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Lawyers need to understand how human rights affects business



United Nations global compact network Australia executive manager Alice Cope. Daniel Munoz



by Marianna Papadakis

Gold mining mammoth Barrick Gold is facing a fresh human rights lawsuit in Papua New Guinea, but lawyers say companies in the extraction industries in Australia are not the only ones seeking advice on compliance with human rights responsibilities.

Barrick Gold is defending a case in the Papua New Guinea National Court against landowners in the region of its majority-owned Porgera mine over \$38.5 million in allegedly missing monies from an investment fund set up under the company's mining lease to educate underprivileged local children.

Karubu Ipara, chairman of the Porgera SML Landowners Children's Investment Fund said around 10,000 students depended on the funds to pay their school fees and many children were left without an education because of the missing monies.

Mr Ipara said the current trustees were also arguing there were irregularities in the financial reporting for the fund between 2005 to 2014, a period during which the management of the fund fell to Barrick Gold.

"We need access to the funds and the records so we can get on with the job of administering it," he said.

HUMAN RIGHTS 'RESPECTED'



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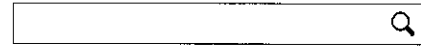
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Patrick Bindon, Barrick Gold's manager of corporate affairs for Australia-Pacific did not comment on the current case but said the company respected human rights and wanted to see them upheld on all operations.

"We look to emerging international standards and guidelines about how to prevent human rights abuses and how to respond appropriately when rights have been abrogated," Mr Bindon said.

Human rights is a domestic business problem as well, United Nations global compact network Australia executive manager Alice Cope said, as evidenced by the allegations against 7-Eleven concerning the underpayment of employees and other breaches of working conditions.

Ms Cope was among speakers at a Law Council of Australia symposium in November to educate lawyers about the United Nations Guiding Principles, which recognise the responsibilities of companies to respect human rights, and how they should be advising clients that subscribe to the voluntary framework.

Ms Cope said there were around 180 Australian signatories, including miners and banks, to the Compact in Australia, which helps companies adopt strategies to address human rights issues including labour, environment and anti-corruption. But Allens was the only law firm to have signed up.

"We need more firms involved, it shouldn't be a hard decision to make," she said, adding there were increasing demands on lawyers in Australia to advise companies on human rights.

GROWING RELEVANCE

Law Council of Australia president-elect Stuart Clark there were increasing demands on lawyers to advise companies on human rights because of the growing relevance of the UN principles. In-house lawyers in particular were expected to shoulder an increasingly complex responsibility.

"They are expected to act not only as technical experts, but also often as a company's de facto 'chief human rights officer'," Mr Stuart said.

One problem was that lawyers lacked an understanding of the principles and how to advise companies on them, and there was nothing in law school curriculums yet to address this, Norton Rose Fulbright partner Abigail McGregor said.

Ms McGregor said many companies had ethical business practices and were not signatories to the Compact and there was no reason why a law firm or company needed to sign up in order to achieve those ends.

Changes in corporate behaviour were being driven in other ways, she said.

"Corporations are operating in a global market with pressure groups. NGOs [non-government organisations] are armed with information about what companies are and are not doing which they can then inform consumers," Ms McGregor said.

A naming and shaming culture by virtue, for example, of measures in the United Kingdom that require companies to report on how they address slavery, and

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Johnson Winter Slattery partner John Keeves, who chairs the Law Council's business and human rights working group agreed, saying companies were demanding their supply chains follow suit by incorporating clauses into business contracts requiring third parties to comply with human rights responsibilities.

"With social media these days its not hard to imagine how not keeping an eye on supply chains could cause problems and brand damage," Mr Keeves.

"Many large companies are not necessarily at the point of putting due diligence frameworks in place, because of the cost and time, but they are looking at risk management as responsible investors are looking at the human rights records of companies and the potential risks."

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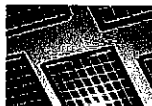
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