

FULL DISCLOSURE HUMAN RIGHTS AT WORK

CATALYST >>



International human rights standards have traditionally been the responsibility of governments, aimed at regulating relations between the state and individuals or groups. As the influence and reach of companies has grown, there is a developing consensus that human rights are also applicable to private bodies CLAUDE FUSSLER¹

This paper draws on the key findings of research by expert consultancy Banarra Consulting, who were commissioned by the Construction, Forestry, Mining and Energy Union, Mining and Energy Division to review labour standards reporting in Australian firms. The full report *2010 Labour Practices in Sustainability Reporting* (Banarra review) was launched in March 2011.

This paper is not intended to present a definitive version of the comprehensive Banarra review. Rather we present the key findings as part of Catalyst's *Full Disclosure* series looking at corporate power and influence.

THE IMPORTANCE OF HUMAN RIGHTS IN THE WORKPLACE

Economic, social and cultural rights are part of the global platform for universal rights adopted by the United Nations General Assembly in 1948. Conventions cover issues such as just and favourable remuneration, education, living standards adequate for health and well-being, rest and leisure and the right to form and join trade unions.

In principle, these rights apply to private corporations², but in practice firms decide what standards are embraced and applied.

In the Australian context some international principles, such as the abolition of child labour are well accepted and applied. Others may be picked up in national standards that are expected to universally apply, such as minimum wages. But topics such as freedom to join trade unions (freedom of association) and the right to collective bargaining can generate significant discord in both public policy and in the workplace. Many companies are reluctant to fully disclose their approach to these issues.

REPORTING AGAINST THE GLOBAL REPORTING INITIATIVE (GRI)

The Banarra review into labour practices in sustainability reporting is a pioneering look at performance in reporting against the global benchmark, the Global Reporting Initiative (GRI).

The GRI is the world's leading framework for corporate sustainability reporting. It includes performance indicators on issues such as labour practices, human rights, environmental practice and corporate governance.³ Its take-up in Australia is low compared with overseas, particularly Europe, where there has been increasing public demand for corporate accountability regarding the impact of corporate activities on human rights, communities and the environment.

The GRI performance indicators are themselves developed and endorsed through a broad civil society consultation framework. The strong sign-up by Australian investors to the UN Principles of Responsible Investment relies upon investors using tools such as the GRI to assess companies' performance in meeting environmental, social and governance benchmarks.⁴ If companies aren't disclosing against these principles (and the Banarra review suggests that in the area of labour practices, many aren't) then investors will struggle to find companies with ethical labour standards and a culture of positive workplace rights.

Above all, the research by Banarra shows that concerning labour practices, Australian firms are not keeping pace with the growing global movement towards the GRI. Key stakeholders such as unions are not consulted in the reporting process. As a result there are several areas where global benchmarks did not deliver labour standards information that was considered adequate by unions, particularly regarding decent conditions of work.

This suggests a need for greater local involvement in the evolution of global reporting systems and local agitation to make sure international benchmarks better reflect the needs of workers in Australia.

Before turning to the key findings of the Banarra review, we reflect on the contested place of human rights in the workplace in Australia.

CONTESTED WORKPLACES

Few arenas of public policy are as contested as those of labour standards and workplace rights.

These issues played out spectacularly during the 2007 federal election campaign in the political contest over the WorkChoices industrial legislation—a contest that boiled down to how much power corporations should have over workers in the workplace. The community's rejection of Work Choices, and the change of government that ensued appear to have settled the issue in favour of protecting workers' rights. However, public discomfort about the impact of corporate power continues, even though—for the time being at least—this issue seems to be no longer in political contention.⁵

Plummeting public trust in corporations—which has been outlined in the opening paper of this series, *Full Disclosure: How Corporations Tell their Story*—has paralleled lavish spending by corporations on reputation management. Public attitudes have held firm since 2007 concerning the need for workers to have protection against bosses who do the wrong thing. Very few people feel that workers have too many rights: in all three quarters of people in a recent survey disagreed with this statement.⁶

High visibility advertising often aligns a company's image with its employees—it's usually the company worker (and rarely the CEO) whose face is used to establish confidence in the corporate brand. Less visible are decisions that impact negatively on workers and communities which can include decisions to reduce labour costs, outsource work or in extreme cases to shift operations to cheaper labour zones overseas ('offshoring').

Investors and regulators tread gingerly around what happens in the firm, preferring to leave the contested terrain of workplace relations to industrial parties or to tribunals that provide remedies or compensation for employment breaches. The focus on preventing violations can allow companies to overlook their responsibility to contribute to a positive environment for workers' rights.⁷ And while investors and regulators are increasingly interested in scrutinising corporate practice in the areas of corporate governance and environmental compliance, their interest is yet to extend to issues like how firms treat their workers.

