Corporate sustainability
What it really means for law firms

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*Stanford v Stanford* [2012] HCA 52

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’Sustainability’ is usually associated with topics such as climate change, tree hugging, greenhouse gases, rising sea levels, veganism and, more recently, the carbon tax.

A ‘sustainable’ organisation conjures up images of recycling, double-sided printing, six-star green buildings and that message on the bottom of emails (often in green font) saying: ‘Please consider the environment before printing me.’

Sustainability has become ‘the new corporate black’ (or verde!).

The problem with all this is that the environment is just one side of the overall corporate sustainability equation. Surprise – corporate sustainability actually involves both environmental and human functions.

As management guru Jeffrey Pfeffer laments: “Given the profound effects of organisation and work arrangements on the psychological and physical wellbeing of the people who work in them and the growing interest in sustainability, it is interesting to note that the human dimension of sustainability remains largely ignored.”

In this article, we leave icecaps and polar bears to their own devices while we examine the human side of corporate sustainability. We’ll look at the economics of human resources (HR) and then the relationships between strategy, sustainability and a stakeholder approach to business. This will demonstrate why the people side of the sustainability equation is particularly important in Australia, and more specifically, to law firms.

Next we describe the HR-specific ‘levels’ on the path to sustainability, with an example from each end of the spectrum, and finally explain how employee wellbeing initiatives can have a positive impact on the HR side of sustainability in law firms.

The economics of human resources – ‘People are our greatest assets’

In 1995, a World Bank study of 192 countries showed that only one third of global wealth was attributable to physical (produced) and natural capital (16% and 20% respectively). The primary source of global wealth was human and social capital (64%).

In the Pacific OECD region, including Australia, Japan and New Zealand, the total wealth per capita (TWPC) was $302,389. Of this, natural capital (agricultural land, forests and protected areas, and minerals and fossil fuels) contributed a mere $7,447 (2.46%, with minerals and fossil fuels representing just 15% of that 2.46%), while produced capital contributed $89,786 (29.7% of TWPC).

More than two-thirds (67.8%) was attributable to human and social capital.

To put this in perspective, in Australia a paltry 0.0225% of our wealth came from ‘down under’, with human and social capital responsible for a staggering 3,015 times that amount.

Contrary to popular belief, natural resources weren’t then, and still aren’t, the be all and end all for our economy. In fact, the Organisation for Economic Co-operation and Development (OECD) now considers Australia a knowledge-based economy, one that relies on service-based industries and professions as sources of overall competitive advantage. Without our knowledge workers, we cannot derive anything above ‘raw’ value for our natural resources, nor can we ‘produce’ assets.

Our service-based professions and industries employ a large number of people, which has a multiplier effect on the national economy. Job-wise, the professional, scientific and technical industries category, which includes the legal profession, now employs the largest percentage of bachelor degree graduates of all industries/professions in Australia (20.7%). In comparison, the mining industry employs 2.3% of bachelor graduates.

Being service-based, the legal profession has also played a role in significant changes in Australia’s industry mix. Towards the end of the industrial age (1960), the top three industries for gross domestic product (GDP) contribution to a $0.22 trillion economy (in current prices) were manufacturing, agriculture and retail trade, at 28.6%, 11.0% and 10.8% respectively.

In contrast, in 2010 the top contributors were property and business services (which includes legal services – 11.6%), finance and insurance (9.9%) and manufacturing (8.6%) in a $1.28 trillion economy (in current prices). Government administration and mining tied for fourth position at 7.8% each.

Sustainability as strategy: A stakeholder approach to business

In light of these economics, it’s no surprise that increased attention is now being paid to the role of people (more broadly referred to as ‘human resources’) in knowledge-based economies, particularly in service-based professions and industries. This shift in emphasis from natural and produced capital to the value of human and social capital (aka people) as our greatest assets raises an important question – do we manage our human resources in a sustainable way?

As outlined earlier, today’s perspectives on corporate sustainability tend to focus – erroneously – on the environmental side of the equation. However, in knowledge-based organisations such as law firms, the human side to sustainability is of equal, if not arguably greater, importance.

The foundation on which all things sustainable are based is that society provides an organisation a ‘social licence’ to operate (see inset below). Our society is showing an increasing concern that businesses adopt a sustainable approach to the environment and human resources.

