemented on the ground.

Being pushed for time in his job, Bruce wanted to see some results for his investment in the human rights project. Holding this tension combined with the uncertainty of what might be capable of implementation, the researcher suggested including measurable objectives on human rights in the concurring round of performance reviews for the Manufacturing managers.

Based on six meetings with Bruce and four interviews with other managers in the region, but not including any manufacturing managers, this suggestion was met with a fierce objection. Bruce gave credible reasons, included in Appendix 11, why the system would not be able to implement such objectives. Nonetheless, the data from this meeting were crucial in defining the depth and direction of the dialogue as well as clarifying the researcher’s role at IP. It could have been interpreted by the researcher as lack of commitment on the part of the client, however. Instead she chose to respect their interpretation of implementing change; an organisation-wide approach, endorsed from the top based on the tried model of Occupational Health and Safety policy at IP.

Apart from the embarrassment for the researcher, taking the risk of trying for implementation produced a vivid response and valid data.
Trying for implementation is a strategy in consulting for change that has been extensively commented upon (Argyris 1990; Block 2000; Burke 2002; Schein 1999; Steele 1975). However, the push back from the system in this instance can be attributed to the topic of human rights combined with a personal responsibility within a system that did not have the conceptual constructs or the policy structures in place to accommodate responsibility for human rights practice in its existing performance review process.

7.2.4 Working from the Margins

Experiencing the tension of the School’s emphasis on working on the “relationship” and “power” oriented framework on the one hand and the push for a “solution” from Bruce on the other, the researcher was faced with working from the margins. Not clear about what the appropriate model may be and simultaneously trying to build a sufficient body of knowledge from the client system she relied on words and constructed meanings from the international instruments on human rights to continue the dialogue at IP.

The difficulty in getting a momentum at IP, and simultaneously “being nobody within her home base of the university”, she had doubts about her role:

At the end of the entry process, I had six meetings, had conducted four interviews, written four pieces of analysis/feedback/progress reports (only one of which was done collaboratively) and carried uncertainty throughout this time that I may not have a client, or alternatively that my role has been that of a handmaiden. 34

At the same time, a shift in her understanding about working with organisations did occur. How large organisations composed of functional groupings with a discernable command structure could be approached was different from organisations composed of asynchronous groups and loose functional structures. The organisational change literature informs the former; IP presented as the latter.

It was a choice point, dealing with resistance or examining the lack of fit between the organisational change model and what was happening at IP. Instead a prototype of the model was constructed which clarified that a top-down approach for starting the dialogue about human rights was the only possible way to go.

This meant that IP had to declare its position on human rights as an independent international citizen. Taking a voice of an “internationalist” made sense on several levels: it was congruent with the international human rights norms; it was top-down; it was confirmed by the experience of the researcher’s “marginal” position: and it shifted responsibility for “usefulness” of this research to IP, thus confronting the issues of ownership of the responsibility for change.

Working from the margins, the Interpreter had to be prepared to innovate and be proactive. At the same time, it was this experience of marginality and its exploration by reflection on the role, that revealed the missing counterpart of IP’s position, of IP as a whole, as an international citizen.

Bringing this to the surface is not only a mark of the Interpreter role but, more importantly, a catalyst for a new consciousness, a fundamental source of individual and social change (Morgan 1997)

7.2.5 Developing an Authentic Voice

Only upon reflection of her experience was the researcher able to see that human rights practices were not just to be discovered within IP, but that she had to become a transformer, an Interpreter of human rights for the people she spoke to at IP, so that they could look at their experiences and define them.

This was a differentiating point in the study. Having a testy dilemma on her hands, the researcher reviewed the intentions of her study. It was this intention that helped to get her inside IP and it was this intention that the study was contracted on. As a starting point in the study the concepts of social responsibility and the international spirit of human rights as expressed in the Universal Declaration of Human Rights were introduced together with the questioning of extent to which multinationals were to be responsible at International Law. This intention was lost for a time in the
dynamics of looking for a starting point, for a problem to be solved, and in the balancing of two different roles. The researcher and the consultant only reasserted themselves in the role of the Interpreter.

Though the learning about this came from interaction at the School, an academic institution, the lessons that can be drawn from the experience were not different from a conflict arising from an interaction with any other authority: such as literature, existing research or an established professional practice. It was the topic, exploring human rights in a commercial context that demanded that their defining qualities of universalism, indivisibility and inalienability would not be compromised.

The intention of the study contained the values behind the UDHR. In developing an authentic voice in this study, the Interpreter was faced having to declare her intense commitment to these values if she was to provide the leadership required. It was the recognition of her hesitancy to take a leadership position that brought forth the unique voice of the Interpreter role which in turn contributed to the credibility of the role (Kouzes & Posner 2002). The Interpreter role in developing its authentic voice contains elements of “thought leadership” (McCrimmon 2005), where the leader relies on the power of ideas to transform the thinking, and this leadership is not dependent on the authority of a position.

Acknowledging and affirming her standards gave an impetus for action.

7.2.6 Developing Tools

Once the role of the Interpreter had solidified in the mind of the researcher, the tools needed for enacting this role also came into focus. These tools were necessary to provide stepping stones and working definitions, and to draw boundaries around the broad conceptual base; to ground the project. Some were already in existence at this stage, in the form of industry partner proposal letter and the early feedback reports.

Three further sets of tools were prepared with a clearer intent. The discussion papers were prepared for the Melbourne workshops\(^{35}\) and they were:

• “Why Include Human Rights Education and Implementation into IP Culture?” including research into “Fortune Top 100” and “Forbes Top 100” to demonstrate their approaches to human rights as stated in the public arena. IP’s competitors’ stances on human rights were also analysed (Appendix 4);

• Legal cases, Nike and Shell, were examined from the viewpoint of how the respective companies behaved before and during the legal proceedings taken against them in the United States. In the Shell case, the implications of the US Alien Tort Claims Act were examined. This was done to demonstrate that a multinational was seen as incorporated in the US when it had presence on the US Stock Exchange, and furthermore that legal action could be taken under this act for colluding with a state, outside of the US, in breach of international Human Rights Laws. In the Nike case it was a matter of making a connection between management of the supply chain and responsibilities for upholding of these norms during the manufacturing process (Appendices 6 and 7).

• A prototype of the model was developed for the Kuala Lumpur site visit; the refined version of this is discussed in Chapter Eight.

The practice of interpreting legal cases and international law provisions was used by international lawyers and NGOs in their discourse regarding multinational corporations. Additional tools developed in this case study were the tailored documents researched and designed for IP’s situation, incorporating the data from IP and tested against its level of development and readiness for change in this area.

The Interpreter role clarified and strengthened through the development and testing of these tools. The role then incorporated elements of thought leadership (McCrimmon 2005) and a “revolutionary “(Hamel 2002) challenge of the status quo by pressing for change with the power of ideas. These ideas and logical arguments were based on data contained in the tools and logical arguments, an adaptation of the expert knowledge for the IP context.

Questioning the extent of human rights responsibilities at IP, speaking in a language consciously chosen to fit IP context, and constructing tools that allowed for balance
between commercial demands and social responsibility the Interpreter actively engaged the participants into taking an informed autonomous position.

7.2.7 Carrying the Momentum

How other corporations in general; and IP’s competitors in particular, dealt with human rights was an important step. The consequences of not dealing with these in an effective manner were evident in the legal cases brought before the courts against commercial organisations for alleged breaches of the International Law including Human Rights Laws. There were implications in these for IP’s current and planned practices.

Human rights was not seen as a business priority by IP. Examining how breaches of human rights had brought on emergencies and crises for other multinationals produced findings demonstrating:

- Much energy had to be spent to contain such crises; and this meant
- Loss of business; and
- Loss of reputation.

However, carrying the momentum in the absence of an obvious problem at IP was vital to this case study. The IP human rights statement would not have come about without doing the hard work to provide evidence supporting the need for it. The case study might not have proceeded had this exploration not taken place. Bruce was staying the course; however at this stage he asked lots of questions. The researcher analysed disparate external evidence to provide the arguments to continue with the effort.

This differs significantly from the established practice of bringing about organisational change. By this stage it was easy to question the commitment of the client system (Argyris 2004; Block 2000). It is not unreasonable to suggest that the researcher carried the responsibility for a long period when the responsibility should have been with the client system:
I feel the pressure to provide an answer, my role is convenient for him, he utilises it to make issues of status and authority more irrelevant, as I have no identifiable status within IP. I speak to individuals rather than positions and this frees people up to talk, while he can maintain the business view.\(^{36}\)

The level of interest in the topic by both the Champion and the Interpreter remained high, and, the opportunity for confronting the issues of equality in the consulting relationship was not taken up to be determined, worked through and tested. Apart from this being a known consulting method, taking time to attend to this was important in human rights research. Trust and confidentiality had to be paramount and could not be achieved without a robust relationship, despite the intellectual exchange and the consequent conceptual partnership.

From this experience we can draw some lessons for the role of the Interpreter. It was a choice to continue to make sense of what was going on on one’s own; the other choices were to analyse the process and request that a joint approach be taken in developing the study (Block 2000), or to quit.

There is one distinguishing quality of the Interpreter and this is expressed in the journal quote above. Given that human rights was a threatening topic, would the collection of data be more or less complete and frank had the joint approach been followed? Worse still, where would the case have gone, had the researcher taken the obvious step of analysing the resistance or lack of commitment? Having a dual role she continued despite these reservations. The discomfort of doubt was acknowledged and actions were guided by commitment to human rights and pursuit of collaborative knowledge generation.

7.2.8 Modelling

The researcher modelled her commitment, her stated intent, by doing research tailored to IP’s situation, providing ongoing feedback, and keeping to the arrangements when the people at IP were losing enthusiasm. This loss of momentum was expressed by comments on the perceived nebulous nature of the topic and their stated competing business priorities. It was reflected by the difficulties in arranging

meetings; these arrangements were often uncertain, changed, cancelled or not properly prepared for by the other party.

Commented on by IP was the researcher’s “doggedness” to stay with the project. She did not let go of the project at IP and did not let go of the client at a time when it would have been easier, for the purpose of her research to write about the failure of getting commitment.

Continuous commitment and modelling are qualities of leadership that help to form the ethical choices in decisions: “The spirit of morality is awakened in the individual through the witness of another” (Gini 1996, p. 2).

The topic demanded staying power, and in place of an advocacy or an adversarial approach, a certain amount of faith. The researcher was painfully aware that this choice invited a different interpretation from the organisational change perspective.

Being an Interpreter of human rights not only takes staying power but also a deliberate deferral of a resolution of uncertainties, and a conscious investment of energy. Modelling the holding of principles and characteristics of human rights requires an effort to have them included on the agenda as a starting point (Office of the United Nations High Commissioner for Human Rights 2002; Robinson 2005; Younis 2004).

7.2.9 Straddling the Divide

The researcher experienced a void, a divide, a crevasse in three areas of her role: knowledge, expectations, and responsibility.

The gap in knowledge appeared to be of not knowing enough about the depth and the detail of International Law as opposed to its breadth and the principles. This could be a trap in consulting, open to speculation, "more data needed" means the consultant is to provide the answers (Argyris 2000; Block 2000; Office of the United Nations High Commissioner for Human Rights 2002).
On reflection, however, this gap in knowledge was about the skills and competencies needed to work “across traditional sectoral and intellectual boundaries” (McIntosh 2003b, p. 15), the development of which calls for new approaches to learning and change.

The sources of differences in expectations came from three areas: the School, IP, and the researcher who unknowingly took a leadership position. She attended to the bridging of this divide by gathering of information, by translating it for use within the project and by holding the tension, the space for discovery and her curiosity. This holding of the tension proved to be productive. Once a sufficient amount of conceptual work was completed despite the gaps that existed in knowledge, commitment and expectations, a deeper level of analysis was possible and this was due to her having a clearer grasp of the topic.

A difficult thing to admit was that an interdisciplinary endeavour generated areas of confusion and frustration. However, it provided a source of new knowledge on the topic.

To carry out the role in spite of these, it was important to acknowledge that there were vital dynamics that the researcher called “not the divide”:

- There were shared values between the Champion, the Interpreter and the Enabler;
- “Restrictions” as discussed below in 7.3.6 were not operating; there was an equality in the inquiry;
- Principles of creating and sustaining dialogue (Senge 1993) were followed; and the process was
- Respectful and transparent.

This was a major trap. The need for gathering more data could be seen as an avoidance of responsibility, an inability to make decisions on the part of the client (Block 2000), and as an avoidance of a consequent confrontation in the client-consultant relationship, on the part of the consultant. Nonetheless, there was a real gap in knowledge about implementing human rights in a commercial setting on both sides; so that the researcher assumed the role of “thought leader” (McCrimmon
Leadership, however, was a symbiotic relationship, and it remained a collective leadership shared by the Interpreter, the Champion and the Enabler despite the struggles, intellectual spats and stand-offs (Gini 1996).

7.2.10 Moral Leadership

The role of the Interpreter was one where:

A unique and beguiling aspect of doing consulting is that your own self is involved in the process to a much greater extent than if you were applying your expertise in some other way. Your own reaction to a client, your own feelings during discussions, your own ability to solicit feedback from the client – all are important dimensions to consultation (Block 2000, p. 22).

In addition, IP, particularly at the beginning of the process – where most valuable data were present and when much tension and ambiguity existed – behaved much as a virtual organisation. The researcher met Bruce face-to-face; the other participants were voices on the phone and e-mail correspondents. This experience of being suspended was compounded by the researcher’s university experience, where the topic of human rights had not been researched before. Hence the prevailing knowledge about consulting roles and valid research of commercial organisations translated into a powerful force employed to control the researcher’s effort, even her findings at IP, to fit in with the existing ways of envisaging and carrying out research in organisations. Researching human rights did not sit easily with such control and the researcher stayed with her data. This stance paradoxically increased her anxiety. Human rights once more demanded taking a stand.

This taking of a stand had a paradoxical quality, that is, the simultaneous holding of resolve and experiencing of marginality. The researcher worked in a space where the faculty reminded her that she was an “independent” researcher and at the same time she was consulting to IP, an evolving organization, driven by flexibilities and the economies of the labour markets and working through “virtual” management teams, asynchronous groups and communicating electronically. Thus she had the fluid working arrangements of a “portfolio person” (Handy 1996). Trading in knowledge that was from “outside” (Barnatt 1996, p. 3), her “outside-ness” was compounded by
“independence” from the School and the marginality of the topic that did not fit neatly into its exiting practice.

This was most vividly illustrated by the predominantly electronic communication. Yet from both ends control was exercised in the form of constant monitoring of ethics from the university side and supervisory practices that demanded detailed reporting of the process. Less reporting was expected by Bruce, who nonetheless expected to be kept abreast of her activities at IP. The two demands often collided.

A learning that stood out from these experiences, on reflection, was that taking of the thought and moral leadership consciously, explicating it at least to her, would have made the transition from an organisational consultant to the interpreter of human rights easier and more focussed. The deeds were done, the tools constructed, the workshops designed to draft the IP Human Rights Statement, but the conscious reflection on the type of leadership called for, or in fact acted out, was missing.

This chapter was difficult to develop and ground until the description and the analysis of the Interpreter role was positioned at the beginning of it. The reluctance to put the role of the Interpreter at the front may have been symbolic also of her role in the study. The design of the study and the collaborative process, combined with commitment, concerted effort and the pursuit of substantive transformational change, attributed to the leadership process (Gini 1997) and produced the results contained in these findings.

Yet the case study needed both thought and moral leadership to fill the vacuum that could have been attributed to the personalities or the chosen roles in it. Nonetheless it is worth exploring in future research whether conscious and explicated leadership on the part of the Interpreter is vital in human rights research.

The design, behaviours, values and intent were all effective, if clouded by two other dynamics operating in the role: too much investment in the outcome, of change at IP; and some equivocation in the Interpreter’s stance on the question of how far down the supply chain was IP responsible for upholding International Human Rights norms.
Nonetheless, these qualities and actions culminated in thought leadership, which was independent of implementation but sufficient for sending the ideas in an upward direction (McCrimmon 2005). The same qualities would have been required for long-term transformative change, but they were not get tested in this sense because it was recognised that long-term transformative change was dependent on political will and on its taking place among large groups of people (Rost 1991). This phase was unrealistic in the scope of this study.

7.2.11 What to Be Prepared for as an Interpreter of Human Rights

In making contact and establishing credibility, the non-prescriptive approach, kept in balance with a selective translation of International Human Rights Law for application in a commercial context, enabled the Interpreter role to evolve and strengthen as the study progressed. This selectivity included interpreting the intent of the instruments into a plain language being sensitive to the espoused moral values of IP, with people and justice at the centre of these values. Furthermore it included being open to the meaning of this intent in a commercial setting, and finally remaining open and vigilant to opportunities for the translation of this intent into action and its pacing.

This approach was not without its tensions, it brought with it:

- Anxiety that comes from carrying out a role based on conviction, little power and much uncertainty; and a demand for an
- Investment of time and patience to interpret the International Human Rights provisions for a tailored application, that is, an individual multinational corporation.

However, the holding of uncertainty and tension could be transformed into a creative interpretation of data; the adjusting to the radar of a neutral position was helpful in clarifying what could be implemented. Nonetheless, there was another outcome, of vital importance: the doubt about and the consequent examination of the authority of International Human Rights norms within a commercial context. This examination led to the taking of an authentic leadership voice by IP for its responsibility for human rights in its sphere of influence and a separation point for the Interpreter, also with an authentic voice.
The passion to stay with the intention of the project, to sustain the intellectual and emotional energy to create the tools for opening of paths into an organisation, were enhanced by the discovery of these autonomous stances and voices. The tools were constructed by examining the industry’s characteristics, the social responsibility activities of players in this industry, and legal developments and writings in the human rights domain.

To sustain the momentum needed in the face of a large amount of general knowledge, innovative knowledge tailored to a specific situation was tested. This case study was conducted at a certain point of the “human rights and multinationals” debate in the broader context and interdisciplinary dialogue demanded by the “social partnership” (McIntosh 2003b) approach. It demanded a separate development of skills, and expert information to participate in this dialogue in an effective manner.

Tolerance for what can be implemented, for a gradual, iterative process based on collaborative definitions of human rights norms as they were perceived by the client system, played an important part in constructing this dialogue.

The emphasis on the universality, indivisibility and inalienability of human rights was approached humbly. The values of treating people well and equitably may have resonated with the participants, but human rights, named starkly, was not on the agenda as such. Therefore, it was essential to respect the pressures that the privileging of the economic imperative put on people working in multinational corporations at the middle management level; not only to build a dialogue for the exploration of human rights at the higher levels but also for building readiness for change and its internalisation.

In contrast to the values, the gap in knowledge and meaning of International Human Rights norms was wide. The Interpreter role evolved into leadership of ideas and conscious moral choices to fill this gap.
7.2.12 From a Consultant to an Interpreter

Talking to people to develop a dialogue about human rights as they may appear in their working lives fitted broadly into a collaborative consulting role (Block 2000) and a process consulting approach (Schein 1998). This role stands in contrast to two other roles discussed by the same writers, namely “an expert” and a “pair-of-hands”.

Throughout the engagement with IP, the researcher stood in this philosophy of process consultation: being helpful, staying in touch with current reality, leaving the ownership of the problem with the client, and acknowledging her ignorance (Schein 1998). This approach afforded access and built trust to proceed with the study. That phase established, the assumption that there was a problem to be solved was still operating for both Bruce and the researcher. However, unpacking what the problem was and how to test it was too confronting. IP did not have a language to handle it.

When tested against the reality of working with IP particularly at the beginning of the engagement “the expert” role and at the discovery and data collection phase, and “a pair of hands” (Block 2000) role were employed. In addition, “acknowledging ignorance” was overcompensated for and, consequently, the “pair of hands” role featured more prominently than standing in the awareness foreshadowed by Schein’s notion of “choosing from one moment to the next which role to be in or which model is helping” (Schein 1998, p. 5).

However, the "ignorance" was compounded by uncertainty about how to translate the human rights language and assumptions into language congruent with IP’s experience, as opposed to a denial of issues arising form relationships between the players or ignorance of expert knowledge of an organisational problem.

