

## **“Business and Human Rights: The International Perspective”**

Speech by

John Morrison

Executive Director, *Institute for Human Rights and Business*  
to be delivered at the Opening Ceremony of

CINMIPETROL 9<sup>th</sup> International Congress of Mining and Petroleum  
Cartagena, Colombia, 15 May 2013

It is a great honour for me to speak at this important gathering in the distinguished presence of His Excellency, the President of Colombia. Business and human rights is an emerging agenda that has grown in importance in the past two decades, and Mr. President, your government has played a critical role in ensuring that Colombia remains an important participant in that conversation. Colombia’s enthusiastic acceptance of this agenda has made sure that business, government, and civil society work together to deal with the complex problems posed by the interplay between private sector activity and respect for international human rights standards.

Placing a human rights presentation in the opening plenary of this conference – and other similar conferences in other nations around the world - is, I believe, an indication that the extractive industries see how international standards increasingly relate to the materiality of any company and its ‘social license to operate’. Business is a social as well as an economic actor: good social management has economic benefits. Poor social management will threaten the financial performance of most companies. There are an increasing number of CEOs of oil and mining companies around the world who get this, that see social risk as potentially more expensive to their companies than any technical issue. This calls for new skills both in the Board Room and for operational managers who understand the social sciences as much as they understand geology or engineering.

I have three key messages for you today.

First, human rights are no longer an optional matter for business in Colombia or in any of the world's leading economies.

Second, Colombian companies have played a major role in dealing with hard questions about conflict, security and human rights. There are lessons that Colombian companies can impart to the international community.

And finally, as peace negotiations currently taking place in Havana have shown, once conflict ceases, business has a major role to play to make peace sustainable. Businesses will have to work together to make sure that old conflicts and underlying grievances do not resurface, and peace becomes real.

When my colleagues and I mention that we work at the Institute for Human Rights and Business, we are often met with skepticism and surprise. What could business and human rights have to do with each other? There are some who think the question is moot because they believe business can only have positive influence on human rights: business pays taxes, creates jobs, and corporate social responsibility initiatives lead to the development of infrastructure in remote parts of the world where the reach of the government does not extend. But there are others who believe business can never do any good for human rights – they have in mind stories of oil companies polluting countryside, mining companies in conflict with indigenous communities, and the horrific conditions in which people continue to work, in informal mines in Africa, or in garment factories in Bangladesh.

The truth is inevitably in between – reality is complex. It is not as straightforward as this false dichotomy – where business can do only good, or where it does only bad. Business can **do** good and bad; business itself is not good or bad. And it is our responsibility – as citizens, as government officials, as activists, and indeed, as executives of companies – to ensure that the impact of business is good, and where the impact is likely to be bad, that mitigating steps are taken to prevent human rights abuses.

Colombia has long experience of what business can do – good and bad. Go back 85 years, to 1928, to December 6, in the town of Cienaga close to Santa Marta. You know the story I am about to tell much better than I do, but indulge me for a few moments. It is a story I learned from the gifted pen of Gabriel García Márquez. We know this – the workers at the plantation of the United Fruit Company wanted written contracts, eight-hour work-days,

and six-day work-weeks, and when they could not get these, they went on strike which went on for more than a month; the government of the United States threatened to send troops unless the company's interests were protected; to ward off an American incursion, Colombia sent troops; and an unknown number of workers died in the incidents that followed. That was a long time ago; Colombian history has changed since.

Gabriel García Márquez has said he was inspired by that incident when he wrote the banana massacre scene in "One Hundred Years of Solitude." In the novel, when the banana company originally arrived in the fictional town of Macondo, it brought with it modernity as well as its consequences. With typical flourish of magic realism, García Márquez wrote that the company "changed the pattern of the rains, accelerated the cycle of harvests and moved the river from where it had always been." But it also unleashed a "wave of bullets" on striking workers in the plaza.

Colombia today is a vastly different place. Significant amongst leading emerging economies, it has provided rare leadership in embracing the business and human rights agenda. Companies here are aware of the high cost conflict imposes on business. They know about production loss, and the loss of time because workers cannot report to work. They know the impact of armed opposition groups, which terrorize workers and communities and attack assets. They understand the damage caused to the environment when a pipeline is destroyed. And so, companies have come together here to search for new approaches, and have played a useful role in brokering dialogue between parties in conflict to bring about peace.

Let me turn to some international developments, which are of great relevance to Colombia. Over the past decade, at the United Nations, a process developed and culminated in the unanimous adoption of the UN Guiding Principles on Business and Human Rights. These Guiding Principles provide a roadmap firstly for **governments** - let me stress governments - regarding what they must do to protect human rights. Whether or not governments are competent in their role, the Guiding Principles also make clear that **companies** have an independent responsibility to respect human rights. To do so, not only do they need to develop a human rights policy, but also conduct a due diligence process, which includes assessing risks and impacts of their activities, and establishing internal processes including tracking and monitoring performance, and reporting it, to ensure that human rights are respected. Finally, where gaps exist, remedies need to be developed.

Colombia is considered a leader in offering itself as a laboratory where recommendations in the Guiding Principles can be tested. Indeed, at your Universal Periodic Review recently at the United Nations Human Rights Council in Geneva, your Vice-President expressed Colombia's willingness to make available the actions the State has carried out in connection with the implementation of the Guiding Principles. "The work undertaken in this sphere represents a body of experience that may provide a positive contribution towards developing good international practices in the area of human rights," the Colombian report said.