Corporations are instruments of social purpose, formed within society to accomplish useful social objectives. If they do this, they have a right to a continued existence, a license to use resources and a responsibility to produce socially beneficial products and services. However, if they debase human life, act with contempt for the community of which they part, plunder and pollute the planet, and produce ‘bads’ as well as ‘goods’, they forfeit their right to exist. They become unsustainable because they are unsustainable. The single-minded pursuit of short-term profitability for shareholders or owners does not justify a ‘couldn’t care less’ approach to people and the planet.

– Sustainability experts Dunphy, Griffith & Benn
Caring about icecaps and polar bears is all very well, but shouldn’t we put people first? Rebecca Michalak reveals the human face of corporate sustainability.

In line with this, studies show that customers, investors and employees (particularly the younger generations) favour organisations which incorporate sustainability, or at least principles of corporate social responsibility (CSR), into their business models.

Being a sustainable organisation requires a fundamental shift away from the outdated shareholder approach to business strategy. The shareholder approach focuses on short-term profitability and other indicators of firm performance, including shareholder return and productivity, and neglects environmental sustainability practices and social responsibility. In contrast, sustainability requires an all-inclusive stakeholder approach to strategy.

What constitutes a true stakeholder approach is often sorely misunderstood. Take, for example, the popularity of CSR or corporate sustainability policies, which are often promoted publicly on an organisation’s website (on the ‘About Us’ page). Disappointingly, most organisational statements of either ilk are typically heavily weighted towards acknowledging and addressing issues such as climate change by engaging in environmental stewardship, with the human side of the equation restricted to community-focused initiatives such as pro bono work, volunteering, sponsorship of local sporting teams, and other charitable or philanthropic endeavours. These activities provide feel-good fodder for a couple of extra glossy pages in the company’s annual report, and the ‘sustainability/CSR’ box receives a tick for the year.

Employees are the stakeholder group most often excluded from this approach, with employee level issues such as excessive work hours, work overload, distress, wellbeing and mental health issues, psychological safety, and so on largely overlooked. If employees are included in the policy, superficial umbrella statements on ‘people as assets’, and the importance of work-life balance and a positive workplace culture, reign supreme. Similarly, when safety is included, it is typically focused on physical safety, with the concept of ‘minding minds at work’ regularly omitted.

In these cases, scratching the shiny, publicly promoted policy surface reveals a gaping divide between rhetoric and reality.

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### Figure one: HR-specific features of the six phases of sustainability.

#### Rejection (W1)
- Resources, including employees, are to be exploited for immediate economic gain, with employees treated like industrial ‘cannon fodder’
- Force, threats of force and abuse are used to maintain employee compliance
- Training costs are minimal, personal and professional development is non-existent
- OSH issues and development needs are paid lip service
- Concerns of community are illegitimate

#### Non-responsiveness (W1)
- Lack of awareness or ignorance rather than active opposition
- Culture of the 20th Century, that is, ‘business as usual’
- Finance and technology dominate business strategy
- HR a cost centre and HR expenses minimised, HR excluded from business strategy
- HR strategies, if they exist, aimed to create/maintain a compliant workforce
- Community concerns are ignored wherever possible

#### Compliance (W2)
- Driven by risk of sanctions for failing to meet minimum standards for employees
- HR functions are transactional and lack integration
- ‘Elite’ employers in this stage aim to be a ‘decent employer’ that is ‘OSH’ safe
- Aim is to avoid litigation (impacts bottom line) and/or community outrage
- Largely reactive to issues

#### Efficiency (W2)
- A growing awareness of advantages to be gained by being ‘sustainable’
- HR polices aim to reduce costs/increase efficiency, for example, via training employees
- HR as a combination of value adding and cost centre
- ‘Costs’ of action weighed off against efficiency gains (ROIs)
- Community projects undertaken if there is a cost-benefit and ‘spare funds’

#### Strategic proactivity (W2)
- Sustainability becomes part of business strategy
- Human capital integral to strategic advantage
- Talent management, diversity and innovation are crucial
- ‘Elite’ employers gain competitive advantage
- Advanced HR strategies, for example, employer of choice
- Stakeholder approach, including employees
- Aim is to maximise long-term profitability

#### Sustainable (W3)
- Sustainability part of a strategic ideology
- Strong corporate ethics and multi-stakeholder approach
- Organisation takes responsibility for renewing and upgrading knowledge/skills at the workforce, community, and society levels
- ‘For profit’ voluntarily balanced with sustainability values and practices
- Contribution to just, equitable social practices and human fulfilment
Unsurprisingly, given the fundamental purpose and nature of for-profit business, many have questioned the motives behind engaging in CSR or sustainability initiatives, including concerns about insincerity and hypocrisy. So what characteristics indicate that a knowledge-based organisation such as a law firm is genuinely committed to human resource-based sustainability?