Human rights substantive knowledge did come from “outside", as consistent with an expert role; but from the human rights movement, philosophy and law, which is not commonly debated in the world of commercial organisations.

The above three roles formed the relationships on which the study stood. However, the maintenance of access and construction of the tools all had limitations in this context.
The limitations of the expert role, namely the ability to make an accurate assessment because of the fear of insecurity and mistrust getting in the way of essential information and the inadequacy of anything that could be implemented, (Block 2000) were all present in this case. However, the researcher was aware of these limitations and contributed her expertise whilst simultaneously engaging the client to make the necessary observations, partake in decisions, and take selective steps to implement the findings.

Though the “pair of hands” role could be seen as being employed to compensate for the lack of the “manager’s ability to understand what is happening and to develop an action plan” (Block 2000), and though the decision that such research was needed was rushed at times and may have been a way of avoiding getting too close to the “hot” issues too quickly, the role did have merit; and it brought about the following:

- Adaptation of “outside” knowledge that was necessary for both the researcher and for Bruce to progress the study; and
- Shaping of the tools that were an outcome of “outside” knowledge and of meanings derived from talking to people at IP. These tools were subsequently used for diagnostic purposes and as supporting documents to influence action.

Both the “expert” and the “pair of hands” roles were at times invoked by Bruce’s expectations - and the researcher’s passivity in the face of these expectations - that there was a gap, at least in the compliance with the law, to be filled at IP. In addition, the literature on helping/consulting relationships that informed these roles also presupposed a problem that was a part of the organisation’s everyday practice. Human rights practices were not in this category. They were a by-product of a multinational organisation playing a role in the broader society and on a trans-national stage.

Hence the Interpreter role evolved through continuous employment of the broad principles of process consultation and action research, and of the “expert” and “pair of hands” roles when she was stuck. It also evolved through being mindful of the principle of intervening only at the level where the client system was willing to
collaborate (Harrison 1995). However, the topic of human rights dictated an emergent Interpreter role.

The Interpreter role was tailored to the human rights field in the following ways:

- Incorporating and modelling the characteristic the principles and values of the International Human Rights Law; yet not
- Taking the prescriptive stance when faced with uncertainty, power play or role confusion.

This established and maintained credibility. It also meant carrying tensions of working across existing conceptual frameworks and at times conflicting values of these frameworks. Developing an authentic voice from the experience; constructing new tools; and, the ongoing reflection on these tensions and testing of these tools provided moral leadership in the Humanist tradition of autonomy, responsibility and acceptance of doubt.

7.3 The Champion

Bruce took on the role of the Champion from the beginning of the project. Having heard of the researcher and her research interest from a work colleague, he engaged with the topic, taking an active role in naming the project: Human Rights – Education and Implementation. It was not cloaked under any other existing organisational process; but stood out on its own, after Bruce publicised it to IP’s opinion leaders globally under this title and invited them into the discourse. This meant that he was prepared to get human rights on the agenda, an agenda where not all issues rated equally. It was an attempt to define a trend in IP’s environment that was worthy of attention (Ashford 1998).

In addition, Bruce was the key informant, the gateway into IP, the Project Sponsor and the long distance endorser for actions taken within IP. Thus two underlying qualities of the Champion were present, if not explicitly stated or even assumed at the time:

- Willingness to bring about change by selling a contentious issue; and a
• Personal investment in the topic of human rights.

By analysing Bruce’s day-to-day role and contrasting it with his role in this research project, this section explicates the vital parts of the Champion role in human rights education and implementation.

7.3.1 Work Function and Role

Appointed from one of the subsidiaries of the former parent company, PDIP, and working from IP’s Melbourne (Australia) office, Bruce had been IP’s Human Resources Director Asia Pacific for a year and a half at the beginning of this research process, and continued in the position during the three years of the study. He described his role as providing a “Regional Human Resources base for a standardised way of applying policy, ensuring consistency of application; and at the same time keeping regional and global balance.”

His philosophy and approach to human resources management were expressed in the following quote:

That IP, in its commitment to provide for the safety, health and welfare of its employees globally, will develop and employ policies and practices that encompass the following:

• Legal compliance with all local laws;
• Fostering respect for individuals and appreciation of their value and contribution to the success of the business;
• Fostering greater understanding of cultural/social values and customs of the discrete workforce generally;
• Providing a workplace that is free of discrimination, harassment, and abuse of any kind (including bullying);
• Enhancing career opportunities for the local nationals and their indigenous people.

37 Interview with Bruce, February 2003.
He emphasised his guiding principle in the human resources management of the consistent and universal concern for the wellbeing of IP people. To include the exploration of how human rights could be incorporated into IP policies was consistent with, and spoke to, this concern. His stated understanding of the implications of International Human Rights norms was, however, narrower than these norms assumed. For instance, the use of phrases such as “cultural/social values and customs … indigenous people” reflects Bruce’s guiding principles of the human resources function and a view of IP’s responsibilities on the international stage. This became an important feature in the case study. However, the comment on “compliance with all local laws” reflects a narrower view of an organisation adapting itself to its environment in absence of a global policy.

Bruce had an understanding of and work experience in the region. This gave a source of power to the role of the Champion, including influence, contacts and practical knowledge of possible human rights concerns. The potential source of power also came from stepping in to fill a perceived vacuum from the platform of his philosophy and acting in his regional responsibility (Gini 1997). In addition, he was willing to broaden his participation in the project beyond the narrow definition of human resource management and his region.

Most importantly, he was willing to individually name and confront these issues. Issue-selling is a critical activity in the early stages of an organisational decision-making process. Furthermore, linking activities and ideas between the operational and institutional levels means “linguistically framing...deliberately presenting ...and highlighting ” (Dutton & Ashford 1993, pp. 410,1) such issues, “wicked” (Dutton & Ashford 1993, p. 398) issues even. Naming bullying and harassment were examples of this and they stood in contrast to not naming pay and conditions, for instance.

The intent and the philosophy behind his role as a human resources manager and subsequently the Champion were more important than his awareness of the human rights issues. The intent signalled that he was prepared to pursue real change (Gini 1997).
7.3.2 Team Membership and Communication

In September 2002, at the beginning of this project, Bruce had just returned from IP’s global Human Resources conference in Europe. This was the first occasion that the global team met face-to-face. One of the outcomes of this conference was an arrangement to use teleconferencing as a mode of communication among the members of the team. To keep in touch with his peers in the global team, he operated on “global” time; for instance teleconferences could take place at four o’clock in the morning Australian time. He thus communicated from a distance by electronic means with an asynchronous global group of peers and superiors. In the Asia Pacific, where he headed the human resources team, communication with his staff and his clients was also conducted at a distance, although more face-to-face contact occurred because he travelled to the sites in South East Asia. The overall model of communication fitted into what McIntosh (2003b) suggested were diminishing “circles of accord” (p. 16), where the questions and meanings of “Who am I?”, “What do I believe in?” became more important than they otherwise would have been.

This mode of operation and its implications would not have surfaced in the data were he not willing to share the daily experiences of his work life. This willingness to discuss the technical details of his communication at work resonates with McIntosh’s suggestion.

Nonetheless, Bruce was managing a function that dealt with people issues in a virtual organisation. Communicating in a virtual organisation was removed, indirect, truncated. The working group was a virtual team. The power dynamics were not obvious nor did they present themselves in a concentrated form. The body language, where much communication was transmitted in the face-to-face encounter, was absent.

Working in a virtual organisation had consequences for human rights arena; it meant translating their meaning into a predominantly written communication in a manner that would arouse interest and yet not create resistance. The document “Human
Rights – Education and Implementation in a Commercial Organisation” (Appendix 1) on which these comments were based is an example of this.

It was a vital document. It provided a focus for both the organisation and this study, delimited the area of human rights concerns, framed the project, gave it authority, yet simultaneously, signalled to the organisation issues that were of concern in the organisation as a whole, though the meanings may have varied greatly in particular locations.

At the same time, the written communication focused on the specific issues. Viewed through the lens of identity and separateness, the document was a confronting piece of communication. It confirmed his philosophy and suggested that he was willing to lead on the strength of its ideas and values.

Thus the Champion and the Interpreter roles were brought to life on the platform of shared values and ideas about corporate social responsibility.

7.3.3 Sponsoring Human Rights

With his peers and team-mates geographically dispersed and against the background of transitions taking place at IP, with his role still to be consolidated in his region, Bruce agreed to participate in a research project about human rights education and implementation at IP.

Doing this from a solitary position meant:

- Taking on a contentious issue in collaboration with an unknown outsider; in the face of
- Awareness that possible human rights abuses were taking place at IP, particularly in his region;
- Willingness to name and publicise specific human rights issues; when
- His peers in other parts of the world did not deal with the more contentious end of human rights abuses such as child labour, and at a time
- When IP was going through a major restructure born of necessity to establish a firm economic foothold and an independent corporate identity.
His stated principles of consistency, transparency and effectiveness were combined with his awareness that giving life to this project within IP would not be a simple matter; that he was in for a long haul.

To make his initiative effective it would confront him with intervening in the fabric of IP, its values and its preparedness to declare its ethical stance as an international citizen. Nonetheless, Bruce was willing to take a stance and sell a contentious issue not only in this diverse region and across an inclusionary boundary (Ashford 1998; Schein 1999), but also upward into an environment where he perceived that the top management did not necessarily have the conceptual or attentional capacity (Ashford 1998) to fully monitor the environment of IP in relation to its social responsibility.

As the project evolved, his role in it meant taking risks, making a public stance about his values and philosophy, confronting restrictions, and taking a stand on human rights specifically.

7.3.4 Taking Risks

Bruce had not been seeking any consulting services for implementing human rights at IP at the time the researcher approached IP about this research. This provided the first piece of data about Bruce’s behaviour. He was prepared to look at his organisation from outside and take the risks that this might bring. This suggested that he was prepared to take risks and to be open to opportunities.

That he took an internal and external view of IP was further demonstrated by his choice of topics for discussion in the framework of human rights practices at IP – as quoted in 7.3.1 and 7.3.2. That report was written after two meetings with the researcher. It reflects the deepening understanding that human rights goes beyond the existing practices of human resource management.

Whilst harassment, abuse of any kind, bullying and sexual harassment were practices over which IP had direct control at its plants, other practices, such as child labour, foreign workers and ethnic labour issues, could be viewed as external. Practices involving child labour, foreign workers and ethnic labour at plants under its
direct management could clearly put IP in breach of human rights norms. However, IP did not have a clear position on its the responsibility for upholding of standards on these practices down the supply line.

Nonetheless, Bruce took a stance to examine all practices that IP may be engaged in directly or indirectly. By bringing internal and external issues to the surface to be debated, he was taking risks and modelling behaviour necessary for human rights sensitive practices. By looking at internal and external factors he was initiating a process of getting to know IP’s total workforce and taking responsibility for indirect human rights practices that could occur as a result of choices IP made when setting up or closing operations at various sites. This was an important step in preventing human rights abuses.

7.3.5 Making Human Rights Practices Count

In the case of IP human rights policies and practices were interwoven into the fabric of a multinational commercial organisation; from strategic decisions such as locations of manufacturing plants, to operational practices, for instance working conditions of people on the factory floor. Nonetheless they fitted best under the broad umbrella of human resources management. Therefore the status of the human resources function had a major influence on how effective a policy or a process concerning human rights would be in practice.

Bruce’s awareness of the status of his position as Human Resource Director Asia Pacific was demonstrated by his explicit descriptions, some of which are quoted above in 7.3.1. It is also shown by his repeatedly referring to the three principles of human resources management that drove his own practice. The principles that stood out were the fair and equal treatment of human beings and the previously mentioned consistency, transparency and effectiveness. His efforts in this research, in education, in crafting policies and implementing of human rights at IP, were driven by the same principles. He was aware that his responsibility for managing the Human Resources function in the Asia Pacific region put him in a unique position with regard to human rights:
• It was the region where IP had the greatest opportunity to examine its practices and become aware of how these practices affect not only the human rights of its workforce but also the communities where it operated;
• By making transparent what existed in his region, Bruce was facilitating an approach to human rights that had an effect on the ground;
• By driving for consistency in the global sphere, Bruce was educating the global human resources management team about the universal human rights practices; and
• His stance that IP’s human rights approach should be transparent in the world and in particular in the communities where IP operated are below, in a part of a letter to his boss about publishing an IP human rights statement:

    I am looking for a commitment in the company that says: This is IP. This is what we stand for, with our community and our societies in which we live...let it be words to that effect, whether it be underpinned by UN Charters, (or another source) making a requirement of compliance in a few years’ time is irrelevant. Let’s go now before we get told we have to go.38

Bruce expressed a clear preference for a company-wide and effective process for implementing human rights into IP’s practices from a position of autonomy.

7.3.6 Confronting Restrictions

In the document written for his colleagues as an introduction to this research, as quoted above in 7.3.1, Bruce stated IP’s commitment to its people in terms of health, safety and welfare. He then invited his colleagues to participate in the development and employment of policies and practices that encompassed:

• Fostering greater understanding of cultural/social values and customs of the discrete work force generally; and
• Providing a workplace that was free of discrimination, harassment, and abuse of any kind (including bullying).

38 Interview with Bruce, February 2003.
The words describing these policies and practices implied not only that human rights breaches existed but also that there were discrepancies between IP’s espoused philosophy and its existing practices.

Bruce then introduced “restrictions” in a question posed by this document. The word stands out from its context; the other three questions were eliciting the positives, the opportunities and the proposed changes in IP’s existing practices (Appendix 12).

He also explicitly named child labour, treatment of foreign workers and management of ethnic labour. Naming these, Bruce provided a clear path forward for research and at the same time communicated to the others at IP that these issues existed in the Asia Pacific region; if not within IP’s operations then certainly in the environment where it operated and therefore they would have an effect on IP as a whole. By explicating his values in the objectives of this project, naming human rights issues and posing questions about restrictions in the same document, he invited a dialogue.

Whilst the responses to this question from his colleagues in Europe and the United States pointed to external factors, his experience in the Asia Pacific region had been of internal restrictions, the opposing priorities of “people” and “business”, the “important” and the “urgent”. To get “buy in from the top” for this project, that meant presenting “a very good case”: the idea, copious information supporting the idea and a business reason for implementing it. Once the “case” was presented following these criteria, he was “like a dog with a bone” about implementing it on every occasion when speaking to his boss. Therefore “restrictions” on consistent human rights practices at IP existed and he continued to confront them throughout the life of this project.39

7.3.7 Making Human Rights Dialogue Possible

The qualities of the Champion of human rights in a multinational corporation emerged in the case study after some eight months. Their antitheses were the responses from other multinationals, when approached about the same topic by the researcher, and the data yielded by talking to some of the other managers at IP. These qualities were trust, curiosity, knowledge of internal corporate culture, relationship with “key

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39 Interviews with Bruce, February 2003 and January 2004.
players”, ability to work within different cultural settings, flexibility, courage to stand on your principles, and persistence. Trust was essential: trust in one’s own judgement, trust in colleagues and ultimately trust in your values. When an electronic message about a new idea was sent to a colleague in a different country, operating in a different time zone, it put the sender literally into cyberspace. There was no immediate feedback about how the idea may be received.

Communicating across distances, cultures and time zones about human rights added several new dimensions to this experience. Different meanings were attached to anything new and this was magnified when the topic was also “sensitive”40. The meaning of human rights viewed from different settings of the same company would be different, and their importance was in perpetual competition with the assumingly unassailable economic dictum that had a privileged presence at all sections of IP in contact with this case study.

Bruce provided examples about the different perspectives of the project that existed within and around IP, and he wholeheartedly shared his experience with the researcher. He painted the IP experience as a background to the project. He then introduced the project and the researcher to the opinion leaders at IP and kept a distance. When decisions needed making, such as identifying the gaps in the snowballing sample, he participated as a “project sponsor” then trusted the aggregate feedback provided by the researcher and independently of this participated as a subject.

The contrast between his behaviour in the role of sponsor and his behaviour as a subject of this research was vivid. In the first instance, there was a disciplined approach to the organisational hierarchy and the “restrictions” as identified above; when talking about human rights, his passion for the topic was palpable. It was expressed by his choice of words and his willingness to reflect on his work and private experience of being a member of a multinational Australian corporation and having a role in several South East Asian countries, as well as an influence on the global stage. His articulation of these experiences provided data as well as energy for the project. The researcher learned almost incidentally about IP’s experience

40 Senior management used this expression in interviews.
because Bruce was willing to share his encounters as he journeyed around his work territory.

His passion as a participant in the project gave it not only authenticity but also a moral platform. (One did the right thing because the right thing had to be done, a Kantian notion).

7.3.8 Role Tensions

Performing his regional role at a distance brought particular tensions and challenges in addition to communication. On the face of it, all of Bruce’s subordinates espoused similar human resources management principles to his. On the ground at each site in the region, however, there were restrictions. The regional operations managers occupied superior positions to those of their local human resources managers and in some cases to Bruce’s position in the hierarchy of IP. Therefore political considerations operated and Bruce’s experience included “receiving overt respect and at the same time passive resistance” from his subordinates. He was not sure whether this was because he was a “white Australian male”, or because of the “myth and manner” of his appointment, or of cultural issues accompanying “outside interference”, of which people at the South East Asian sites were wary. So Bruce was in the process of affirming his role throughout the region as a “bona fide” one that of helping to make “their job easier” both in the operations and the human resources by implementing human resource management agenda and at the same time not undermining their authority or removing their power base.

Viewed from the context of power as exercised through institutions which confer, constrain and withdraw power (Gini 1997), Bruce’s personal power of ideas, of being a “thought” leader, was not enough among his peers and even subordinates. He was, however more confident of the support of his immediate superior, Vice President Global Human Resources in the USA, for his general approach to human resources management. This confidence may have explained why Bruce was willing to champion human rights. Ashford (1998) suggests that in settings with an existing positive climate for an otherwise controversial issue, middle managers are more likely to give voice to such an issue.

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41 Interview with Bruce, February 2003.
However, Gini’s (1997) proposition that power responds positively when exercised within a field or with recognised responsibilities and tasks nonetheless invited a notion that Bruce was willing to put human rights on the agenda as part of the responsibilities of human resources management, not only because he saw a legitimate place for it but also because there was an opportunity to test the power of his position.

The legitimacy of including human rights on the agenda from the Asia Pacific platform was confirmed some eight months into this project. Bruce’s human resources role was strengthened by the appointment of a new Senior Vice President Head of Global Manufacturing Ludwig, the Enabler in this case study, who was situated in the region. They shared a common approach to Human Resources management and actively collaborated in implementing its principles in solving the regional business concerns. They also shared the experience of being “outsiders”; Ludwig was a white male in an Asia Pacific environment, appointed from outside IP. Thus the two formed a supportive relationship in the region. The raising of contentious issues was given momentum as this relationship evolved (Ashford 1998).

However, Bruce’s subordinates raised another important issue, cultural relativities of human rights norms, into the regional debate. Human resources management in a multinational corporation, spanning as it did national borders, brought out historical issues of colonisation, race, and inequalities in wealth between the developed countries, Australia and the US, and the third world countries, Malaysia, Thailand, and Sri Lanka. These were political issues that brought their share of power dynamics. Introducing the discourse in human rights into organisational relationships, coloured by these influences, demanded an awareness of the cultural relativities while the human rights discourse exacerbated them.

Bruce was respectful of the culturally diverse approaches to management in his region. In the role of the Champion his awareness of cultural differences was a positive quality in the planning of organisation change. Such awareness acknowledged the diversity of moral beliefs and hence stood in opposition to the colonialist/imperialist thinking (Bowie 1996). It was also consistent with the values underpinning the design of this case study.
From the substantive content of human rights education, however, universality – the opposite of cultural relativity – is a fundamental value underpinning the UDHR (and by implication all instruments produced since). Though this universal view of human rights is not unchallenged in the literature (Bowie 1996; Coulby & Zambeta 2005; Donaldson 1992; Donnelly 1984; Duquette 2005; Paul, Miller & Paul 1994), this case study stood on the universality platform. That is, in respect to the basic moral principles, cultural relativity did not have a place in the agreements behind these international instruments and conventions. In addition a “reformist” approach would not be possible to be carried out (Bowie 1996) if the cultural relativism view were to prevail. This was vigorously discussed and caused tension between the Champion and the Interpreter. For one thing, he resisted being called the Champion.