The Colombian statement reveals how the conversation about business and human rights is no longer one of rich nations against poor nations, or large companies and weak states. Our globalized world has become so enmeshed, that this conversation now involves each and every one of us. And there are few countries in the world, which understand the context better than Colombia. Foreign and local businesses have operated here for a long time, and the impacts are visible in all parts of the country. Colombian farmers benefit from the export of flowers, just as coffee growers benefit from the international trade in coffee. Juan Valdez is a brand competing with the biggest coffee shops in cities around the world. At the same time, new investments coming to Colombia are increasingly from countries like China and Brazil, and not only the United States, Canada, and Europe. Yesterday's markets are today's investors; yesterday's recipients are today's donors.

Let me turn to one concrete example of how Colombia is seeking to advance the business and human rights agenda. The Voluntary Principles on Security and Human Rights is an initiative involving governments, companies and civil society actors, where Colombia has metamorphosed from being the poster-child country where abuses had occurred to a leader in the development of practice. The Voluntary Principles were launched in 2000 simultaneously in Washington and London, as a framework designed to help ensure that companies protecting their people and assets would do so in ways that protected fundamental freedoms of communities in their neighbourhood.

The initiative came about because oil, mining and gas companies operating internationally often found that security forces guarding their facilities were being accused of committing human rights abuses. The companies claimed they did not want those abuses to be committed, but felt they were powerless to do anything about it, because the security was being provided by sovereign states. The Voluntary Principles provided an ingenious method

whereby companies and civil society groups were expected to work together with governments to ensure that security forces upheld human rights.

Before the Voluntary Principles (or “VPs”) were drawn up, one of the countries where companies had faced problems was Colombia (the others were Indonesia and Nigeria). The VPs were created to deal with such problems. But the VPs could not have fulfilled that role without Colombian participation. And yet it took some time before Colombia could become part of the VPs process. Fortunately, Colombia-based companies – local and international (Occidental Petroleum, Ecopetrol, and Cerrejon Coal) – did not wait. They began making serious efforts to implement the Voluntary Principles with an international NGO (International Alert) to assess risks and impacts of their activities, to put in place protocols and procedures to minimize human rights risks. What Cerrejon achieved in its relationship with the Wayu’u community in La Guajira, and Ecopetrol and Occidental did in Magdalena Medio testifies that sincere effort to support human rights can and does reduce the likelihood of a crisis going out of hand.

But Colombian companies were not only satisfied with a tool that was useful with the extractive sector. The electricity generation company ISAGEN was interested in improving its community relations, and other companies, including dairies and agricultural companies, wanted to be part of the process. While the Voluntary Principles process globally was not yet ready to expand, Colombia went ahead, and established Guías Colombia – or the Colombian Guidelines – which extended the VPs to include relationships with trade unions and how companies can deal with the existence of armed groups.

A strengthened dialogue with unions is of vital importance, considering the number of trade union leaders who have faced (and still face) threats of violence, and the tragically large number who have been killed. This concern extends beyond the oil and gas sector. Guías Colombia is an important document, and so is the initiative of mining and energy companies, which have formed the Comité Minero Energético (CME). These are both noteworthy and laudable initiatives, but their ultimate success and credibility will require strong support of, and participation by civil society.

Even within the extractive sector there is much that needs to be done, including the treatment of workers in the informal, artisanal mining sector. As many Afro-Colombian communities have rights under Colombian laws, their artisanal mining should not be confused with illegal mining. The challenge is not only to assure that the rights of these

communities are respected by companies but that the necessary engagement of communities and companies is not interfered by armed organizations. This is just an example where the protection of rights by the state and their respect by companies needs support and a constructive dialogue to develop policies to facilitate the actions of companies ready to commit.

While the focus on the security sector in extractive industries makes sense and has been useful in catalyzing action, it is not yet time to rest on those laurels. Excessive focus on security issues alone can also be counter-productive. Human Security is everyone's right; it is not a privilege that someone in authority grants those without power. Everyone in Colombia deserves to have their human rights respected and protected, not only those who live in areas where companies and security forces adhere to international standards.

It is a job that cannot be ignored. As Colombia has signed free trade agreements with major trading powers, its corporate conduct will come under greater scrutiny. With Colombia keen to join the Organisation for Economic Cooperation and Development (OECD), it is vital that its companies establish high standards of due diligence based on broad and effective participation of stakeholders, including grievance and remedy mechanisms.

And so to conclude. Colombia is showing real leadership globally and across Latin America. We salute this, Mr. President. The country's commitment to business and human rights will be tested when short-term economic or political imperatives come calling, when other governments, perhaps less proactive on human rights, come on trade missions or negotiate bilateral trade agreements. Given the courage of all the Colombian people in facing down internal divisions, we have great hope that this commitment to business and human rights will continue. This commitment is at its heart a commitment to social sustainability, a commitment not just to every Colombian community, but also to your children and your children's children. The new peace will bring great opportunities for you all to create such a legacy.

It feels daunting, I understand. Creating such a legacy at a time of pressing global challenges and domestic economic needs might even sound crazy. But as García Márquez wrote in *Love and Other Demons*: "Crazy people are not crazy if one accepts their reasoning."

Thank you.

[END]