



“We made them an offer they couldn’t refuse”

-An exploration of the innovation of Human Rights Mediation in the Context of Corporate Social Responsibility

Adam JP Wolstenholme

K.U. Leuven

E.I.U.C Venice

Prof. Paul Lemmens

2009/2010 E.MA Thesis

Abstract

It has now been over ten years since the Global Compact and the investigative beam of human rights analysis has focused on business. Great advances have been seen in the concept now known as Corporate Social Responsibility (CSR). CSR has been promoted as a method of upholding human rights as globalisation has led to Multinational Corporations (MNCs) having power far greater than that which could have been imagined under the 1948 Declaration of Human Rights.

The expansive sprawl of corporate tentacles can now be felt and seen encompassing the globe. The impact of such expansion has promulgated much debate and action however, as yet the situation disappoints as human rights violations continue to occur at the hands of business. The issue of effective communication between Corporations and those who may be seen as ‘stake-holders’ remains nascent.

UN Special Rapporteur for Business and Human Rights has recently questioned the legal approach to CSR and access to remedial structures. Human Rights Mediation (HRM) is offered in this thesis as an innovation which may satisfy an increasing demand for a sustainable approach of business to human rights.

Contents

“We made them an offer they couldn’t refuse”	1
Abstract.....	2
Outline	4
1. Corporate Social Responsibility - A Business’ Duty to Humankind?	5
1.1 An Introduction to Corporate Social Responsibility	7
1.2 CSR’s Influence in Today’s World	9
1.3 A Raison D’être of CSR?	15
1.4 The Necessity for CSR - Human Rights Violations today	19
1.5 A Legal Perspective of CSR	22
1.6 Summary	25
2. Mediation - A mutually agreeable compromise.....	26
2.1 An Introduction to Mediation	27
2.2 Mediation Borne to Increase Harmony	30
2.3 Mediation in Practice.....	33
2.4 Mediation à la mode	38
2.5 Summary.....	41
3. CSR and Mediation: The route ahead for human rights.....	42
3.1 What is Human Rights Mediation (HRM)?.....	44
3.2 What is the role of Human Rights Mediation (HRM)?	46
3.3 Should one mediate human rights?	49
3.4 How can Human Rights Mediation Improve a Business’ Perspective of Human Rights?	54
3.5 Will stakeholders mediate?.....	59
3.6 Options Available to a Mediator	67
3.7 Mediation in Contrast to Existing Structures.....	72
3.7.i Human Rights Dialogues	72
3.7.ii State initiatives	73
3.7.iii Corporate Codes of Conduct.....	74
3.7.iv Mediators’ Codes of Conduct	75
3.8 Implementation, an attempt?.....	76
3.8.i Obstacles to success.....	76
3.8.ii Backing	77
4. Conclusion	79
Bibliography	82