However, Bruce continued with the project. In particular, the upward influence of his function was taking a lot of effort, especially an intellectual effort to sell the project on an economic argument. Apart from “thought” leadership, there was a conceptual effort to transform the idea of incorporating human rights into a form acceptable to the management above. This meant providing an argument couched in the economic organisational paradigm. Despite this investment based on IP and research data, there were no obvious or quick results from the head office in the US. Nor was there discouragement either; there were a few ideas of how the human rights debate could be enclosed within the legal/corporate governance domain, but no real response from the human resources executive level. This invited a proposition that Head Office was not only driven by the economic imperative – which was understandable, given the changes taking place at IP at the time – but also that Head Office was removed from the realities of operational practices and that these had the potential to bring IP into a reputation crisis in regard to its social responsibility and the upholding of human rights in its sphere of influence.

7.3.9 A Reflection on the Champion Role

Bruce wanted to do something about social responsibility at IP. He took the time for the project despite the fact that he was relatively new in his hectic human resources role; he had no pressing problem to solve nor was he actively seeking a consulting service.
His criteria for effectiveness included his conviction that the project should result in implementation and "not an elegant report sitting on the shelf". To achieve this he worked to have the project accepted as a "formal in-house project". He called the background research underpinning the formal proposal to the powers above him a "due diligence", a "business case" for social responsibility at IP. He wanted the results to be implemented and saw this as a slow, long term project. On the way to this implementation, he wanted the project's existence to be recognised by the IP executive, to be registered as ready for consideration when the opportunity arose on the executive agenda.

In the effort of preparation, his involvement in human rights dialogue gave him gratification and satisfaction as witnessed by his increasingly articulate language about human rights and social responsibility that matched his "intrinsic and passionate belief" present at the start. This expertise increased his comfort level when "on-selling" the project within IP: "It is lovely to look at what we have done over a two year period". This was sufficient for him to "take up the bone" and demonstrate to his boss that he is not "giving up on it". This mirrors the action research principle that research is about change that matters to people (Cherry 1999).

Whilst the organisational impact of this project remained to be demonstrated at the time of writing, Bruce was dealing with the outcomes of his involvement in this research. Although it was not "action" enough for change in a demonstrable manner within a broad enough range at IP, it satisfied his personal need of "doing something about human rights and social responsibility". It gave him the power of an "expert" in the topic at IP, coming not from his human resources position but from his superior knowledge of human rights and the energy generated by his involvement with the research. He thus became engaged in being one of the "players" on the stage of corporate social responsibility at IP.

**7.3.10 The Researcher's Criteria for the Champion Role**

The researcher found that Bruce met her behavioural and position criteria. The ability to build like-minded partnerships (Hamel 2000) demonstrated his interpersonal and conceptual skills as well as deep knowledge of the organisation. This was

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42 Interview with Bruce, February 2004.
demonstrated in the data collection phase, when Bruce used his power and was successful in influencing others to participate. As soon as an acceptance by his peers and some data were generated, he participated in the interpretation of the data and augmented the researcher’s perception of IP as a multinational corporation.

Nonetheless he was not successful in influencing the readiness factor during the period of research. The project lost focus at times, due, in part, to Bruce being less available than it appeared necessary; some of the feedback given to him would have benefited from greater attention from him, at least in alleviating some of the uncertainty. On the other hand, this could be reasonably interpreted as a parallel response on his part to the lack of feedback on his efforts from his superiors, a silence he was obliged to accept and yet remain with the project. This interpretation was supported by the observation of a change in Bruce’s level of engagement once the Enabler entered the case study.

Part of the researcher’s role as the Interpreter was her acceptance of Bruce’s definition of effectiveness and her relinquishing, in part, of her original motivation to see change in human rights practices implemented at IP. The readiness factor was less than she had envisaged prior to establishing a view from inside IP. The time needed to make contact and collecting sufficient data to form a picture of what type of a multinational IP was did not necessarily reflect IP’s lack of readiness for change but rather its structure and communication channels.

7.3.11 What to Look for in a Champion

Human Resources Department was an appropriate domain for developing conceptual partnerships, for thought leadership and stewardship of human rights research and consulting. In addition, willingness, to take risks, to put a contentious issue of human rights on the organisational agenda and to build and sustain coalitions for change (Kotter 1996) were the hallmarks of the Champion role.

This location and these qualities not withstanding, adapting Bruce’s previous experience to the management of incorporation of human rights norms also meant:
• An imagination and an ability to step outside his department and the organisation; to see IP in
• Broad enough terms to involve the organisation as a whole;
• Naming specific human rights issues in terms that engaged but not frighten the audience, the potential participants in the project.

Seeing the organisation as a whole and as an entity in its environment, while keeping the tension between the inside and the outside, the Champion of human rights thus helped to build a conceptual bridge between the outside knowledge and the existing organisational paradigm. Yet in his dealings with the Interpreter he remained the spokesperson for IP and its perceived realities. Whilst being a spokesperson for the project was vital initially, the role also required that he be willing to stand back to enable engagement and support for the project from a broad base.

This required access to people with direct experience at the operational sites while not becoming “naturalised” or parochial. He had to remain a facilitator in different cultural settings and organisation departments other than his area of direct responsibility. This meant keeping a balance between cultural sensitivity and the demands of the universal qualities of the human rights discourse.

Such facilitation was informed, nonetheless, by an understanding of politico-historical influences, cultural diversity and structures within the organisation. This included a realistic assessment of power, and an ability to build alliances. In contrast to this ability to respect and work with cultural diversities encountered in a multinational corporation, the ability to step away from cultural relativism into the universalism of human rights was essential in the Champion role. The role did not have to be carried out without expert guidance from the Interpreter; nonetheless, an ability to carry the tensions between the two competing concepts was vital.

There was the commitment to stay with the project over time, at least two years. Changes necessary in a multinational corporation to accommodate human rights norms were organisation-wide, and required a shift in perception one of partial change to one of the whole organisation becoming a conscious corporate citizen. This meant not only having an understanding of change management and the effort necessary to make such change meaningful and effective, but also taking the
organisation into a new paradigm. Both of these changes meant taking risk and having a store of persistence.

Starting this project was interesting and exciting, if risky. Persisting when lack of clarity surfaced, when it was not obvious where the findings of the study might be practical, and when there was the greatest risk of losing control at the discovery stage (Block 2000), combined with trust in the face of uncertainty magnified by the novelty, and the sensitivity of the topic was pivotal. This meant ability and a willingness to become a “thought leader” (McCrimmon 2005), and at the implementation stage (Block 2000), the persistence to maximise the chances of success. Such success depended on being very mindful about receptiveness to the new issues vying for inclusion on the corporate agenda, and to organisational dynamics in general.

The planned South East Asian Human Resources Conference and the announced appointment of a new Chief Executive Officer were such opportunities at IP. Bruce spent considerable energy in preparing “his case” for the “buy in” of human rights to be included on the agenda at this conference.

He was not successful. Nonetheless, the conference was the appropriate forum for the human rights dialogue to be deepened and developed. On the other hand, the appointment of a new Chief Executive Officer was an opportunity to gauge from an informed position how attuned the new person was to the corporate social responsibility aspects of his strategic approach. This study did not have the benefit of testing the impact of the new CEO appointment. Nonetheless, both these aspects were important for the successful implementation of the human rights policy at IP. Both were aimed at testing the readiness for change to implement human rights norms with the Champion still in the “issue raising” role until heard (Ashford 1998; Dutton & Ashford 1993).

The intent behind the implementation remained the vital force for the Champion role. The above examples are two manifestations of this intent to use his power, and to be ahead of the game at IP in human rights awareness, from a sense of stewardship (Gini 1997).
7.4 The Enabler

Ludwig joined IP eight months after this project started. He came from a multinational company where his role had been to monitor the environmental and human rights standards for his employer’s Asian region. Whilst working from a South East Asian base, his new role at IP was a global one in the manufacturing operations.

The characteristics of his role emerged immediately. He

- Expressed informed support when approached by the researcher;
- Brought experience about human rights from another commercial organisation;
- Was willing to participate in the study and invite his subordinates to do the same; and
- Had an “internationalist” world view constructed by his intellectual capacity developed in his professional field and personal experience.

He provided a triangular base for this research. He was:

- A local contact for the key informer;
- A senior executive willing and able to contribute and to test the emerging data against the operational realities; and
- A linker between the legal framework and organisational dynamics to facilitate the engagement.

His engagement with the study was enabling from the Champion’s perspective because the Enabler position was new and influential and because they formed a relationship based on a similar approach to the human resources management principles. This changed the power dynamics in the region. Bruce’s human resources management position power was enhanced, in addition to which the Enabler was willing to use his energy to put human rights on the agenda at IP.

Whilst the Champion was an adopter of a new idea, took risks and accepted a leadership position with his peers and superiors, it was when others, namely the
Enabler, bought the idea, that a milestone was achieved by the Champion (McCrimmon 2005).

For the Interpreter it meant having an inside partner in developing the dialogue around human rights and, more importantly, an opportunity to drill deeper into the fabric of IP concerning the possible human rights norms breaches in its operational practices. The Enabler’s “internationalist” approach and his intellectual capacity to extend the tools thus far constructed for IP produced a “Phew!” comment in the researcher’s journal. An important conceptual partnership was on offer and the themes thus far extracted from the data would have an opportunity to be tested in the field.

7.4.1 Willingness to Engage

The enabler’s willingness to engage in this project immediately after he joined IP was the first act of “enabling”. His responses to questions about human rights in the initial interview could clearly not be drawn from IP practices; however, from his concrete experience he validated the questions, the concepts and gave energy to the project when it was much needed.

This was in the middle of the first year of the project, at the transition point, a shift of perspective from human resources to operations, from conceptualisation to implementation.

7.4.2 Grounding the Conceptual Tools

Another shift occurred again towards the end of the second year in the life of the project, when the researcher was looking for feedback on a prototype model and Ludwig had sixteen months experience in his global role at IP. Being curious, logical, culturally sensitive, passionate and grounded in the realities of working in many countries in South East Asia, Ludwig took his role in and his influence on the project very seriously and devoted telephone, correspondence and face-to-face time to it with both Bruce and the researcher. Practical experience in a crisis generated by the violation, intentional or otherwise, of human rights norms or social responsibilities of a multinational corporation gave his effort momentum.
Therefore the dialogue about human rights at IP became clearer and more concrete. This provided security to move forward from the position of hesitancy. This hesitancy had been constructed by the participants at a lower level of IP from the two emerging perceptions that “human rights are a sensitive issue” and “let’s just plug the gap if one exists” and of “what good economic reason exists for pursuing this?” If Ludwig had such concerns, he certainly never used them as avoidance or restriction in the evolving dialogue. On the contrary, he was willing to deepen the questions and also to engage people under his influence to look at the sphere of their influence and explore the questions with a view to human rights education and change at IP in order to accommodate them in a realistic manner in the region. He was interested in human rights per se and in IP having appropriate policies and practices in place to protect its reputation.

7.4.3 Power Base

In addition to experience in dealing with human rights issues in manufacturing in South East Asia, and thus being able to speak from an informed position, having knowledge power Ludwig also had position power and a global influence. His job involved making manufacturing as profitable as possible. This included making the existing manufacturing plants work efficiently and finding new ways of producing IP products. The researcher recognised that this was significant to the case study for three reasons:

- He played a pivotal role in the expansion of manufacturing to other than the in-house model. This strategic move carried risks of human rights breaches into a new realm for IP. This was to test a crucial point of IP as an international citizen – the observance of the International Human Rights norms could not be delegated down the line to the suppliers and contractors. The Enabler’s acceptance of the responsibility for the supply chain was a leverage point in the process of making IP conscious of its international citizenship position;
- The Enabler’s role broadened and deepened the research because of his position of power. He was in an even better position than the Champion to sell the issue of human rights to the top management, and he had the intellectual capacity grounded in his professional practice for the linking of operational
practices under his control and the strategic ideas at the institutional levels (Dutton & Ashford 1993); and

- An opportunity arose to test the findings because Ludwig was in a position to implement the outcomes in manufacturing in South East Asia and elsewhere in the global operations under his control.

### 7.4.4 Reflections on the Role of the Enabler

By taking a socially responsible position from the beginning of his engagement, the Enabler advanced the dialogue and affirmed not only the legitimacy of human rights in the human resources management domain but also the positive contribution of the existing human resources philosophy in the regional operations.

This affirmation of human resources philosophy had positive consequences for the Champion. It provided some answers to the questions the Champion raised in the “Tensions and Power” segment of this chapter and shifted human resources management on to the platform built on values and away from the pragmatic transactional politico-survival organisational forces. This new platform then provided a more receptive ground for inclusion of human rights into the human resources domain.

By commencing implementation of human rights norms into practices under his direct influence, the Enabler:

- Added to the prototype of the model constructed from the data collected at IP. This validation was twofold, a conceptual affirmation between the researcher and a participant and a practical tool for education at IP;
- Used the model to start the education about human rights via his direct reports by inviting them to participate in this research in the area that was pertinent to their daily managerial practice. This meant taking the research to a deeper level; by incorporating his suggestions the questions became more specific;
- Incorporated a formal presentation on human rights at a global manufacturing managers conference; although this had was not yet been delivered at the time of writing; and
• Initiated and substantively contributed to IP global policies on social accountability.

The Enabler’s role was both effective and appropriate. Occupying a senior executive position he used his power in a socially responsible manner. In addition, he was a senior executive located at the coalface of manufacturing, where raw data about human rights issues and strategic decisions both presented for scrutiny.

He not only expanded the dialogue by grounding it with examples from his manufacturing experience; but also examined all of his practices from a socially responsible framework and acted on the findings from his engagement in the study.

7.5 Conclusion

The findings explicated in this chapter have implications in three areas:

• Their importance in the education on and implementation of human rights at IP; hence
• Their influence on the development and validation of the model; and
• For the future research on human rights and multinational commercial corporations.

7.5.1 Education and Implementation at IP

The three roles of Interpreter, Champion and Enabler were essential in building a conceptual partnership and a power base from which to plan, explore and implement the education and implementation of human rights at IP.

They have at least three common threads:

• Each of the players experienced and demonstrated tension within their role in their engagement with this project;
• The project produced an evolving dialogue that demanded the spelling out of and dealing with dissonance in values for the three actors; and
• The engagement that produced the roles in turn exacted an ongoing commitment from the players.

The researcher’s tension was in reconciling organisation theory and human rights precepts, apart from capacity to digest, distil and do justice to the volume of information under conditions discussed above. One of the uncertainties was not taking a clear position on the responsibility for human rights down the supply chain. This uncertainty was compounded by not having a clear position on her leadership responsibilities as Interpreter.

The tensions for the Champion were evident when his espoused values were juxtaposed against any mention of resources (expenses) or getting together of IP people to discuss human rights. This ambivalence may have been about the investment of taking the human rights discourse into a public forum in two ways, first outside of the Human Resources Department and then outside of IP.

The Enabler’s tensions were around dealing with efficiency in manufacturing and the variety of responses to his highly rational approach to this from the different cultures in which IP operated, for instance China and India.

The values, however, were espoused freely by all three. Equally, they were agreed upon. This was the real fuel of the dialogue that developed and deepened in the three years. Commitment was demonstrated by all three in the time and effort invested in the project.

The researcher led, as measured by the volume of both time and effort. Nonetheless, the Enabler, having returned seriously ill from China, underwent medical treatment including a test for SARS. Yet he kept and extended his appointments with the researcher on her site visit. This occurred although there was plenty of opportunity to delegate and reduce the visit of an “inspection”. This commitment could be viewed as an extension to his commitment to IP and to his profession; nonetheless, the intensity with which he discussed the issues of human rights and attention to detail for implementation in the sphere of his influence suggest specific commitment.
Bruce gave and kept his written agreement as a client. He kept his commitment to transparency, shared his views freely, and kept working on attaining commitment from above.

Nonetheless, the Implementation stage was frustratingly evasive. Whilst some of the obstacles were pre-existing assumptions, about organisational change and human rights; these were not as impeding as was lack of conscious and active leadership.

### 7.5.1.1 Leadership Triad

Roles cannot be played without a stage and a plot. The stage was global, the roles played authentically produced thought leadership in the pursuit of convincing IP of the value of the truth of responsibility for human rights.

Nonetheless, the Champion did not want this name; the Interpreter did not want to place herself at the top of the Chapter. So where was the leadership? The Enabler provided it in part; he was happy to get involved; he contributed to and grounded the study. All three were knowledge workers in this project bringing distinct technical expertise to it. Combining this expertise brought thought leadership; albeit fast shifting, ephemeral and egalitarian (McCrimmon 2005, p. 1067).

Moral leadership was also operating through commitment, intent for real change and concerted effort (Gini 1997) This was enacted by Interpreter staying true to her intent and acceptance of doubt; by bringing to the surface questions of responsibilities of global corporate citizenship, and by modelling her doggedness for getting universal human rights on the agenda. The Champion likewise provided moral leadership by his insistence for useful knowledge and meaningful actions at IP, and by taking risk, and making human rights dialogue possible. His keeping of role tensions and uncertainty in the face of lack of response from above was also in keeping with humanist principles and a transformational approach to organisational change. The Enabler’s moral leadership was not only demonstrated in his espoused values, but in the fact that he acted on it from a newly appointed Executive level. He willingly examined the intricacies of his diverse coalface realities, implemented at the local level despite having global responsibilities and a title to reflect them.
7.5.2 Influence on the Model

It was by engagement in these roles that the conceptual shape of the human rights dialogue developed. The Champion opened IP for the dialogue to commence the discourse. The Interpreter continued and enlarged it to encompass the intent of the International Human Rights norms and constructed tools to explain how they intersected with the practices of IP. The Enabler confirmed their usefulness by implementing some of the intent of the study. However, the individual tools and the roles emerging from the study had to be anchored into a framework for feedback processes, sens-making and future research.

The characteristics of these roles are not specifically stated within the model, they are implied. In its intent for an organisation-wide change, the model assumed thought and moral leadership existed for such change and power to influence and implement it at several levels. These were tested in the roles.

Finally human rights education and implementation in a commercial setting was found not to be possible without an informed discourse at their intersection. The roles were fundamental in constructing this discourse.

7.5.3 Future Research

The leadership of human rights discourse in a commercial setting was found to be vital in this study. The questions of what kind of leadership was needed at what stage of the discourse remains open for exploration.

The importance of the tripartite roles in human rights research should not be underestimated. Most of consulting literature looks at consultant-client relationship as a didactic engagement. Here there was close relationship between Interpreter and Champion, but once the Enabler was brought into the sphere it became a richer and a more dynamic group. Though there may be a temptation to “switch” the client, to go with power in the name of implementation, this is a temptation to be avoided. At least in human rights consulting the key relationships form a triad.
All three roles have to be mindfully prepared for an engagement with human rights values, precepts and intellectual demands. The topic differentiates the roles from other roles in organisational consulting and implementation of change.
Chapter 8 Human Rights - A Model for Education and Implementation in a Commercial Organisation

How to manage human rights in a multinational?

8.1 Introduction

This model is a framework for making sense of the issues and processes encountered in the course of this case study. It offers a way of approaching the layers of complexity that exist where issues of international human rights law and the practices of a multinational commercial corporation meet.

It is a tool for a multinational to look at itself in the global context when considering its approach to human rights; and a diagnostic tool for an intervention in a multinational corporate context by a change agent or an interpreter of human rights. It is also an education tool for the planning of curricula and the devising of tailored presentations of human rights norms.

The model was developed from the data as they emerged in the course of this case study. Conceptual constructs were built to make sense of these findings within the frameworks of International Human Rights norms and consulting theory and practice for organisational change.

The conceptual frameworks for the education and implementation of human rights in a commercial organisation informing the study were found to be limited in two ways. The Organisation Development (OD) model of consulting for change, whilst offering the essential tools at the beginning of the study, was limited when the study entered the discovery phase (Block 2000). At that point the process became more complex than the OD model implied. Staying with it would have meant ignoring the potential of the data and the specific meaning of the implementation of human rights norms. It would also have restricted the direction and momentum of the client system.