Six phases of sustainability: HR-specific features

On 24 April, an eight-story commercial building collapsed in Bangladesh, injuring 2500 people and killing 1127. Warnings to avoid using the building after cracks appeared in its structure the day before went unheeded, with garment workers ordered to return the following day. The tragedy occurred during the morning rush hour, earning the disaster the unenviable label of being the deadliest 'accidental' structural failure in modern human history.

There was a rapid, global outcry over the incident, centred on the apparent failure of managers and owners to follow basic construction quality standards, but also boasted that “this building will stand a hundred years" just one day before it collapsed. The owner of the building is reported to not have added three floors illegally, and failed to follow basic construction quality standards, but also boasted that “this building will stand a hundred years" just one day before it collapsed.

Global and local communities have also raised ethical concerns on the huge profits made by companies that purchase garments made by minimum-wage employees (who earn just $38 a month). Various media sources have called on consumers to boycott clothing produced under these unsustainable conditions.

In other words, society wants to remove the social licence to operate from these factories, and any company along their supply chain.

Contrast this example with Wave 3 organisations such as Google, which consistently rates as one of the best employers in the world. In return for adopting human sustainability as a strategic ideology, Google receives well more than a million job applications a year – one every 30 seconds. Known globally for its employment perks, which include free onsite childcare, haircuts, laundry services, a fitness centre, swimming pool (with lifeguard), cafes, ping-pong tables, billiards and foosball, not to mention its 20% time program (one day a week employees can work on whatever takes their fancy), Google attracts, retains and develops only the very best in talent. Its approach to managing human resources is the topic of many case studies in strategic management, sustainability and social responsibility, and its year-on-year financial performance is nothing short of outstanding.

Importantly, in line with the notion of voluntarily balancing profits with sustainability values and practices, the sixth point of the 10-point corporate philosophy of Google states: “You can make money without doing evil.”

Overall, the six-phase DGB approach argues that the effective and strategic use of human resources, values such as integrity and safety, cultural dynamics such as adaptability and flexibility, learning dynamics such as mentoring, development of knowledge-based systems, stores of social capital, and a culture of innovation are all necessary features for achieving the ‘people side’ to sustainability.
Sustainability stepping stones – Employee wellbeing initiatives

We know management wellbeing practices have important organisational effects on human health and lifespan. While the list of possibilities is endless, one management practice that can have a positive impact on the human side of sustainability in law firms is employee wellbeing initiatives. With the legal profession suffering multiple issues on this front (including high levels of depression, anxiety, and substance abuse disorders), committed efforts to increase employee safety and wellbeing are of paramount importance.

Whether focused on occupational health and safety, or on human capital, the outcomes of these sorts of programs include decreases in workers’ compensation claims, and increases in employee engagement. Likewise, programs aimed at reducing workplace stress have positive organisational impact, including increases in job satisfaction, reductions in reports of psychological distress and emotional exhaustion, and decreased intention to leave.

Also, and somewhat ironically, there is substantial evidence that focussing less on productivity (billable hours), and more on employee wellbeing actual increases productivity and profitability, with studies finding that returns on investment for employee wellness programs typically range between 3:1 and 6:1. Thus, employee wellbeing initiatives also make sound business sense.

A concluding comment

Management expert Jeffrey Pfeffer has said: “It is not just the natural world that is at risk from harmful business practices. We should care as much about people as we do about polar bears.”

This article highlights that being a socially responsible, sustainable business requires leaders and managers to consider the effect of management practices on not only polar bears and icecaps, but also people, including the physical and psychological wellbeing of employees. As a profession dependent on knowledge workers to survive, it is time to replace the outdated equity partner (shareholder) approach to managing law firms with a stakeholder approach that does not simply include employees, but actually ‘puts people first’.