On the other hand; the Human Rights literature was limited in informing the implementation phase in a commercial organisation (Hinkley 2000; Monshipouri, Welch & Kennedy 2003; Muchlinski 2001; Organisation for Economic Co-operation and Development 2000; United Nations 2002, 2003). Hence a prototype of this Model
was developed in an effort to make sense of what was happening in the pursuit of the research question. The prototype incorporated several iterations of data collection and analysis. This was fed back to the participants to make sure that it made sense in their understanding of the study. From their comments, the interaction with them and from actions taken by them at IP this version of the Model was developed. The process was informed and the development of the Model was enhanced by the work of the following authors: Amnesty International (2002), Andriof and McIntosh (2001), Dunphy and Dick (1982), Dunphy, Griffiths and Benn (2003); Frankental and House (2000); McIntosh (2003b); Sellers and Reidy (2005); and Waddock (2002).

The model is divided into seven components, six levels of implementation and an internalisation component. The levels of implementation indicate increasing depth of engagement between the multinational and International Human Rights norms. Within a measuring cup representation of influencing and power, each of the levels is designed to uncover a different aspect of human rights concerns, conceptual or practical, to be considered in planning strategies aimed at bringing about educational outcomes or implementation steps for a multinational corporation. In addition there is an internalisation component. The internalisation component incorporates critical points of implementation from all levels.
Figure 1 Levels of Implementation

Figure 2 Levels of Responsibility
These concerns are grouped to chunk the complexities, so that each group can be addressed at the appropriate decision making level of a multinational corporation. Overall, the model assumes that the corporation is taking an autonomous initiative in this matter rather than just a legal compliance position or a response to other outside pressures. The levels represent lenses and organising tools through which to view a multinational engaged in the process of decision making for incorporating human rights norms into its practices.

The model can be viewed as a measuring cup shaped representation of issues or concerns. The top of the conical shape is symbolic of the breadth of acceptance of responsibility and corresponding actions at the top or governance and strategy level. The lower part contains detail, the implementation and internalisation by middle management at operational levels. The cone shape represents intervention, a dynamic interaction of normative ideas and policies. It also caters for the feedback from this exchange by funneling out from this middle management level into the broader base the people inside of the operations, including the supply chain and associated partners.

The model can also be viewed through an environmental lens. At the uppermost level it is broad and symbolises the global structures and influences bearing upon a multinational’s role on the international stage. This offers a panoramic view and a conceptual framework of interaction between a multinational corporation and its global environment. The framework incorporates the norms and values underpinning the International Human Rights Law as embodied in the Universal Declaration of Human Rights (United Nations 1948) and related instruments; and the concepts of the international corporate citizenship and its responsibilities (Donaldson 1992; Dunphy et al. 2003; Hinkley 2000; McIntosh 2003a; Ratner 2001; Waddock 2002). These values, concepts and moral responsibilities not only form a new paradigm of organisations and change (McIntosh 2003b) but also point to the authority level of a multinational corporation (Peters 1999). This level of the model is also concerned with and aimed at the top level of the organisational structure at corporate governance. It therefore suggests that custodianship of moral responsibility is not just to its shareholders but also to the international community (De George 2006). Organisational change needed to accommodate implementation and education in
good human rights practice cannot be effective without sufficient support from this level.

The panoramic view therefore consists of three aspects of a multinational:

- As an entity in its environment;
- Its engagement with its host community; and
- Its approach to organisational change.

Two philosophical considerations are at stake at this level; namely:

- Human rights are universal; and
- A multinational corporation is responsible for the whole of its sphere of influence.

The need for taking a panoramic view of IP emerged at the data analysis and the consequent action planning stages of the study. Much effort and argument between the Champion and the Interpreter about “producing some results” did not come to any acceptable starting point for the implementation of the emergent findings. This plateau was interpreted as evidence that a broad view of IP as an international citizen, a different paradigm, had to be accommodated first. An organisation-wide approach to International Human Rights norms could not be planned or incorporated in the absence of such a paradigm shift. The acceptance of the principles underpinning this aspect of the model at the top level of a multinational was a crucial step for the construction of a human rights statement.

Once these paradigmatic considerations were accepted in principle, the implications of the legal, environmental and practical considerations could be examined as they affected a particular multinational. The shape of the model narrows towards a tailored strategy informed from within the organisation, that is, its experience. This demanded an organisation-wide approach to human rights practices. Although still informed by International Human Rights Law (International Labour Organization 2000), this level nonetheless needs input from inside the organisation and from the actors in the communities where it operates.
From this information both internal and external, the model proposes that there is a pivotal point; the forces from above, if translated into a stated position, would demand the taking of a stance on human rights from within the multinational corporation. The findings of this study strongly suggested that this must be attended to if an organisation-wide education about and implementation of human rights was to proceed.

Therefore, at the centre of the Model is the leverage, the crucial part of it, the giving of authority, leadership; of creating a pressure point and the vehicle for the championing of human rights by developing a human rights statement.

The Human Rights Statement (Appendix 15) drafted in this research was intended for publication, and was an internal and external communication about IP’s position on human rights. It therefore had to be sanctioned at Board and Executive levels. Publishing it meant taking an important step into corporate social responsibility. The reason the production of this statement was positioned in the middle of the model was the assumption, tested in practice, that such a statement had to come from an informed position; although it represented a top-down leadership position, it nonetheless needed to be based on consultation. The further into IP the researcher delved, the more pronounced the voices became about the contentiousness of giving a voice to human rights. Therefore, a discourse about what human rights meant was vital for the effectiveness of the statement.

Underpinning the process of developing of a Human Rights Statement were three evolutionary processes, namely:

- A dialogue of human rights in an industrial setting;
- Engagement with mandatory existing human rights practices, and
- Internalisation of organisation wide human rights practices

These are represented at the sharpest end of the model. This level provided tools for an education and implementation process. It explicated the steps for moving from awareness to action; and of embodying human rights into practices of a multinational from within and into its culture. Some were tested in this research. Others were not; they represent an opportunity for further research.
The bottom part, of the model appeared as a necessary outcome of the above levels and the pressure created by them. It was a legitimate part of this model, backed by feedback from IP and a limited amount of data from the study; despite the lack of detail within the shape created.

We shape clay into a pot,
But it is the emptiness inside
That holds whatever we want (McIntosh 2003b, p. 20)43

Each level can stand alone as a pedagogic or diagnostic tool for education and implementation of human rights in a multinational corporation. At the same time, each component offers a tool for human rights research, while the Model as a whole incorporates the findings of this thesis.

8.2 Discussion of Components

8.2.1 Level One: Big Picture

This section identifies the forces that operate in the global economy and impact on corporations as viewed through the framework of the International Human Rights norms. It moves from a concept of interdependency of global actors to a corporation’s influence through its ethical position as an actor on the global stage.

Level One summarises the issues that surfaced in the course of this research. They are grouped together here because they were broad, wide-ranging and sometimes vague. Nonetheless, when the researcher engaged with the people at IP, some of these issues were identified as considerations in the participants’ understanding of human rights as it affected their professional experience or the policies at IP. They had knowledge of the ILO conventions and the different expressions of them at the nation-state level. They lent on domestic legislation according to local practices in the absence of a global approach by IP.

Seeing the big picture is important in changing organisations:

43 After I Ching
There is a tendency to break the organisation and its activities down into component parts in the hope of spotting the fixable problem. This is only useful when accompanied by the helicopter overview...How big is the lake in which we swim?...What assumptions am I making that I do not know I am making? (McIntosh 2003b, p. 87)

In incorporating the International Human Rights norms, seeing the big picture was imperative. Dealing with individual components stopped, abruptly at times, until that picture was acknowledged.

Several of the components at this level offer an opportunity for a multinational to explore its influence on its environment, including its organisational culture and how this interacts with the local culture and its employment policies and procedures and interpretation of international provisions in the commercial arena. This level gives an actor an overview from which to make choices for engagement or otherwise. The proposition this level of the model makes is that by exploring the issues it raises, such a choice will be an informed one from a corporate citizenship position.

This level is designed to provide a framework from which to raise awareness of the broader and complex issues that need to be taken into account for decision-making at all levels and to provide a discussion point for addressing the question of corporate citizenship and the complexities surrounding it.
LEVEL ONE

BIG PICTURE

The Amphitheatre of Influence of a Multinational

In the environment encircled by the

Global interconnectedness

Including the body of

International Law,

Values, expectations and responsibilities of

Corporate citizenship.

There is a dynamic exchange of interests at the intersection between the

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Figure 3 Level One Big Picture
8.2.2 Level Two: Social Actor

This level focuses on the fact that a multinational corporation is a social actor in a global environment and therefore faces choices and has responsibilities for its behaviour as it carries out its operations. The choices are informed by provisions in International Human Rights Law, and by how the universal principles and provisions are translated into local laws or otherwise.

Historical and socio-political aspects of interaction between a particular state and a multinational’s operational practices influence the perceptions of the workforce and the local community in general. At IP these were positive. IP was perceived as a good employer; yet when it came to perceptions about opportunities for advancement there was a sense that “westerners” were chosen to manage the locals and this was seen as a “colonialist” practice.

Issues that arise from different perceptions on the basis of different cultural views - culturally relative views – offer an opportunity for exploration in the quest for a good “fit” between the multinational and a host community. Unexplored they operate regardless; exploration, on the other hand offers an opportunity for a dialogue about values. At IP there were different titles attached to similar jobs depending on the country of operation. These titles were respected by the global policies of IP in order to comply with the local customs of status that were attached to a particular work title.

The issues flowing from the engagement between the multinational and the host community are grouped together under these three aspects because they would apply in any community where a multinational has operations and yet they will be unique in each situation.

It is in this area that a multinational has a unique opportunity to be responsible, sensitive and a positive force through its informed chosen ethical behaviour and applied at the local level appropriately. Generating data from engagement with the issues at this level will enable informed decisions to be made for Level Three, Organisational Awareness (Figure 5), and for Level Four, for input into the Human Rights Statement (Figure 6).
LEVEL TWO

SOCIAL ACTOR

International Law

Which conventions apply to this corporation’s operations?

Which International Conventions have been ratified in the countries where it operates?

What does that mean in the local law of the host country?

What does it mean in the domestic law of the home country?

On-the-Ground Realities

Socio-political influences

Historical connection between the two countries

Local cultures, religion, attitudes, labour practices, work ethics, power structures

Why does this corporation have commercial interests here?

Other multinationals and their local practices

Cultural Relativity

From a home country viewpoint, how to transform culturally defined practices (Including those that are contrary to International Human Rights Law) without being culturally arrogant in the host country?

Resources within the home and host communities

Figure 4 Social Actor
8.2.3 Level Three: Organisational Awareness

This level represents a view of anticipated organisational change when incorporating human rights awareness and practices into the cultural and operational fabric of a multinational corporation. All the strands of a multinational’s cultural fabric are illuminated when viewed through a human rights lens. Each strand may retain its hue or it may have to be seen in a broader spectrum. The findings of this research are based on data collected at IP at a time in its development when it was undergoing change and a human rights dialogue was new to it. This is why this section looks at the implementation of human rights into a multinational as an intervention into its culture. And, this segment of the model considers the principles of organisational change.

A theoretical approach to organisational change is outlined by Dunphy (1982). Out of a number of the principles described (p. 52), informed awareness, selection of appropriate intervention strategies, support of key power groups and open assessment beforehand are of particular interest to the implementation of human rights within a multinational corporation because of the complexity and nature of this topic.

This level summarises the content that needs to be determined and tailored to the needs of an individual multinational and the areas of the organisation that will be affected by of the far-reaching consequences of incorporating human rights norms into policies at a company-wide level. In embarking on an organisation-wide change the power dynamics have to be determined and engaged in and the political will taken into consideration in the decision making about how to proceed. Crucial decisions therefore have to be made at this level, to make sure that people with the right knowledge and decision making power are engaged and support the process.
LEVEL THREE

ORGANISATIONAL AWARENESS OF SUSTAINABLE HUMAN RIGHTS PRACTICES

Two streams of dynamics must be accommodated simultaneously:

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<td>of human rights</td>
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<td>of daily operations</td>
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CONTENT

Awareness of practices that intersect with International Human Rights within the corporation’s operations
On whom do these practices impact?
Informed view of human rights and how they apply to these practices and stakeholders.
Stated values, a code of practice, a

Human Rights Statement, based on issues that emerge from engaging with Trans-national practices and a corporation’s ethical position

POLICY

Which areas have to be covered?

PLAYERS

Who will carry out the work of developing a human rights approach?
What are their roles and their status in the power structure?
What are their characteristics?
What are their ideal behaviours?

STRUCTURE

Information Systems
Resources
Lines of authority and control
Expatriate and local positions
Power

POLITICAL WILL TO CHANGE WORK PRACTICES

Employment, work conditions, training, health care, safety, education and welfare.
Costs and benefits of organisation-wide approach

Figure 5 Organisational Awareness
8.2.4 Level Four: Human Rights Statement

One possible action point for a multinational to make a start with an education and implementation process is to publish a human right statement clearly setting out the corporation's position. Putting this into practice effectively will depend on following all of the principles of successful implementation of organisational change as described above in Level Three. This research shows that engaging participants, composing the wording of the statement, and getting the “buy in” of key people is a lengthy and confronting reflective process. The process employed in this case study considered or gave definition to most of the concepts incorporated in this model. The criteria below were developed as part of this model building.

IP’s criteria for its human rights statement reflect the time of structural and cultural change that IP was undergoing when the statement was composed and IP’s “newness” to social responsibility and human rights concepts. The criteria were:

- To be simple and clear;
- To stand alone;
- To be expressed in strong and culturally translatable language;
- To be sensitive in its overall message and intent;
- To be measurable and transparent; and to be
- Clearly displayed at each IP site.

This level offers an opportunity to educate about and build commitment to the organisational change needed for the incorporation of human rights into operational practices. This is done by engaging people from the strategic level, the middle management and from the workforce to make the most of this opportunity to gain a diversity of views and to build commitment.
DEVELOPING A HUMAN RIGHTS STATEMENT

Critically assessing why the multinational needs a Human Rights Statement

Who is the audience?

Who will be involved in research and decision-making?

How is it to be constructed?

What will it contain?

What is its purpose and function?

The content of this statement is based on engagement of the multinational in

the international arena and on real data and

Is facilitated by a

Human Rights Champion at a senior level and with support at the highest level

Plus the

Support of a Human Rights Team

The team is comprised of people who know what this corporation does day-to-day

And

Have influence on the shop floor

Figure 6 Human Rights Statement
8.2.5 Level Five: Educational Process

This component is an outline for a human rights workshop designed for an industrial setting. Integral to the design are two things:

The first is the composition of people participating in the workshop. The participants must have a collective experience of practices from the countries where the multinational has operations or contracting arrangements, and also of policy-making to provide a strategic view surrounding the decision process.

The second is facilitators’ knowledge and expertise. This means company data that illustrate where human rights issues intersect with its daily operations, data about what competitors are doing in this industry with regard to human rights, expert knowledge of international law and its applications to multinationals operations, and facilitation skills.

An essential criterion in selecting participants is the person’s ability to identify human rights practices and concerns in offshore operations. This puts specific human rights issues on the table, which are valid data for policy decision-making.

Facilitators’ tools and knowledge are described in Appendix 17. Resource materials for this level were used at IP. They included International Human Rights Law instruments, analysis of these documents to examine the relationship between domestic and international law, industry analysis, analysis of the existing policies and documents on social accountability, discussion of the universal character of human rights, and literature sources dealing with responsibilities of multinationals for human rights.

Putting this workshop into practice was an educational process at IP. It had a continuing impact on the participants, including policy-makers, during the course of this study.

This section is replicable and can be used independently as a diagnostic and educational tool for human rights implementation in multinational corporations.
Level Four and Level Five are dependent on each other. Decisions about practicalities and timing have to be made in order to determine the timing of each. It is essential that Level Five be conducted with people interacting and debating the data, implications, policies and details of implementation, whilst the human rights statement can be relatively general, and generated as part of the planned implementation including Level Five. Publishing of the human rights statement internally and externally, however, is critical both to its status and in its timing. Publishing it without appropriate action in education and implementation would expose a company to risks from inside and outside. Yet publishing it would provide a context for Level Five. It would mean that the top management had taken a position on social responsibility and hence given impetus and motivation for participation in its implementation.
EDUCATIONAL PROCESS

Why incorporate human rights into operations?

To protect and expand a company’s reputation;
To be aware of national and international legal considerations;
To create knowledge and develop skills for a dialogue with stakeholders including
national and local governments; and
To enhance skills for developing and managing a motivated and diverse workforce.

Participants

Employees who can identify human rights issues and practices
In the corporation’s offshore operations; and
People who are responsible for policy formulation in regard to social responsibility.

Aims

To raise awareness of International Human Rights as they intersect with the
company in its international operations;
To elucidate human rights issues and practices and find out if there is a gap between
the exiting and the desirable policies and practices;
To examine a decision process for an informed, sustainable ethical approach; and.
To raise awareness about the scope what is needed to create and implement a
human rights policy and practice throughout the organisation.

Objectives

What are Human Rights and how do they apply to corporations?
Review of International Human Rights Norms;
Relationship between international and domestic law, ratifications;
Corporate citizenship and the existing ethical position;
Assessing the existing practices;
Identifying Human Rights issues and practices; and
Analysing these issues and practices against a human rights audit document.

Action Planning

Assess the readiness for dealing with Human Rights;
Provide raw data for formulation of a Human Rights Statement; and
Identify a list of people for formation of a Human Rights Team.

The detailed design for this Workshop is included in Appendix 17

Figure 7 Educational Process
8.2.6 Level Six: On the Ground Practices

This level is more prescriptive in nature. It is a minimum requirement for the attention of a corporation in its offshore operations to operate within the spirit and intent of International Human Rights laws. A starting point is provided by the *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* (United Nations 2003). Donaldson (1989; 1992) provides ethical and moral arguments for including responsibilities as well as the minimum requirements of multinational corporations for the upholding of human rights including the rights. These were applied at IP and are examined in chapter Six.

This part of the model does not consider how the corporation arrived at this position.

From a research position, this stage could be used as a diagnostic tool for determining the gap between an informed approach and an ad-hoc one. For example for taking a broad approach using any of the guidelines, UN Global Compact, the OECD Guidelines or the ILO Tripartite Declaration as a standard and finding ways to comply with their provisions. It can also be used as suggested by this model, as a means of finding out which of the international provisions specifically applies to the particular operations, and developing policies to at least comply with or alternatively incorporate their intentions into policies and procedures for such operations.
The starting principles of informed and ethical human rights practices regardless of any overarching published stance on Human Rights are mindful of three major areas:

**KNOW YOUR WORKFORCE**

**Child labour**
- Is child labour employed at your sites?
- Is it employed in the countries where you operate or source goods?

**Foreign workers**

**Management of Contractors**

**Management of Security Forces**
- Are there any state or private security forces deployed at any of your installations?
- What are the associated risks of human rights infringements?
- How can these be minimised?

UN Basic Principles on the Use of Force and Firearms
UN Code of Conduct for Law Enforcement Officials

**ENGAGE WITH LOCAL CONDITIONS**

**Local employment and working conditions**
- Health and safety
  - (Including prohibition of use of corporal punishment, mental or physical, or verbal abuse)
- Freedom of association and collective bargaining
- Fair working conditions

**Ratification of international conventions**
- ILO Conventions 87,98,100,110,131,155, CROC, Migrant Convention

**MONITOR HUMAN RIGHTS PRACTICES**
- What local NGO or UN organisations present an opportunity for a partnership?

Figure 8 Human Rights Practices and Manufacturing
8.2.7 Internalisation

This is a summary of decision points and processes that require critical evaluation when considering education about and implementation of human rights within a corporation. Summarised as points of critical choices they are:

- Develop and publish Human Rights Statement;
- Conduct awareness raising and diagnosis workshop;
- Incorporate human rights stance into human resource management policies;
- Incorporate key result indicators into performance management process;
- Employ internal and external reporting mechanism; and
- Support good human rights practices in day-to-day operations.

While this view illuminates the connectedness between coalface realities and the public ethical and moral position of the corporation, this part of the model poses critical choices. Even from a relatively informed position about human rights, it is debatable where the starting point for education and implementation may be.

If we start from “bottom-up”, from day-to-day practices and behaviours, then who is encouraging and observing? How will they know what they are looking for? What is their motivation for doing this? Yet if we assume a “top down” approach this can only be based on data from the day-to-day operations. These data have to be collected in an ethically informed manner, be it for research or organisational development purposes.

The top-down approach, on the other hand, assumes the exclusion of the people who are most affected by good or bad practices, at least at the beginning of the process. This would be incongruent with the underlying values of human rights philosophy and an intervention that is contestable when viewed from some organisational change perspectives.

The different starting points were all considered and evaluated at IP in the ongoing process of this research. All the efforts led back to gaining top-down support for a
Human Rights Statement to be published. This is discussed in Chapter Seven under “Champion Role”.

Though this section assumes action, with the use of action verbs indicating the researcher and client preferences, it is not prescriptive. The decision to act is separate from the interconnectedness of actions and the interdependence of outcomes.

This study did not go this far because of limitations in this case; nonetheless this is an area that needs further research. It is included here to complete the conceptual framework.

8.3 Critique

8.3.1 The Measuring-Cup Shape

In describing each component it became obvious that these descriptions of the subparts of the model did not adequately provide for the dynamic nature of development, education and internalisation of human rights in a commercial organisation. The process at IP demonstrated that all components were interconnected. The overall conical shape of the model is both accurate and incomplete at the same time. It is accurate because the more detailed the information or interaction needed, the deeper into the organisation was its source. It is inadequate in its overall shape because the top part of it appears more important than what may come from the bottom. This is only so because the study did not go into detailing of the bottom part; this was beyond its scope. However, the very nature of the dynamic character of the conical shape suggests that there will be a reaction at the very bottom, the sharp end.

The broader, top components include variables that are expected to apply downwards pressure within an individual corporation. This suggests a penetration. By becoming more specific about human rights issues within an organisation, the model then correctly depicts the process of this research. At the same time, this metaphorical shape evokes some questions; if it ends in a stiletto and it “drills” into the body of the organisation, what is it likely to strike? Is it the subterranean
knowledge about the organisation, about its experience of being a multinational? Is it about human rights practices that are not talked about unless the right questions are asked? If so, what are the pipes through which this “good oil” is going to flow back to the top? How is the broad base to be engaged and activated in their commitment? The internal human rights issues discussed in Chapter Six were a start; however, the area was not explored in depth and represents an opportunity for further research.

The conical shape accurately reflects the experience of doing research about implementation of human rights at IP. Nonetheless, the centrality and importance of the Human Rights Statement in this implementation invokes doubt about the tempting simplicity of the conical shape for two reasons:

- To meet the criteria as described in Level Four above, the Human Rights Statement has to be based on data derived from day-to-day experiences of operational people from the diverse platforms of the organisation. This means that there is a feedback loop between the Levels Four and Five of the model. Furthermore for Level Five to be conducted in the best informed fashion, Level Six would have to be at least tested by the key players of the human rights team as envisaged at Levels Three and Four; and
- Whilst the Human Rights Statement is a declaration of a corporation’s stance on human rights and of its values, it must allow for flexibility and movement to remain relevant and alive.

8.3.1.1 An Example

IP was a case study. It was at the time of this research undergoing structural changes including a new status as a “stand alone” multinational. Stand alone, because it emerged from a larger multinational entity that failed. It was this change in status that brought the values, expectations and responsibilities of international corporate citizenship into focus, where compliance in respect of human rights was a major component of this corporate citizenship, expressed in the Human Rights Statement as:
We are forever mindful of our responsibility to our people and the communities in which we live. We are also cognisant, as a leading global business, of the importance of our presence, participation and inherent impact within these societies in which we live and work.

As such we will strive to develop, implement and enhance workplace policies and practices that foster human rights and enhance:

- Legal compliance;
- Respect for individuals and an appreciation of their value and contribution to both our business, their community and the local environment;
- A greater understanding and appreciation of cultural and social values of our workforce and customers;
- A workplace free of discrimination, harassment and abuse of any kind (including bullying); and
- Career opportunities for local nationals and their indigenous people.

“Our business will be sustained and grow in a socially responsible manner that is ultimately integral to ongoing commercial success and from which all stakeholders and shareholders will be proud.” 44

There are two important things about this statement:

- The process of compiling it, the opportunity for reflection and education it provided; and
- The publishing of it.

It was intended that this statement be published and become public information about IP, and include invitations for feedback. This feedback was intended to be incorporated into internalisation component of this model.

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8.3.2 Feedback on the Model

The idea of broadening out came from the field, at IP. Though the testing was limited, the conical shape drew an immediate response. It was a good image to make an impact. It drew attention to the complexity of issues that have to be contained in order to have a planned and comprehensive approach to incorporating human rights into a multinational commercial setting. Nonetheless, in manufacturing there were technical minds that could not tolerate an image of something standing on a point:

I think you should go down to the people who have access to the majority of people…who are mistreated…(whilst I do not think it is happening)...you should go to the general managers of the factories and then the model has to broaden out to allow for the feedback from them.  

The pressure is likely to cause a broadening out into the organisation when the education process starts to broaden out. And that is not all; the feedback from the bottom up would affect the components above. However, this model is based on the data of this case study and it was tested only to this stage. The bottom part of the measuring cup only has a few grains of data in it while knowledge can be gleaned from these, more data will produce greater insights and knowledge.

Nonetheless there is evidence from this study that the legal implications and the broad scope of human rights issues must engage a top-down approach. Both the Champion and the Enabler were senior managers; even so the IP Human Rights Statement had to go to the Board before it could be published. Likewise the Third Party Social Accountability policy was developed at the highest levels of IP. Most importantly, strategic decisions regarding contract manufacturing, and the procuring of raw materials and partly finished goods, all needed the Board approval.

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8.3.3 Summary of the Model

The model is an explanatory device to tie together diverse components of the broad process. It provides the next researcher or consultant with an overview and tools to test and take it further. With further testing and application it would become not only a tool for education on and implementation of human rights into operations of international commercial organisations, but also a tool of transformational change in organisations.

The model can be used as:

- An overview of this study;
- An implementation tool at IP. It was built on their data and was partially tested by their people, and it caters for IP’s preference for an autonomous approach to education and implementation of human rights;
- A planning tool to make decisions about where to start with an intervention concerning human rights education and implementation. It starts at the broadest level because IP had not examined its approach to human rights before participating in this research. However, another multinational corporation may have some aspects of its human rights approach in place and the model will nonetheless provide a diagnostic tool of aspects still to be attended to in a particular situation;
- An educational tool, as it provides a comprehensive overview of the conceptual and moral issues to be considered at the intersection of the International Human Rights norms and the practices of multinational corporations; and finally
- A map for planning further research about human rights and multinational commercial corporations.
Chapter 9 Discussion and Conclusion

9.1 Introduction

This thesis, Human Rights - Education and Implementation in a Commercial Organisation - was developed around the research question “How Does an International Commercial Organisation Incorporate Human Rights into its Operations?”

Outlined here are observations about what happened when a number of International Human Rights norms were implemented in a live commercial organisation.

This chapter revisits all the phases of this research to glean insights gained from the experience. Therefore a brief comment is made on the literature, methodology and findings.

Two issues in particular presented themselves for consideration in the course of developing of a human rights policy in a commercial arena: how best to establish a human rights dialogue, and how International Human Rights norms framework identifies the issues and the scope of responsibilities of an international commercial organisation. These are conceptualised in “Human rights – A Model for Education and Implementation of Human Rights in a Commercial Organisation”.

All of the research phases contributed to the development of the Model. The following sections summarise the features, qualities, and approaches used or discovered in this case study. They colour and qualify the findings and conclusions of this study.

9.2 Humanism

The moral framework for this research comes from Humanism, as do the design of the study and the mode of data analysis. Humanism provided the lens through which to view the IP’s responsibility for upholding human rights norms within the entire sphere of its influence. Viewed from this perspective, IP was responsible for taking
an autonomous stance on human rights. Developing this stance gives a freedom, a chance to play an active moral role in society. The process, guided by Humanism, also contributed to the development of an authentic voice for the researcher in her role of Interpreter of human rights in a commercial context.

9.3 Human Rights Debate

The main theoretical anchor of this thesis is the human rights literature. The literature was examined from three perspectives: the philosophical debate surrounding multinational corporations’ responsibilities; the legal provisions of international Human Rights Law and the “evangelical” stance, as taken by some NGOs.

Legal provisions - the guidelines by intergovernmental organisations - offer a moral platform and broad legalistically constructed guidelines. Bewildering as these may be from a corporate point of view, the interventions of NGOs are even more prescriptive and adversarial. Both government and non-government instruments for instilling respect for human rights rely on enforcement, control and further development of International Law. The division of responsibilities between nation states and private international actors too often remains unclear.

No matter how favourably the law might be changed, such change will take place by way of international conventions, involving many sovereign states. This lengthy process still assumes an adversarial approach, standards imposed from outside the organisation, and does not take into account the sense of ownership that comes with the autonomous stance assumed in this study. This case study, based on these guidelines and norms, is predicated on a tailored approach that builds in these guidelines and norms at the operational level of a multinational corporation.

9.4 Consulting for Change

A secondary body of literature was provided by the organisational development tradition. It provided a framework for approaching IP and was also useful for managing the process. With its emphasis on the individual, the group, psychological change and changes in organisational processes aimed at more efficient ways of
achieving the existing aims, OD was found to be inadequate in this area of research. Furthermore it:

- Gauges organisational performance fundamentally by economic outcomes;
- Assumes a model of incremental change; and is therefore
- Not an appropriate model for examining the corporate citizen’s ethics; and is
- Not well equipped to consider a multinational that operates as a virtual organisation.

Notwithstanding, OD principles have much to recommend them when it comes to consulting for change, in order to encompass human rights, and therefore contributed to the findings in this thesis, and to some parts of the model. The roles could not have been developed without the OD “rules of thumb”, beginning this study with the IP system as it stood, by “lighting many fires” (Shepard 2000) and by the choice of reflective practice around the role of the Interpreter.

The International Human Rights norms are qualified by their indivisibility, inalienability and universality. These qualities and the values underpinning them indicated that to incorporate them into a commercial organisation’s activities would demand a transformative approach to organisation change, a demand on a multinational to be mindful of its stance as a corporate citizen on the global stage, and a consequent cultural change within the organisation.

To formulate a discourse and practice in terms of human rights norms requires a fundamental change in the way an organisation sees itself as a corporate citizen. On the sustainability model of an organisation presented by Dunphy (2003), which is a progressive model of accepting responsibility as a corporate citizen, IP placed itself at the stage of compliance. Challenging the adequacy of this position assisted in making this paradigm shift and confirmed that an incremental or transactional change approach to human rights was not consistent with the values of human rights philosophy.

However, the tools for the required transformational change were less well developed in the OD tradition (Dunphy et al. 2003). Therefore, a new role was constructed and
then analysed for application in the education about and implementation of human rights in commercial settings.

### 9.5 What Was Missing?

This study started within a well debated body of organisation development literature. However, as it went on to incorporate principles of International Human Rights norms, its theoretical base widened beyond this body of knowledge. Accordingly, this study set out to address the intersection of the two bodies of knowledge and to identify some of the resulting problems.

It found that the following aspects of consulting for change to implement human rights had not been addressed adequately by either body of literature:

- A collaborative, participatory approach to International Human Rights issues as they concern multinational corporations;
- A view from inside a multinational corporation;
- A language for constructing a dialogue of human rights for multinational corporations;
- The tools for looking at the complexities of ethical, moral and legal responsibilities;
- An identification of roles appropriate to human rights interventions into commercial organisations;
- A multifaceted, flexible model for finding the way around the complexities of issues surrounding the topic; and
- A staged sustainable approach for incorporation of human rights norms into policies and practices of a multinational corporation.

### 9.6 Methodology and Methods

This qualitative interpretive case study is located in the framework of constructivism and lifeworld ontology. It views reality from the participants’ perspective, where the researcher has been immersed in the context and utilises collaborative data collection and feedback methods. The findings were analysed according to the principles of grounded theory. The overall philosophy was to increase the autonomy,
not only of the participants but of IP as a whole, by enabling the organisation to construct a practical stance on International Human Rights in its operations.

The design invited the client system to participate in the study as it was constructed. It enabled the research question, dealing with a sensitive subject, to be discussed over an extended period of three years. It produced new theory open to further exploration; the same design could be used again and yet new findings can be pursued by:

- Using the lessons from the conceptualisation of the roles in this study; and
- Applying the model to another multinational corporation in pursuit of a different research question.

9.7 IP as an Organisation

A global commercial organisation, IP presented several features informative to human rights research. IP was:

- Manufacturing finished goods at a variety of locations around the globe;
- Sourcing some of the finished goods, some components and all of its raw materials from suppliers in countries where there were human rights concerns at places of work;
- Structured to reflect its business strategy and chain of command; this in turn, determined the channels and character of its communication, as well as its policy development and administration (where its approach to human rights was an afterthought if not absent all together);
- Enjoying a dominant market position - and this was the motivating force for its business strategy - including the protection of its market share and, in turn, decisions concerning its operations and its approach to human rights;
- A virtual organisation. This influenced the communication processes, the power and the ability to influence and sustain a momentum for policies and the very nature of management and leadership. In part because of this mode of operation; IP was
- Missing a global approach to human resources management and corporate social responsibility.
Having manufacturing plants operating at a range of locations, a diverse as well as a long supply chain and a leading position in the market place, IP was vulnerable to scrutiny on its human rights attitude and its reputation was likewise vulnerable. It did not monitor its corporate social responsibilities in either a practical or a conceptual sense.

9.7.1 Attitudes to Human Rights

All of the participants gave freely of their time and were willing to think and talk about the topic, with the exception of Sri Lanka, where the response was reserved if not silent. The interviews at the middle management level, particularly those close to the operational practices, were peppered with three types of comments:

- Robust adherence to local laws;
- Sensitivity of the topic; and
- Profit motive needed to meet human rights challenges.

Localised approaches to human rights were both articulated and strongly defended. This signified that rather than adopting a global policy of its own, IP was managing its supply chain and adjusting its labour and industrial relations practices to meet minimum compliance, as opposed to acknowledging its full sphere of influence and responsibility.

While this study did not explore human rights and profit motive explicitly, the fact that it was mentioned indicates a useful area for future research. A particular corporate citizen’s approach to human rights law and behaviour is not arrived at by way of an all-encompassing solution but by the act of open engagement within itself and with its environment as it asks the questions and arrives at its own standards and stances. The Interpreter’s assumptions, clearly expressed throughout the study, are here made explicit: a good corporate citizen adopts a moral stance because it is the right thing to do. In addition, there is evidence that corporate reputation, morale and the bottom line are mutually supportive.
This line of inquiry is still worth exploring. The Interpreter took a passionate participant, non-prescriptive, non-adversarial position, albeit moral in the humanist sense, and found that the economic imperative argument presented at this level was a stumbling block. It seemed likely to promote a prescriptive or adversarial stance. As discussed in the thesis, a posture like this is not sustainable when the discussion around human rights begins to take off. However, it must be said that this investigation did not go so far as to differentiate between the approach taken with the Champion and the Enabler and that which might be needed at middle management of manufacturing function.

9.7.2 Human Rights and Manufacturing

This study concluded that IP was exposed to risks of breaches of human rights norms in the areas of: child labour, rights of migrant workers, labour standards, and use of security forces. Its contracting and monitoring processes also left it open to risks of complicity in human rights breaches in its supply chain.

However, IP was not aware of some of the circumstances of its total work force. In the absence of such awareness, IP was making strategic decisions based on economic factors alone. Not being mindful of the circumstances of its total work force, its existing policy was accordingly inadequate, and both the existing practices and its future development strategies saw it implementing its human rights approach ad-hoc, leaving the responsibility to its suppliers or other parts of the chain, or to the host state.

To attend to the management of the entire supply chain in a human rights conscious framework, a top-down strategic approach involving the whole of the organisation and an all-inclusive policy, recognising human rights responsibilities in its entire sphere of influence, was warranted.

The model outlines an approach for developing a corporate Human Rights Statement. It also recommends an education process for attending to the attitudes behind the current practices that would make such a statement meaningful and publishable.
From there, in order of priority, IP needed to:

- Examine its existing practices concerning the use of security forces and make them compliant with the international guidelines;
- Develop a Third-Party Social Accountability Policy, including among other things the management of security forces; and
- Put in place a process for screening potential business partners and suppliers so that the entire supply chain would be consistent and monitored for compliance with its Third Party Social Accountability Policy.

In addition, a global policy and an education process were also needed to bring the working conditions of some of the workers at the IP plants in line with international human rights norms and standards.

Identifying the human rights questions arising out of the total supply chain was vital, not only to validate and ground the conceptual Model, but also to lend some gravity to the practical implementation efforts at IP. It was the specific and the unique issues in the IP total supply chain that made this dialogue a living and vital thing. The immediate recognition of human rights issues within IP’s supply chain - child labour, the management of security forces employed on IP sites and the hiring of the foreign workers - reinforced the importance of exploring the further reaches and outgrowths of the organisational body. This information connected IP practices with legal cases in the international human rights literature to establish the principles and the arguments underpinning this dialogue.

As for future researches, the uniqueness of each corporation demands we pay attention to the specific and the unexpected. As these aspects of the study were unpacked, the chances became greater that the IP could affirm its own role in upholding international human rights principles and maintain them beyond broad and sometimes vague legal provisions.

9.8 The Roles

This research applied organisational consulting interventions and then modified these to build on their strengths. As an organisational intervention, this study stalled in the
absence of an immediate problem. Then a shift occurred to the perspective of an organisation as a corporate citizen, and the ensuing conversation could become one about a global approach to human rights per se.

This finding led to the recognition of unique features that were required for human rights consulting. A new role was needed and a new conceptual partnership had to be found before change in the organisation could proceed. This process gave the definition of the other two roles played in this study.

Whilst not compromising the collaborative, participative and action oriented design principles, the Interpreter stood firmly in the principles of International Human Rights Law. The willingness to push for universality, indivisibly and inalienability of human rights, and at the same time, to have a tolerance for the limitations of what can be implemented in a commercial setting, sculpted this role.

The role of the Interpreter was intertwined with that of the Champion. He occupied a senior position in IP’s Human Resources area. This level in the organisation and the functional domain meant that he had knowledge of IP, its power structures and the politico-historical influences that shaped it. As human rights issues were explored his role took on new dimensions, including: seeing IP as an entity its global environment, being spokesperson for a controversial subject and building alliances to support it over time.

In part propelled by the existing needs - the management of his supply chain and the crafting of the strategic moves to develop IP’s manufacturing facilities for the future - the Enabler expanded the dialogue and gave legitimacy to the analysis of the data. He used power in a socially responsible manner by exploring his practices against a framework of social responsibility, and, despite his operational focus, engaged at a high level of abstraction. Thus he both engaged in the education process, and at the same time, provided entry points for implementation. Organisational power, intellectual capacity and practical, though not burning, needs enabled the role to not only emerge in its own right, but also to be a bridge between theory and implementation.
9.9 Suggestions for Using the Model

This research has shown that having a comprehensive picture of the complexities involved in the exploration and sense-making of human rights education and implementation in a multinational industrial setting is crucial to a planned education and implementation effort.

Its central position was that if the willingness existed within a multinational corporation, then the model would offer a path through the complexity of incorporating human rights norms and legal provisions into its operations.

The model was constructed after a position of responsibility and autonomy on the part of a multinational corporation as an international citizen was taken. Such a stance was in opposition to a public relations strategy, a defensive reaction to lobbying by an outside interest group, or a position of compliance at each local level of IP.

The model was developed from experiences of all actors at IP and was also validated by presentation to a key actor at the operational level. The process for arriving at such a stance was central in the development of this model and this provided a direction for the further research in this area. If a corporation is not ready to take a global approach then:

- Which levels of the model are capable of being implemented regardless?
- Can a partial implementation of International Human Rights norms be a legitimate education approach in a multinational corporation? What kind of changes – flow-on effects - would it produce? What are the implications for the management of such a change?

9.10 Approaches that Worked

Discussions in the course of this study revealed that IP had been enabled to expand its awareness of its scope of responsibility for human rights by way of a participatory approach, an implementation focus and by the guiding principles of Humanism.
These principles established the trust needed for a dialogue (and their application) centred on an autonomous stance of accountability for human rights in a commercial organisation.

Before implementation could be considered, a bridge had to be built between the International Human Rights norms and the responsibility of a multinational corporation. This exercise provided the tools for altering IP’s self-perception from that of a corporation with an operational presence in several countries to a socially conscious international citizen; it enabled a dialogue to commence. This shift in perception brought with it a shift in emphasis from mere compliance and a local focus to a consciousness of both International Human Rights and the full scope of its influence.

9.10.1 Tools Employed

The tools used in this case study were constructed collaboratively through data collection, feedback and analysis. Specific tools were designed to establish the dialogue around human rights in a commercial setting. These were derived from analysis of human rights legal provisions, dialogue, and outputs from workshops conducted at IP.

The application of these tools contributed to the development of the Model for Education and Implementation in a Commercial Organisation. This model is both an explanatory device, to tie together the diverse components of the process undertaken in this case study, and a diagnostic tool for further research in the area.

9.10.2 Implementation Steps

To make sense of the research question and to make the research findings available to the client on an ongoing basis the steps taken did not occur in a neat order nor were they discrete. They are arranged here in a manner consistent with a planned organisational change process and an implementation focus. They are interconnected as demonstrated in the model. Nonetheless, these steps can be distinguished as:
• Creating strategic alliances to enable a human rights dialogue within IP and to construct a base for a mindful approach to human rights and social responsibility on a global stage;
• Translating International Human Rights norms and legal provisions for application in IP’s policies and practices from the human resources management perspective and providing an accessible text and process for the rest of IP;
• Identifying all links in the supply management chain; in order to make a Human Rights Statement meaningful within IP, with all links in the supply chain identified;
• Publishing a Human Rights Statement based on all the issues identified;
• Educating the managers;
• Developing a comprehensive global human rights policy for IP;
• Adjusting the global strategy for the management of the total supply chain; and
• Aligning the organisational structures to be consistent with these policies and strategies.

9.11 Key Findings

Establishing a human rights dialogue in a commercial context revealed the following distinct findings: the need for a top-down approach, a three-phase-process of implementation, an enactment of the Champion, the Interpreter and the Enabler roles, an adaptation of both International Human Rights Law and OD principles, and a comprehensive human rights diagnostic and consulting tool.

9.11.1 Top-down Approach

Human rights education and implementation must proceed with “top down” support; for this it is vital to produce a Human Rights Statement. This is notwithstanding that the entry point may be at a lower level, and that the education process must embedded at the middle/operational management level as well.

In terms of tactics, the inquiry into human rights at IP reached peak momentum when a pincer attack, via both line management and staff management, was employed.
9.11.2 A Three-Phase Process

To establish a human rights dialogue this study distinguished three phases:

- Sense-making from an extensive number of prescriptive legal provisions and other sources of human rights norms;
- Taking a stand in relation to human rights, publishing a Human Rights Statement on the part of the company and taking a clear moral leadership position on the part of Interpreter; Champion and Enabler; and,
- Taking action in the operational arena to test the model and reveal the full scope of responsibility implied in the Human Rights Statement.

9.11.3 Key Roles

Three roles emerged in the course of this dialogue: the Interpreter, the Champion and the Enabler. They formed a triangular relationship, which was found to be essential for this research to proceed and also for the implementation of human rights norms at IP. This is a departure from a traditional client-consultant relationship. Neither the Interpreter nor the Champion could have carried out their roles to the extent they did without the Enabler’s contribution.

By providing access to manufacturing operations, the Enabler opened up the discussion about total supply chain management, without which the human rights approach at IP would never have been more than a hypothetical position, a theory, or a narrow policy.

 Likewise the Champion’s role would have been limited without interaction with vital features of the Interpreter. Human rights proved to be a contentious topic in a commercial context, and a robust dialogue had to be cultivated to establish a starting position from which to examine issues unique to IP. A consultative, participatory approach was found to be vital; nonetheless, it was the holding of tension between organisational theories, the fundamental values of human rights and the realities of a multinational commercial organisation that produced a shift to the perspective of an
organisation as a corporate citizen. The ensuing dialogue about human rights was then couched in global terms.

The Interpreter’s role for a multinational setting has to be mindfully enacted. This includes maintenance of access to the Champion and recognition and cultivation of key aspect of the Champion’s role: recognising in the Champion’s role an ethical stance, a conscience for the organisation, an ability to build coalitions, and willingness to take risks that go with putting human rights on the agenda at the top level of an organisation. These make the Champion the “real client” in human rights consulting.

The essential energy that kept the triad of Champion, Interpreter and Enabler connected was the leadership process. This was enacted by:

- Working for the spirit not just the letter of the International Human Rights norms and legal provisions, thus accepting the universal character of human rights and the corresponding responsibilities;
- Accepting the role tensions – the doubt - present in all of the three roles; and
- Grounding the study by demanding useful knowledge and giving of authenticity to this knowledge by implementation at the operational level.

9.11.4 Adapting the Literature to the Purpose

International Human Rights norms were used as an authority for the thinking, strategy, and construction of concepts. They were a starting point rather than a limiting factor.

Human rights education and implementation includes not just the process of organisational change. Rather, this study found that classic organisational change precepts could not be followed. A tailored approach was developed to accommodate the finding that the human rights debate did not embrace the needs and aspirations of the commercial world. The mutual enrichment between IP’s people “on the ground” and the Interpreter was the essential process that held the human rights discourse together. The model was developed from all of these elements, which then justified and grounded it.
9.11.5 The Diagnostic Tool

The model is a diagnostic tool to provide an overall view of the complexities of International Human Rights and multinational corporations’ responsibilities and choices. It provides a snapshot of interdependent steps, levels of implementation and responsibility, and the mapping of a process for developing a Human Rights Statement, a central feature in implementing human rights in a multinational. The steps taken to develop this statement are the educational aspect of the model.

9.12 Research Implications

Further research questions about human rights interventions into multinational organisations were raised by this study. These include:

- How is commitment obtained to participatory change when key players are spread around the globe?
- How is top-down commitment obtained to the universality of human rights and the implications of this philosophical stance for the scope of responsibilities including upholding them in practice?
- In the role of the Interpreter, how important is the explication of moral leadership based on International Human Rights principles?
- To what extent are the three roles identified in this study negotiated, defined and agreed upon in advance?
- The model can be tested by selecting a particular level for intervention in a multinational corporation that is suited to its level of awareness or to policy development of its human rights responsibilities;
- What International Human Rights instruments would be best suited as a basis for developing the educational tools in multinational organisations?
- What questions can be asked to explore the connection between the “internal” (staff) and “external” (the supply chain employees) human rights concerns, as separated in this study, in manufacturing corporations whose operations are spread over different parts of the world?
- This study reminds us that a very large percentage of workers in the manufacturing sector are women. Although this study has not looked at their
specific experience; at the very least from the legal position, *vis-a-vis* the provisions contained in *The Convention on Elimination of all Forms of Discrimination against Women* (1979) deserve further exploration;

- What kind of standards and polices are needed for employing security forces in commercial settings? The existing guidelines employed by this thesis, (the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials) grew from a military model. They deserve some research to adapt them to non-war zones and areas where there is no obvious civil unrest.

### 9.13 Final Remarks

The findings of this case study are grounded in the realities of manufacturing practices as viewed from a human rights perspective. This study found that the employment of foreign workers, the procurement of raw materials, the use of contract manufacturing, and the employment of security forces all gave rise to the human rights breaches within the sphere of IP’s influence.

These findings would not have been possible without the development and enactment of the Champion, Interpreter and Enabler roles. The findings and the analysis of the process made the development of the model possible.

The study contributes conceptual and practical knowledge for education in and implementation of human rights in a multinational commercial context. It examined the existing international regulation mindfully, resisting its prescriptive tone and assumed authority. It interpreted findings from legal cases involving multinational corporations from a perspective of both risk and opportunity for positive learning for an individual multinational. It also examined civil society's opinion on the responsibilities of multinational corporations in upholding human rights norms in the communities where they operate, and translated this opinion for practical use by IP, an individual multinational corporation.

The research question was vigorously pursued from a position of looking for truth and increasing awareness for genuinely well-informed action in the area of human rights.
In doing so the process increased awareness of first becoming an international citizen and second of what social responsibilities come with this status. These conceptual constructs and moral stances, however, only have meaning for an individual multinational corporation willing to take an autonomous stance and equally willing to express such a stance in the public domain.

The model constructed in this study, apart from being a representation of what happened in this study, also offers a diagnostic tool for exploring the practices of multinational corporations in the search for awareness of their “sphere of influence” in the human rights area, and for changing these practices to meet their responsibilities. Nonetheless, human rights are a complex area and there are findings in this thesis that present opportunities for further study from a variety of frameworks.
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Appendix 1 - A Working Definition of Human Rights at IP

HUMAN RIGHTS - EDUCATION AND IMPLEMENTATION IN A COMMERCIAL ORGANISATION

Definition

A working definition of human rights for the purposes of this project will include the following:

That IP, in its commitment to provide for the safety, health and welfare of its employees globally, will develop and employ policies and practices that encompass the following:

• Legal compliance with all local law/s;
• Fostering respect for individuals and appreciation of their value and contribution to the success of the business;
• Fostering greater understanding of cultural/social values and customs of the discreet work force generally;
• Providing a workplace that is free of discrimination, harassment, and abuse of any kind (including bullying); and
• Enhancing career opportunities for the local nationals and their indigenous people.

Why human rights education and implementation?

To communicate to shareholders, the global and local communities IP’s corporate values and formal ethical position (i.e. the way IP does business).

Internally, this project will make transparent the universal standards on the company’s human rights policies for the Executive, Managers and staff wherever they may work within the IP business.

In addressing terms and conditions of employment, the “basic” needs are well provided for now. At the next level, however, motivational factors leading toward self-esteem and self-actualisation, there are opportunities for further development. This next level of development will enhance the corporate culture with a greater sense of being part of a global business and therefore contribute to a more productive, cost effective and cohesive organisation.

Implementation.

Angela will conduct interviews on the topics of:

• Discrimination
• Equality of opportunity
• Learning and development opportunities
• Harassment (including sexual and bullying)
• Child labour
• Foreign Workers
• Ethnic Labour issues

The purpose of these initial interviews is to collect opinions (subjective data) about what is done well now, where opportunities lie for further development, what restrictions exist and what suggestions these key senior people have for building human rights practices consistent with the working definition above.
They will be asked to recommend other people from their region for the next round of interviews, to enable a balance of a variety of perspectives on this subject.
Appendix 2 - Client Brief

Client Research Information

Implementing Human Rights Education Strategies

I am looking for an organisation interested in participating in collaborative research about human rights as they apply to multinational corporations. The research will be a preliminary study to identify the key areas/questions of human rights impact and possible strategies for education and implementation of policies and strategies.

Rationale
The protection of human rights is not traditionally seen as a responsibility of corporations. Nonetheless there is increase in interest in the nature and extent to which corporations are, or ought to be, incorporating human rights considerations into their policies and practices.
Several recent developments are behind this interest, such as practices of other multinationals, legal developments, United Nations activities and activities of the non government organizations.

Which Human Rights?
The focus of this research is how to develop a framework for human rights awareness and practices within an organisation, particularly to identify what is important for people who work closely with people from other countries and issues this raises for them, be they ethical or legal. From an international perspective, the Universal Declaration on Human Rights (1948), the International Labour Organisation’s Tripartite Declaration on Multinational Enterprises and Social Policy (1977) among others provide a starting point. These include provisions for promotion and implementation of fundamental human rights, rights of employees and rights of communities.

Benefits
By undertaking this process the organisation will be taking a socially responsible step, apart from the educational value the process will provide. In addition, a framework for questions such as whether the same rules apply at home and abroad, how to deal with ethical dilemmas, cross-cultural communication and the implications of dealing with third parties will be developed. Having employees that are literate in human rights will help them make decisions and communicate in a manner that will lead to the organisation being perceived as a decent and sensitive organisation with concern for the local and global communities.

Apart from perceptions, there are some tangible benefits that can be anticipated such as ability to respond to unexpected publicity, or legal developments. In addition there is some research that suggests that there are financial benefits for organisations that publicly declare their social responsibility stance.

Practicalities
Not a lot of research exists on this topic. Participants will be learning from this exploration and developing company policies and practices. This involves investment of time, information and access to a work site.
How will the research be conducted?
A collaborative process between the researcher and the people within the organisation will examine the impact of a human rights policy in order to increase knowledge and enhance practice of human rights considerations within the organisation. Dialogue examining existing values, assumptions and practices will be generated and will provide content for ongoing planning and action. This research project is subject to and overseen by a fully approved and accountable ethics process at RMIT University. Research is subject to approval through this process and requires informed consent including the voluntary nature of participating.

Angela Chambers
PhD Candidate
School of Management
RMIT University
Level 13, 239 Bourke Street
Melbourne Victoria 3000 Australia.

X01793@ems.rmit.edu.au
Tel + 61 3 99251689
### Appendix 3 - Summary of Encounters

**REVIEWED AND RECOUNTED 9\textsuperscript{TH} January 2006**

**Summary of interventions at IP**

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ANALYSIS/SUMMARY

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Key Informant

Interviews 15
Workshops 2

Enabler

Interviews 5
Workshops 1

Human Resources

Interviews 5
Site visits 2

Operations

Interviews 2
Site Visits 4
Workshops 1
Appendix 4 - Discussion Paper “Why Include Human Rights Education and Implementation into IP Culture?”

Human Rights Education and Implementation in a Commercial Organisation

A discussion paper

WHY INCLUDE HUMAN RIGHTS EDUCATION AND IMPLEMENTATION INTO IP CULTURE?

Commercial organisations operating in a global economic environment are also part of a global dialogue about social effects of economic integration. Part of this dialogue is a perception that economic activities of multinationals give rise to social cost to the communities where they operate. The area of corporate social responsibility is a relatively new area of international business discourse; therefore a great variety of approaches to it exists. To examine the need to observe the universal human rights by all actors in the international arena including multinationals is a worthy pursuit. In IP’s case the benefits of examining its human rights principles and practices are manifold, for instance:

- First, to enhance its reputation and prudently and progressively maintain its market position;
- Second, to grasp the opportunity for leadership by responding to new business ideas and differentiating itself as a company of highest standards of ethics and social responsibility practices;
- Third, taking an initiative that is contemporary and signals to its staff, customers, business associates, shareholders and stakeholders IP’s stand as a responsible global corporate citizen; and
- Fourth, standing out from its competitors.

Before examining the sources and methods of developing a human rights practice for IP, it is worth assessing various options that are available.

International commercial organisations can comply and monitor their human rights practices at the local level or they can take a company-wide approach designed to prevent unacceptable practices from occurring in the first place. The second option calls for a company-wide, consistent and transparent approach, including dialogue with stakeholders, education and rights sensitive practices. This approach fits with “best practice” of other multinational corporations and provides a vehicle for influencing a “One IP” culture. It has most to offer in building IP’s reputation, an increasingly important corporate and industry asset. A positive reputation affects not just sales but also other relationships, attractiveness to potential employees, potential business partners and governments.

To inform decision-making about education and the implementation of human rights at IP, three key influences that form the background of this endeavour need to be examined:

- Global human rights framework including recent developments;
- Human rights practices of established business leaders; and
• IP’s own readiness to develop global, transparent, consistent human rights practices as part of “One IP” culture.

Human Rights Framework

International instruments and conventions that relate to human rights practices by multinationals are listed below in chronological order to demonstrate the historical development, and more importantly how the emphasis has changed from agreements between only nation-states to involvement of multinational commercial organisations.

International

1945 United Nations (UN) Charter
1948 Universal Declaration of Human Rights (UDHR)
2000 Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises - Revised
2000 UN Global Compact

Regional and National Developments

• Alien Tort Claims Act;
• Social Protocol of the European Union;
• Labour side agreements of North American Free Trade Agreement (NAFTA);
• OECD National Contact Point; and
• Individual Multinational Enterprises Human Rights Strategies.

A selection of these documents and developments are informative at this stage of the project, and as such are analysed below.

UDHR

This is a keystone document that sets basic minimum international standards for the protection of the rights and freedoms of the individual. The provisions form a foundation of customary international law and do not require signature or ratification to be recognised as a legal standard.

From the basic premise that “all human beings are born free and equal in dignity and rights” the Declaration gives content of equality by prohibiting any distinction in enjoyment of human rights on grounds of race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth or other status.

UDHR calls for “every individual and every organ of society” to play their part in securing the observance of the rights contained within it. The Declaration is referred to in many settings, however from IP’s point of view it is prudent to be aware of it because it:
• Enshrines rights that are considered to be morally and socially responsible: discrimination, privacy, religion, freedom of opinion and association, labour standards, bribery, respect for local communities, protection of the environment;
• Forms the basis for other instruments, policies and guidelines including those aimed at commercial organisations;
• Is an international instrument relied upon by many civil society organisations (Amnesty International Business Group, Prince of Wales Leaders Forum, Transparency International and Danish Centre for Human Rights Business Project); and
• Is regularly quoted by international business in their Codes of Practice or other company documentation on human rights policies (for instance; Procter & Gamble, see table 1 below).

Other conventions and UN bodies representative of nation states have been developed from this Declaration. However, it is the International Labour Organisation (ILO), a UN specialised agency for promotion of internationally recognised human and labour rights, that has provided guidelines and standards for multinational commercial organisations.

It has formulated these standards in the form of conventions based on a tripartite structure of worker, employer and government representatives from around the world. The countries where IP operates, including Australia, Canada, China, India, Japan, Korea, Malaysia, Mexico, New Zealand, Sri Lanka, Thailand, USA, United Kingdom and other EU countries, are all members of the ILO.

The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (Tripartite Declaration)

The Tripartite Declaration contains universally agrees guidelines for corporate social responsibility, including human rights and applies equally across countries of operation. It is designed to encourage multinationals’ positive contribution and to minimise difficulties arising from their operations.

The intent of the Tripartite Declaration is that government, business and labour respect international standards such as UN Human Rights instruments and fundamental principles and rights at work. It specifically provides for:

• Employment policies: equality of opportunity, security;
• Conditions of work and life: basic amenities, safety and health and abolition of child and forced labour; and
• Industrial relations: freedom of association, the right to organise, collective bargaining, and grievance procedures.

The Tripartite Declaration includes follow-up procedures by tripartite partners of the ILO including surveys, studies and advisory activities at national and regional level.

OECD Guidelines for Multinational Enterprises

The Organisation for Economic Co-operation and Development exists to promote sustainable economic growth, employment and international trade based on international obligations of member countries. The Guidelines for Multinational Enterprises are recommendations on responsible business conduct addressed by governments to multinational enterprises operating in or from the 33 adhering countries. In IP’s instance these are Australia, Canada, EU member countries, Japan, Mexico, New Zealand, the United Kingdom and the United States of America.
The Guidelines are the only multilaterally endorsed code of conduct that applies to business operations worldwide. They represent standards of behaviour in addition to applicable law and include economic, environmental and social elements of the sustainable development agenda.

The Guidelines provide for human rights in four ways, firstly as a matter of general principle, namely that multinationals: “Respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments” (2000, p. 19).

Secondly, the Guidelines have been recently amended to include recommendations on abolition of child labour and forced labour, so that they now encompass all internationally recognised core labour standards, bringing them in line with the ILO Tripartite Declaration.

Thirdly, multinational enterprises should apply high quality standards of public disclosure on financial and non-financial information, including their social responsibility performance.

And finally, the Guidelines contain provisions for combating bribery.

The Guidelines provide for a follow-up system supervised by OECD Governments, the National Contact Points, situated in Australia’s instance in the Department of Treasury.

**UN Global Compact**

The UN Global Compact is the only international mechanism where individual multinational organisations are signatories to its principles: “Let us choose to unite the power of markets with the authority of universal ideals” (Kofi Annan, UN Secretary General)

This quote embodies the intent of the Global Compact, a voluntary corporate citizenship initiative and multi-stakeholder network with the objectives of fostering a sustainable and inclusive global economy by fostering beneficial relationship between business and societies.

Based on nine principles in the areas of labour, environment and human rights, it asks businesses to:

- Support and respect the protection of international human rights within their sphere of influence; and
- Make sure that their own corporations are not complicit in human rights abuses.

This includes labour principles of the Global Compact, namely to:

- Uphold freedom of association and the effective recognition of the right to collective bargaining;
- Eliminate all forms of compulsory and forced labour;
- Eliminate child labour; and
• Eliminate discrimination in respect of employment and occupation.

To participate in the Global Compact, a CEO and Board of management must send a letter of commitment to the Secretary General, of the UN, set in motion changes to business strategy and operations and use their annual report or other prominent public report (for instance Global Reporting Initiative Sustainability Report) to describe actions taken to implement the Global Compact principles.

Seven hundred businesses from all industry sectors and all continents, many from “Fortune’s Global 500”, have signed up to the Global Compact. These include BHP Billington, Du Pont, Hewlett Packard, Nike, Novartis, Pfizer, Rio Tinto, and Royal Dutch Shell.

International business associations, labour organisations and civil society organisations are also signatories. GC has a provision for built-in dialogue and partnership and provides for UN agencies, business, labour and significantly, non government organisations (NGOs) to oversight progress of individual businesses.

The UN, ILO and OECD have developed comprehensive frameworks for corporate behaviour. However, they all rely on corporations adopting their voluntary principles, guidelines, practices and codes in response to the changing social environment.

Some examples

Table 1: A sample of companies’ policies on human rights as published in their latest annual reports or home websites

<table>
<thead>
<tr>
<th>Co Name</th>
<th>Separate report on sustainability and social responsibility</th>
<th>Identifies specific human rights issues</th>
<th>Has an express Statement about human rights</th>
<th>Fortune ranking</th>
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<tbody>
<tr>
<td>Wal - Mart Stores</td>
<td>Illega child, forced or prison labour</td>
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<td>Southwest Airlines</td>
<td>Business ethics award for corporate citizenship</td>
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<td>Berkshire Hathaway</td>
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<td>Dell Computer</td>
<td>Global citizenship</td>
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<tr>
<td>General Electric</td>
<td>Global citizenship</td>
<td>Child labour, working conditions</td>
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<td>Microsoft</td>
<td>Corporate citizenship</td>
<td>Anti-discrimination</td>
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</tbody>
</table>
### Companies selected from Fortune’s Top 100 and “Global Most Admired Companies”

<table>
<thead>
<tr>
<th>Company</th>
<th>Corporate</th>
<th>Social, economic Issues</th>
<th>Relevant Frameworks</th>
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<tbody>
<tr>
<td>Starbucks</td>
<td>Corporate social responsibility</td>
<td>Sustainable practices</td>
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<td>9</td>
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<tr>
<td>Procter &amp; Gamble</td>
<td>Sustainability Report</td>
<td>Child labour, exploitation, equal opportunity, bribery</td>
<td>UDHR</td>
<td>10</td>
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<tr>
<td>Coca-Cola</td>
<td>Citizenship report</td>
<td>Environmental and social impact</td>
<td>Commitment to human rights as a “guiding principle”</td>
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<td>DuPont</td>
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<td>UN Global Compact</td>
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<td>3M</td>
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<td>Child labour, discrimination, disciplinary practices</td>
<td>Human rights and ethical business practices Section</td>
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<td>American Express</td>
<td>Public responsibility committee</td>
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<tr>
<td>Ford</td>
<td>Corporate citizenship report</td>
<td>Child Labour, forced labour, harassment, freedom of association</td>
<td>Code of basic working conditions, human rights strategy based on “universal” principles</td>
<td></td>
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</tbody>
</table>

**Comments**

This is a limited search of global companies, however it demonstrates that most of these highly respected (Fortune top 100, Forbes top 100) global companies have taken steps to incorporate human rights into their reporting and public information that they provide on their web sites.

I have selected four examples for comment: Ford Motor Company, 3M, Johnson & Johnson and Procter & Gamble for the following reasons:

- They offer comprehensive information about their policies and the context for human rights policies; and
They incorporate specific statements about human rights in their company information.

Ford is a very good example. It has its own corporate citizenship report with many links within the company, for instance to “Respecting Human Rights” as part of its Code of Basic Working Conditions, “Integrating Sustainability and Business Principles”, and importantly to outside bodies: a reporting link to Global Reporting Initiative and, specifically in human rights organisations, for instance the Lawyers Committee for Human Rights. Their website also offers a paper on “Our Learning Journey” which charts the process of incorporating human rights.

3M (UK and Ireland) publish social responsibility report which has a section on human rights and ethical business practices. They discuss their social performance in the context of commercial success and compare their economic ranking (In the top 100 globally and 9th in Financial Times Group with their ranking on Business in the Community Index where they are ranked in the top 20). One reason I comment on their public statements in this area is that they are a good example of how European corporations approach the issues of social responsibility and human rights.

Johnson and Johnson publish a sustainability report which includes Social Performance Indicators addressing topics of workplace diversity, sexual harassment and child labour. In addition they are affiliated with Business for Social Responsibility, a US-based business membership organisation that provides support and education in human rights for commercial enterprises. Johnson and Johnson have a company Credo which is the company human rights policy and is reportedly displayed in the office of every manager in the world. Employees have an opportunity to complete an on-line assessment measuring performance against Credo objectives. The results of the Credo survey are then published “widely” (Sustainability Report 2002 p.29), presumably internally and externally.

Procter & Gamble have a “Values and Code of Conduct” that includes a statement on Support of universal human rights, including individual rights, as well as a reference to economic and social rights of communities where they operate. In addition they supply information on their reporting against the triple bottom line in their sustainability report.

Angela Chambers
PhD Candidate
RMIT University
# Appendix 5 - Table of International Conventions Ratification by Country

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<tr>
<th>International document</th>
<th>Australia</th>
<th>China</th>
<th>UK</th>
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September 2003
Appendix 6 - Discussion Paper Nike Case

HUMAN RIGHTS - EDUCATION AND IMPLEMENTATION IN A COMMERCIAL ORGANISATION

NIKE CASE

DISCUSSION PAPER
FOR BRUCE
HUMAN RESOURCES DIRECTOR ASIA/PACIFIC
IP LIMITED

In 1996, human rights advocates and the media made accusations that Nike’s Asian factories were sweatshops where workers were underpaid and mistreated.

Nike’s response was, as described in research literature, reactive and slow. It followed the five stages commonly adopted by companies criticised on the grounds of their social responsibility performance:

- By strongly denying the allegations;
- Blaming others;
- Damage control, reasserting control over damaged corporate reputation by publishing a code of conduct; and
- Giving appearance of compliance by joining the Business for Social Responsibility and instigating an independent investigation at the work sites.

Nike published the conclusions of the consequent report of this investigation in the New York Times. This report was strongly criticised by human rights groups and was attacked for not conducting a thorough, reliable and valid research and for not addressing issues of wages.

The pressure on Nike accelerated in 1997 when an internal auditing report was leaked to the press by a disgruntled employee. In this report were details of working conditions in a Vietnamese factory where health and safety of employees was seriously compromised, working hours exceeded local and international labour standards, and wages were $10 a week.

One of the developments from this hidden auditing report was a civil lawsuit filed against Nike in the San Francisco California Superior Court in April 1998 by Marc Kasky, a consumer activist. It alleged that Nike had violated state law by misleading customers about the working conditions in its Asian factories. This was a private attorney general’s action for unlawful and unfair business practices that violate California’s Business and Professions Code.

In response, Nike subsequently:
- Tightened air quality standards in its overseas factories to meet the same standards as in the US;
- Raised minimum wages of its workers;
- Allowed independent local labour and human rights experts to participate in factory inspections and publish summaries of their findings;
• Signed on to the Apparel Industry Partnership’s Fair Labour Association agreement; and
• Published names and locations of overseas factories that make athletic gear, a total of 42 factories in 11 countries, making it in 1999 the first large apparel company to do so.

The activity to change its image, and its operations and protect its reputation has been taking place for seven years. Despite all this, in September 2003 The Fair Labour Association reported that Marc Kasky was awarded $US 1.5 million settlement.

The Nike case is instructive not because it has been singled out as the worst offender but because its operations are widespread in the labour intensive manufacturing industries, where cheap labour is imperative. Nike itself does not manufacture sports shoes; it concentrates on designing and marketing the product. Companies that Nike contracts undertake manufacturing. It is these companies in Taiwan, South Korea and Hong Kong that establish and run the Nike-producing factories in countries such as Indonesia and Vietnam. It is they who are directly responsible for the working conditions and wages. The real issue, according to literature, is not whether Nike can keep its contractors under control; but that the intense competition it engages in with the suppliers for manufacturing contracts that has driven down the price they pay to their contractors. This practice controls the labour conditions, low wages, forced overtime and reduced health and safety conditions. These have been compared to the huge profits Nike makes.

Angela Chambers
PhD Candidate
RMIT University

8th December 2003
Appendix 7 - Discussion Paper Shell Case

HUMAN RIGHTS - EDUCATION AND IMPLEMENTATION IN A COMMERCIAL ORGANISATION

SHELL CASE

DISCUSSION PAPER
FOR BRUCE
HUMAN RESOURCES DIRECTOR ASIA/PACIFIC
IP LIMITED

Background

Through its oil operations in Nigeria, Shell stands accused of causing environmental destruction to Ogoniland in the Niger Delta and of supporting a repressive military regime. Criticism of the Nigerian government and Shell reached a peak in 1995 when Ken Saro-Wiwa and eight others were executed in Nigeria after a special tribunal tried them and reportedly violated international fair trial standards. The accused had campaigned against environmental damage by oil companies including Shell.

Shell distanced itself from the conflict and its outcomes on the basis of being a private commercial entity.

Intense criticism of its human rights record followed Shell’s response to these actions by the Nigerian Government. Shell was accused of being complicit in fundamental human rights violations, these being of international concern to all organs of society because they transcend national boundaries.

Legal Proceedings

Nigerian émigrés in New York brought litigation under the Alien Torts Claims Act and Torture Victims Protection Act against Shell in 1996 alleging that Shell was complicit in serious abuses of human rights in Nigeria. Both laws make it possible for non-citizens to sue foreign individuals or companies in the US courts for serious human rights abuses.

The charges of crimes against humanity and torture and other violations of International Law, rested on allegations that Shell, its Nigerian subsidiary and John Anderson, the former head of that subsidiary, conspired with the Nigerian government to arrest Ken Saro-Wiwa and others for their human rights activities in the region. Shell argued that the case should be brought in the Netherlands or in England and initially won this argument. However through the appeal process from 1998, 2001, 2002 plaintiffs eventually won and in December 2003 the United States Federal Court denied a motion brought by Shell to dismiss the case. As a result the plaintiffs can now move to “discovery”, which allows them to gather evidence from Shell and other defendants that may help them to prove charges that Shell cooperated with the military regime in the persecution, torture and eventual execution of the Ogoni activists.
Shell's Response

Apart from defending itself from the legal charges, Shell has been managing its production of oil in the area, and there has been a delay delivery on particular contracts for the supply of crude as a result of ongoing unrest. (Production was 830,000 barrels per day short of target in July 1998 and 899,000 b/d short of the 1997 target). Whilst it is difficult to check Shell’s performance against their economic indicators, Shell announced its worst set of results in history in 1999, blaming a 33% fall in oil prices. Its 2002 People and the Environment Annual Report comments on the Niger Delta production, stating that in 2001 35 million barrels and in 2002 39 million barrels were lost due to continuing unrest.

In the social responsibility arena, Shell has undertaken a major review of its community relations policies and issues of human rights. Shell became the first mainstream multinational in April 1998 to publish an ethics report: *The Shell Report Profits and Principles – Does There Have to Be a Choice?* Shell’s position on its responsibility to society is summarised in the statement that economic, social and environmental considerations must be taken into account in everything they do, stating that the social performance is inextricably linked to its long-term commercial success. Furthermore they have explicitly stated their human rights principles and their implementation including mainstream reporting.

In contrast to its original response on the Ogoni crisis, Shell now recognises that it must take a position on issues related to human rights and that it is in its own interest to try to address these issues. Internally it conducts extensive training for its managers and specifically for its security personnel.

Press reports indicate that Shell spent 25 million pounds sterling on its publicity, stakeholder forums and independent assessors reports, these are included in its ethics report (in 1999 and presumably ongoing) to convince the world that it is serious about human rights, sustainable development, care of the environment and safe working conditions.

In addition to this there are costs associated with the legal proceedings and continuing loss of production in Nigeria.

This case demonstrates how multinationals become a focus of attention domestically and internationally. Domestically, stakeholders are protesting the terms on which oil is produced, demanding compensation for damage done and drawing government attention to their grievances. International attention focuses on company’s responses to such demands including the maintenance of proper environmental and human rights standards. In particular any collusion with repressive governments in the use of force against protest will remain an issue of international interest.

Angela Chambers
PhD Candidate
RMIT University

8th December 2003.
Appendix 8 - Discussion Paper UN Global Compact

HUMAN RIGHTS - EDUCATION AND IMPLEMENTATION IN A COMMERCIAL ORGANISATION

UNITED NATIONS GLOBAL COMPACT

A SUMMARY
FOR BRUCE
HUMAN RESOURCES DIRECTOR ASIA/PACIFIC
IP LIMITED

Definition

The Global Compact is a voluntary corporate citizenship initiative facilitated by the United Nations. It is a multi-stakeholder network for companies, labour organisations and civil society to provide a global forum for cooperation and dialogue for pursuing the following principles:

HUMAN RIGHTS

- Businesses are asked to support and respect the protection of international human rights within their sphere of influence; and
- Make sure their own corporations are not complicit in human rights abuses

LABOUR

- Businesses are asked to uphold the freedom of association and the effective recognition of the right of collective bargaining;
- The elimination of all forms of forced and compulsory labour;
- The elimination of discrimination in respect of employment and occupation.

ENVIRONMENT

- Businesses are asked to support a precautionary approach to environmental challenges;
- Undertake initiatives to promote greater environmental responsibility; and
- Encourage the development and diffusion of environmentally friendly technologies.

Angela Chambers
PhD Candidate
RMIT University

8th December 2003.
Appendix 9 - Feedback Summary

Feedback Summary

HUMAN RIGHTS - EDUCATION AND IMPLEMENTATION IN A COMMERCIAL ORGANISATION

BACKGROUND TO THE PROJECT

DISCUSSION PAPER
FOR BRUCE
HUMAN RESOURCES DIRECTOR ASIA/PACIFIC
IP LIMITED

This project is an integral part of a doctoral research thesis undertaken by Angela Chambers at the School of Management at RMIT University in Melbourne Australia. Exploring the issues of how an organisation becomes aware of human rights issues and implications for corporate practice, the research is collaborative in its design and the objectives have been evolving in collaboration with the people from IP who are participating in the project.

Accordingly, the initial definitions and areas to explore were drafted in close collaboration with Bruce, Human Resources Director Asia Pacific, for distribution to potential participants in this research. Quoted from this document is a working definition of human rights for the purposes of this project:

“That IP, in its commitment to provide for the safety, health and welfare of its employees globally, will develop and employ policies and practices that encompass the following:

- Legal compliance with all local law/s;
- Fostering respect for individuals and appreciation of their value and contribution to the success of the business;
- Fostering greater understanding of cultural/ social values and customs of the discreet work force generally
- Providing a workplace that is free of discrimination, harassment, and abuse of any kind (including bullying);
- Enhancing career opportunities for the local nationals and their indigenous people.

Incorporating these principles and the following human rights considerations:

- Discrimination
- Equality of opportunity
- Learning and development opportunities
- Harassment (including sexual and bullying)
- Child labour
- Foreign Workers
- Ethnic Labour issues.”
To test the validity of this definition and discuss human right issues as people at IP make sense of them, I conducted five interviews between November 2002 and February 2003 with members of the Human Resource Management team who are located in Europe, USA and Australia. The findings suggest a high level of motivation to adhere to the highest global standards in human rights practices and confirm the objectives for the project, namely:

- To recognise and make transparent internally our commitment to human rights and the importance of that commitment;
- To communicate to stakeholders, including the global and local communities, IP’s corporate values and formal ethical position (i.e. the way IP does business).

In addition the interview data suggests opportunities for improvement as summarised below:

- Creating policies and standards that enable benchmarking of practices and consistency in reporting;
- Communicating in a positive manner so that principles are transparent to people within the company as well as to customers, communities and shareholders;
- Increasing the number of women in management;
- Developing greater respect along the ethnicity lines;
- Creating greater synergies on a global scale, tolerance, understanding and harmony; and
- Making the principle of “human resource management an integral building block in the business model” a reality.

In 2003 I collected further data to create a richer picture of the background to this project by:

- Conducting three interviews in the Asia Pacific Region with members of Human Resources and Global Manufacturing;
- Examining some of the company documents and policies; and
- Conducting research on literature dealing with practical implementation of human rights strategies within commercial organisations.

These interviews demonstrated a high level of awareness and expertise in the Asia Pacific region, together with goodwill to build a “One IP” culture. Practical steps to attend to the human rights issues as discussed in the research by the research participants confirmed the data from the initial interviews and added some regional dimensions:

- A regional perception to the rights of freedom from sexual harassment, freedom of association and freedom from discrimination;
- Introduction of practices to include women at the supervisory level;
- Opening up of channels of communication so that a broad spectrum of voices of employees within the region would be heard;
- Making information about human rights including local laws and constitutional provisions available, to employees in local languages for educational purposes;
• Having in place explicit policies and robust, transparent and accountable practices for managers and supervisors in the area of equal treatment; and
• Confirming the need for a universal human rights policy, consistent with IP overall vision; a broad statement with agreed, realistic, reviewable benchmarks, providing a focal point for internal engagement, dialogue with stakeholders.

SUMMARY OF MEETINGS: With project sponsor, Bruce: in 2002, five meetings, in 2003, a further seven meetings at approximately one month’s intervals and of about one hour duration each, and two workshop (total 13).

SUMMARY OF INTERVIEWS: November 2002, 2; January 2003 1; February 2003, 1; April 2003, 3 (Total 7).

Angela Chambers
PhD Candidate
RMIT University

8th December 2003
Appendix 10 - IP Third Party Social Accountability Policy

IP LTD.

Third-Party Social Accountability Policy

At IP, we are committed to:

- a standard of excellence in every aspect of our business and in every corner of the world;
- ethical and responsible conduct in all of our operations;
- respect for the rights of all individuals; and
- respect for the environment

We expect these same commitments to be shared by all suppliers of IP products. At a minimum, we require that all suppliers of IP products meet the following standards:

Child Labor  Suppliers will not use or condone the use of child labor.

The term “child” refers to a person younger than 15 (or 14 where local law allows) or, if higher, the local legal minimum age for employment or the age for completing compulsory education.

Suppliers employing young persons who do not fall within the definition of “children” will also comply with any laws and regulations applicable to such persons.

Involuntary Labor  Suppliers will not use or condone the use of any forced or involuntary labor, whether prison, bonded, indentured or otherwise.

Coercion and Harassment  Suppliers will treat each employee with dignity and respect, and will not use corporal punishment, threats of violence or other forms of physical, sexual, psychological or verbal harassment or abuse.

Nondiscrimination  Suppliers will not discriminate in hiring and employment practices, including salary, benefits, advancement, discipline, termination or retirement, on the basis of race, religion, age, nationality, social or ethnic origin, sexual orientation, gender, political opinion or disability.

Health and Safety  Suppliers will provide employees with a safe and healthy workplace in compliance with all applicable laws and regulations, ensuring at a minimum reasonable access to potable water and sanitary facilities; fire safety; and adequate lighting and ventilation. Suppliers will also ensure that the same standards of health and safety are applied in any housing that they provide for employees.

Compensation  We expect suppliers to recognize that wages are essential to meeting employees’ basic needs. Suppliers will, at a minimum, comply with all applicable wage and hour laws and regulations, including those relating to minimum wages, overtime, maximum hours, piece rates and other elements of compensation, and provide legally mandated benefits. In addition, except in extraordinary business circumstances, employees will be entitled to at least one day off in every seven-day period.
Suppliers will compensate employees for overtime hours at such premium rate as is legally required or, if there is no legally prescribed premium rate, at a rate at least equal to the regular hourly compensation rate.

Where local industry standards are higher than applicable legal requirements, we expect suppliers to meet the higher standards.

Collective Bargaining If our suppliers’ employees have chosen lawfully to be represented by third parties, our suppliers must bargain in good faith and not retaliate against their employees for their lawful participation in labor organization activities.

Protection of the Environment Suppliers will comply with all local government applicable environmental laws and regulations and will otherwise conduct their business in ways that protect and preserve the environment.

Other Laws Suppliers will comply with all applicable laws and regulations, including those pertaining to the manufacture, pricing, sale and distribution of merchandise. All references to “applicable laws and regulations” in this Third-Party Social Accountability Policy include local and national codes, rules and regulations as well as applicable treaties and voluntary industry standards.

Subcontracting Suppliers will not use subcontractors for the manufacture, sale or distribution of IP merchandise or components thereof without IP’s express written consent, and only after the subcontractor has entered into a written commitment with IP to comply with this Third-Party Social Accountability Policy.

Monitoring and Compliance Suppliers will authorise IP and its designated agents (including third parties) to engage in monitoring activities to confirm compliance with this Social Accountability Policy, including unannounced on-site inspections of manufacturing facilities and employer-provided housing; reviews of books and records relating to employment matters; and private interview with employees. Suppliers will maintain on site all documentation that may be needed to demonstrate compliance with this Third-Party Social Accountability Policy.

Publication Suppliers will take appropriate steps to ensure that the provisions of this Third-Party Social Accountability Policy are communicated to employees, including the prominent posting of a copy of this Policy, in the local language and in a place readily accessible to employees, at all times. We also expect suppliers to develop and implement appropriate business mechanisms to monitor compliance with this Policy.

The provisions of this Policy will be incorporated into all new or renewed commercial supply agreements between IP and its direct suppliers. Direct suppliers will be required to demonstrate their compliance with the requirements of this Policy at the request of and to the satisfaction of IP. IP has the right to inspect any site involved in work for IP. In the event that the manufacturer, supplier or distributor Site is unable or unwilling to achieve compliance, IP reserves the right to terminate or suspend its contracts.

All direct suppliers may be required to undergo regular Compliance Self-Assessment Questionnaires and/or Compliance Audits conducted by IP auditors or accredited third party
auditors. In the event that the supplier is unable or unwilling to achieve compliance, IP reserves the right to terminate or suspend its contracts.

ACKNOWLEDGEMENT PAGE

ACKNOWLEDGEMENT OF TERMS

Accepted and agreed to on behalf of [Supplier], an approved supplier to IP. I acknowledge that I am authorized to bind such company* to the terms herein.

__________________________  ____________________
Signature                      Date

__________________________
Title

__________________________
Company Address

__________________________
Name of Executive Responsible for Social Compliance

* Please attach a list of all supplier/manufacturing locations and their products or services represented by your signature.

Please return this executed signature page to IP:

[Name of Social Accountability Compliance Officer]
IP
USA
Appendix 11 - Excerpts from Discussion of IP Performance Management

The researcher:
“………it’s the time of the year to review the Key Performance Indicators, because you are doing them anyway and people are negotiating their objectives and they are thinking about what they are going to achieve in the next year and of course the next time they’re going to review them it’s quite some time in the future. You’ve got a new manager in the region who is thinking about how he manages and from what I can gather he’s certainly open to discussion around performance management program and I gather from what you’ve said about doing your regional visits that as the regional human resource director you are going to discuss these currently issues so I think it’s a good time to look at it. That’s one thing and my main reason however is its an effective place to start because people take notice if you put a KPI into the performance management system that signals that the IP is incorporating a human rights management – a human rights policy and that they get a chance to negotiate an objective for themselves which then you, I mean can be a concrete, all the things the manual says concrete, achievable, a smart objective.

Bruce:
Yes it does I suppose, I understand what you’re saying, let me take you back a step before firstly I think you are probably focussed on performance management but I’m probably very nicely trying to say I think that its not starting in the right place because performance management is an individual one on one based issue where a manager sits and establishes up the 5 KPIs…

Right.

…with a person over the year, that’s only for part of the workplace, you appreciate that the performance management process does not apply to provably 85% or 80% of the workplace because they’re not in a performance managed situation they’re covered by awards or agreements or collective bargaining documents within those regions, so personally we are not going to get to every person that’s why I’m saying it becomes, its got to become, its got to start from the macro and go down to the micro, I’m saying at some stage it would be appropriate as it was with Occ., Health and Safety to say everybody understands that we’re serious about this, everybody understands our commitment, everybody understands that we’re going to tangibly move this way, here’s some of the KPIs that we can put into place, after people understand what the philosophy and direction is…

Right ok.

…we will first just to explain, because otherwise you could run with it, you could run the, my concern is that you could very easily run towards Occ., Health and Safety and say I’ve got human rights factors built into my KPIs which are these ones to ensure that no person is injured or endangered whilst in the workplace.

All right.

What does that mean because that does cover physical injury that is caused by wilfulness, in other words by other people or by machinery or by the environment
which we place the person in, it would also include harassment, it would also include discrimination. Something as broad as that could well fit in to what we’re talking about but not achieve what we’re trying to achieve.

Yeah I see.

What I’m trying to say is we need, we need to get people to understand what is meant by human rights. Human rights, I mean we’ve covered these things but if we only leave these as the criteria of the goal posts xx pretty comfortably as a business well we’re achieving all that, we’ve got a policy on discrimination, we’ve got a policy on equality…”
Appendix 12 - Sample Questions

SWOT ANALYSIS QUESTIONS

What do we do well now?

What are the opportunities for improvement?

Are there some restrictions that prevent you from achieving best practice now?

Do you have any suggestions on how you would like to change the practice?
Appendix 13 - Senior Management Interview Excerpt

Ludwig:

“But in southern China basically labour availability is a big issue. First of all Hong Kong and some areas are so developed the people have already higher-level jobs. They are technicians; they have studied or whatever. When you talk about worker availability, people come from the central China, all farmland.

The researcher:

*Uh-huh.*

And it’s a very simple economic equation. A farmer in central China, on average has about four children.

*Right.*

Usually they have five to six or there are a few with one or two maybe. But usually four, four and a half as an average. Their monthly income is around 20 US dollars by doing farming, doing agriculture business. They have no running water; they have only wells; they have no flushing toilet; they have none of these kinds of things. They have no electricity.

So what happens is, usually the girls once they are 17–18 years old, they move off from home, travel to southern China to find a job as a factory worker. Minimum payment, meanwhile, and there are new, luckily, minimum payment rules and regulations in southern China also, which weren’t there about 10 years ago, is in the range of about 80 US dollars.

*Oh I see.*

For an employee.

*Right.*

And that 80 US dollars is basically 100 per cent net payment, because on top of that the company provides living space and dormitories, it provides three meals a day, it provides clothes, factory clothes basically, but they bring their clothes with them so what they need in their free time is not much. That usually lasts for three to five years.

*Right. Right. So they don’t have expenses, yes.*

Right, and they won’t be able to buy anything anyway because they cannot leave the place. But there are companies that let their employees out also and, well, they have bus rides for example to cities where they can go shopping or do something for leisure and they take them back. But it’s also very, very strictly regulated.

So anyway, they earn $80, they send $20 back home, which doubles their father’s income, which is a lot, so that allows him to buy either more land or buy more crops or basically increases his agricultural output, and they keep $60 and save it, for three to four years.

*Right. And that’s a lot of money.*
Which is a lot of money, which either puts them in a situation that they can further their education, or that they can buy a property. Actually if you save 60 US dollars for four years, 60 dollars a month for four years, you can buy a property in China, an apartment. Or, which is desire number one I would say, this is enough money to be a good marriage type I would say.

_Have a dowry._

Have a dowry, yes. So they basically look for technicians, engineers or whatever to marry them, because an engineer would have already a certain income. So basically they say, “I give you this money, you marry me. This is my contribution to our marriage, whether we buy an apartment for this or I contributed to even buying a house” if he gives the same amount. And that’s it. And it moves them immediately from a living standard which is always close to starvation in the centre of China, to a middle-class life. It’s very interesting.”
Appendix 14 - Operations Managers Brief

Mr
GM IP

Dear Mr,

I am writing to invite you to participate in the “Human Rights - Education and Implementation in a Commercial Organisation” research project at IP. Mr Ludwig, with whom I have had extensive discussions about this topic suggested that I contact you because of your unique experience in manufacturing management at IP.

Your involvement would be a 40-minute telephone conversation in which I would like to discuss two questions with you. These questions together with the background to and summary of the project are included in the attached discussion paper “How to Put Social Responsibility into Measurable Objectives at IP?”

Also attached are the Plain Language Statement and the Consent Form. Both these documents are prescribed by the University’s Ethics Committee and have been prepared for use in this interview. Would you please read these papers and let me know if you are interested in participating? I am most interested in your opinion, your experience and any ideas you have about making the outcomes of this research useful in your work. I would also be glad to discuss any impressions you may have about this project and answer any questions prior to the interview.

If you decide to participate would you please respond, so that we can arrange a time for this discussion? I would be most grateful if it could be completed in the next three weeks.

Yours Sincerely,
Angela Chambers.

Questions Guiding the Interviews with manufacturing Managers in South East Asia

Any examples of behaviour or mistreatment of people where human rights were neglected or disregarded; and

What kind of measurable objectives about human rights and social responsibility could you think of that may be incorporated into IP’s practices
Appendix 15 - IP Human Rights Statement

This is an output from Workshop No 2 Melbourne.

COMPELLING REASONS FOR PROPOSED IP STATEMENT ON HUMAN RIGHTS – DRAFT FOR DISCUSSION

Phil - FYI. Would appreciate your views and suggested approach to progress this proposal at your convenience.

Jacqueline - thought you may also be interested given your time and input into this project. Would appreciate your views too.

Cheers

Bruce

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IP’S HUMAN RIGHTS STATEMENT

Executive Summary

Introduction

Attached is a summary of the background relating to this specific topic as well as a discussion paper for the sound business reasons to have an explicit position on Human Rights/ Social Responsibility. As indicated this project was sponsored and supported by the IP HR team globally.

(See attached file: BACGR DRAFT REP.doc)
(See attached file: case for HUR conf.doc)

IP’s Mission and Vision is to be "A global leader in broad-based healthcare protection, providing exceptional solutions, products and value to our customers".

Consistent with the care and responsibility that this evokes it is now considered to be incumbent upon our business (if not essential) to have global transparency of IP’s 'people and social' values. Other Industry leaders ? Coca Cola and the Ford Motor Company as but two examples of the top companies identified in the last Fortune 500 ratings (refer to the case for HUR above)- have already published their corporate position relating to their international human rights' responsibilities. These are readily available from their respective websites.
IP, as an integral part of its emergence globally as a 'stand alone' business and market leader needs to demonstrate its position as publicly also. It is consistent with our informal internal motto of "One IP? the way we do things around here" that this will formally endorse our stated commitment to enriching the workplace and to adding value to the communities in which we are ensconced.

Compelling Business Reasons

The compelling business reasons are very clear in the attachments hereunder - as extracted from a presentation by Prof. David Kimber of the RMIT University.

(See attached file: dk corp citz attach.ppt)

In summary, as indicated herein, future Corporate credibility and Shareholder interest will not only be reliant upon Product/ Service reputation (as expressed within our Mission/ Vision statement) but increasingly more so on Social, Financial and Business reputation.

This is also evident by the OECD's guidelines for multinational enterprises and the UN Global Compact (also addressed within the attachments above and again summarised here).

To quote Coca Cola, we need to 'live our values'.

(See attached file: GC draft report.doc)

Recommendation

As a first step it is considered that IP must at least publish its specific Statement of Human Rights within its:

- Website
- Annual Report
- HR policy
- Code of Conduct
- Relevant Contracts (eg. 3rd party sourcing) and
- Internal reports.

It needs to be:

- simple and clear
- stand alone
- strong and culturally translatable
- sensitive in its overall message and intent, and
- measurable and transparent (ie. clearly displayed at each IP site as is SH&E / OH&S data and information).

The attached statement is proffered as a suggestion.
If approved and accepted, we will need to understand and appreciate that this will:
be a 'journey' and not a 'destination'
require a phased approach as we, as a business, also grow and develop within this area, and
need to be undertaken as an educational process which is every bit as important as our demonstrated commitment to SH&E/ OH&S.

Bruce
HR Director - Asia Pacific

Angela Chambers
PhD Candidate
RMIT University

IP HEALTHCARE

HUMAN RIGHTS STATEMENT

The heart of our business is people – their protection and their ultimate wellbeing.

As a global leader we are forever mindful of our responsibility to our people and the communities in which we live. We are also cognisant, as a leading global business, of the importance of our presence, participation and inherent impact within these societies in which we live and work.

As such we will strive to develop, implement and enhance workplace policies and practices that foster human rights and enhance:

- legal compliance;
- respect for individuals and an appreciation of their value and contribution to both our business, their community and the local environment;
- a greater understanding and appreciation of cultural and social values of our workforce and customers;
- a workplace free of discrimination, harassment and abuse of any kind (including bullying); and
- career opportunities for local nationals and their indigenous people.

Our business will be sustained and grow in a socially responsible manner that is ultimately integral to ongoing commercial success and from which all stakeholders and shareholders will be proud.
Appendix 16 - Summary of Kuala Lumpur Workshop

SUMMARY OF IP SITE VISIT IN Kuala Lumpur

The visit went to plan and beyond. To plan that I met Ludwig at the appointed time and we went to his workplace at the manufacturing facility. Beyond because we spent two days talking about IP, his management role and approach and about social responsibility and human rights.

The site itself is unremarkable when compared to an Australian workplace. A large enclosed space with high fence (including barbed wire on top). The site is further secured by two security checkpoints. Inside there are several buildings. I visited one building. It houses the manufacturing plan, administration offices and research laboratories. In the manufacturing part I saw machines, ovens and hardly any people. It was hot. There were also very large tanks filled with raw material. The workers I saw were mostly women. They unloaded the finished products at the end of the production line, checked for quality and packed the products into bags and boxes. These were then stored in the warehouse where I saw one forklift operator stacking them.

The pace seemed relaxed; there were empty offices, people chatting in kitchens and people sitting down to lunch in the cafeteria. Grass, palms and beautiful gardens surround the buildings. I was told that there are sporting facilities in the other buildings.

These are scant and mostly casual observations over a couple of days in the IP premises.

The meetings, on the other hand were quite intense. Each official interview took three hours, and then we talked in the car and over a late lunch. At the end of the first day Ludwig took the Model home with him and the following morning we started again at 8.30.

The parts of the model that drew his attention are underlined, his comments and questions are bolded and my draft responses to these are in italics in the attachment (Goethe/Model fback).

In addition to these he liked the model and thought it did not go far enough. Namely that the conical point could be fanned out at the Middle Management level of IP (I think he means Manufacturing Managers) with a question of “How to put Social Responsibility into Measurable Objectives?” An example of a proactive objective he gave was “Ensure that everyone receives 10 hours of training on Social Responsibility.”

I asked how we obtain more data on this and we agreed on the following:

To speak to four General Managers Manufacturing in South East Asia:

- VP Operations Asia / GM IP Shah Alam (Malaysia)
- GM IP Lanka
• GM IP Latkrabang (Thailand)

• Director Operations Bangalore (Kemwell) India;

About the following two questions:

• Any examples of behaviour or mistreatment of people where human rights were neglected or disregarded; and

• What kind of measurable objectives about human rights and social responsibility could you think of that may be incorporated into IP’s practices?

He also suggested a 2 – 3 hour session on Social Responsibility and Human Rights at a meeting of GMs from 11 of IP factories from around the world. The meeting is to take place in November 2004 in Thailand. He was referring to Level Five of the Model.

HOW TO PUT SOCIAL RESPONSIBILITY INTO MEASURABLE OBJECTIVES AT IP?

A brief introduction

Commercial organisations operating in a global economic environment are also part of a global dialogue about social effects of economic integration. Part of this dialogue is a perception that economic activities of multinationals give rise to social cost to the communities where they operate. The area of corporate social responsibility is a relatively new area of international business discourse, therefore a great variety of approaches to it exist. Nonetheless, to examine the need to observe the universal human rights by all actors in the international arena including multinationals is a worthy pursuit. In IP’s case the benefits of examining its human rights principles and practices are manifold, for instance:

• First, to enhance its reputation and prudently and progressively maintain its market position;

• Second, to grasp the opportunity for leadership by responding to new business ideas and differentiating itself as a company of highest standards of ethics and social responsibility practices;

• Third, to take an initiative that is contemporary and signals to its managers, staff, customers, business associates, shareholders and stakeholders IP’s stand as a responsible global corporate citizen; and

• Fourth, to stand out from its competitors.

The project so far

The project sponsor, Mr. Bruce, proposed a working definition of human rights for IP’s purposes:

That IP, in its commitment to provide for the safety, health and welfare of its employees globally, will develop and employ policies and practices that encompass the following:

• Legal compliance with all local law/s;
• Fostering respect for individuals and appreciation of their value and contribution to the success of the business;
• Fostering greater understanding of cultural/social values and customs of the discreet work force generally
• Providing a workplace that is free of discrimination, harassment, and abuse of any kind (including bullying);
• Enhancing career opportunities for the local nationals and their indigenous people.

Initial interviews were conducted on the topics of:
• Discrimination
• Equality of opportunity
• Learning and development opportunities
• Harassment (including sexual and bullying)
• Child labour
• Foreign Workers
• Ethnic Labour issues

The purpose of these interviews was to collect opinions (subjective data) about what is done well now, where opportunities lie for further development, what restrictions exist and what suggestions these key senior people have for building human rights practices consistent with the working definition above.

Implementation

From this data I constructed an approach for implementation of human rights practices in a multinational company. This approach has been discussed with Mr. Ludwig who also suggested that you might want to contribute to its development so that it would be of practical use in a manufacturing environment.

Given your position, location, experience and practical knowledge of the manufacturing environment, I therefore invite you to participate in the discussion of this topic at IP.

I would like to speak with you in a telephone interview for about 40 minutes and discuss the following two questions from the perspective of your area of responsibility and in your environment at work or outside your work:

• Any examples of behaviour or mistreatment of people where human rights were neglected or disregarded; and

• What kind of measurable objectives about human rights and social responsibility could you think of that may be incorporated into IP’s practices?

If you choose to participate in this interview you can do so by reading the attached Plain Language Statement, which I will be happy to discuss, and then signing the Consent Form. Please let me know by e-mail if you are happy to be contacted to make an appointment for the interview and I will contact you about the details.

Angela Chambers.
PhD Candidate
School of Management
RMIT University, Melbourne, Australia.

August 2004.
RESOURCES AND ACTIVITIES

Legal Documents

- UN Global Compact 2000
- UN Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights 2003
  - International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
  - Convention 100 (1951) on Equal Remuneration
  - Convention 87 (1948) on the Freedom of Association and Protection of the Right to Organise
  - Convention 98 (1949) concerning the Application of Principles of the Right to Organise and Bargain Collectively
  - Convention 131 (1970) concerning Minimum Wage
  - Convention 155 (1981) on Occupational Health and Safety; and
  - Convention 110 (1958) concerning Conditions of Employment of Plantation Workers

Characteristics of ethical companies, - what are the existing characteristics/behaviour patterns/histories that acknowledged “ethical” companies have?

Company documents: Code of Practice and Policies,

Presentation “Relationship between International and Domestic Law”

Ratifications of conventions by countries where this corporation is operating

What are other companies doing locally? What do they espouse to do and what are their observable practices?

An activity to add to the list

Identify human rights issues and practices, an audit of “now”

Taxonomy of human rights as they apply to multinationals
Universal approach to human rights

Assess readiness. How to get from idealistic to actionable? Challenge: even if it costs $. Show me why it cannot be done?

Decision process for “new”

Compile names for human rights team

Check through “Level Six”.