Trade unions, while well placed to evaluate the impact of corporate employment policies, are rarely included in the company reporting process. Few investors consult with trade unions and fewer still evaluate the full impact of decisions like off-shoring on local workers and communities. Instead such decisions have become an accepted part of the modern corporate panorama, often presented as necessary to buoy up a continual flow of profits, executive bonuses and shareholder returns.

Despite this, there is strong evidence that respect for workers' rights, supported by high rates of unionisation, is conducive to business in general and to the profits, income and productivity of individual companies in particular.⁸

This accentuates the importance of full disclosure about labour practices so that investors can evaluate this information when deciding where to put their funds.

THE BANARRA SCORECARD

The Banarra review looked at how well the key guidelines under the global reporting benchmark, the GRI met the needs of key Australian stakeholders and how extensively benchmarks were applied and reported by select Australian firms.⁹

Ten firms were selected in this project (see Appendix 1). Companies were subsequently given an opportunity to respond to Banarra's findings.¹⁰

We turn now to some significant findings of the Banarra review.

DECENT CONDITIONS OF WORK

Despite a surging public policy interest in lightening the burden of work and improving the work-life balance, issues around decent conditions of work remain poorly developed in the GRI guidelines and poorly reported on by all ten companies in the Banarra review.

Turning this around is vital to responding to growing dissatisfaction with the impact of work on individual and community well-being. According to the 2010 Australian Work and Life Index (AWALI) survey, a majority of working Australians say that work—for all its benefits—has negative effects on the rest of their life. The survey notes that poor work-life outcomes have a broader societal impact, and impose a high cost on individuals and the community in the form of poorer health, increased stress and use of prescription medication, and less satisfying personal relationships.

The survey highlights continued dissatisfaction about long hours, especially from managerial and professional workers, and a strong preference from workers of all generations for a 35-hour week.

Overall a third of workers surveyed would like to work fewer hours. The situation was especially stark for full-time working women and working mothers, seven out of ten of whom said they almost always feel rushed and pressed for time.¹¹

As noted above, the Banarra review revealed the need for improvement in the GRI performance indicators, and in the reporting practice of companies, noting that disclosures about decent conditions of work was *one of the least reported areas looked at in their review*.

Issues that stakeholders would like to see Australian companies address in sustainability reports include more detail on working hours, comparisons of rates of pay in relation to industry averages and minimum wages, company policy on flexible working conditions (especially paid parental leave), and greater attention to risk in performance reward systems.

Overall improved disclosure about decent conditions of work would illustrate the real impact of company policies on the work-life balance of employees. It would also stimulate 'employer of choice' programs by rewarding those companies who give more than lip service to improving the quality of working life in their firms.

BARGAINING RIGHTS

Global standards for workforce representation and collective bargaining are wide-ranging and include *existing collective and industrial agreements and the mechanisms to monitor compliance and deal with breaches of agreements*.¹²

Under the GRI guidelines companies report on their approach to employee rights, representation and collective bargaining. The Banarra review found:

- Only five of the ten companies reported some information about the percentage of employees covered by collective bargaining agreements;
- Five companies reported on operations at risk of violating the right to exercise freedom of association and collective bargaining, with only three of these companies fully disclosing the information required in the performance indicator.

SECURE EMPLOYMENT

Unfortunately, with CEOs currently so focused on annual results, the short-term cost saving involved with casualising a workforce is often hard to pass up.

GED KEARNEY, ACTU PRESIDENT 2010¹³

Australia has one of the highest rates of casual work in the world—two million people are employed this way. The proportion of casual employees has grown slowly over the last two decades, with one in five workers now employed on a casual basis. Casual employees have consistently reported that they would prefer not to work on a casual basis even taking into account the effect this may have on their income. Most would prefer to have both paid holiday leave and sick leave, while others would prefer to have one or the other.¹⁴

While in the past, *this style of work was a steppingstone to something better, increasingly that's not the case: casual jobs are becoming permanent, without becoming permanent jobs.*¹⁵

Secure employment is also undermined by trends in the labour market, such as a fly-in, fly-out workforce, the growing reliance on labour hire companies, and the ready tap of temporary visa workers to paper over skill gaps and occupational shortages.

In looking at the GRI guidelines on secure employment, Banarra highlighted concerns of stakeholders, in particular:

None of the indicators directly address [issues of interest to stakeholders, such as]: changes in workforce size, working hours or nature of job functions; levels of uncertainty and fluctuation in conditions of work; the company's approach to and rationale for use of contractors and casual(s)... [or] policies and practices for responding to contractors who would like to be permanently employed.

For example while data is required under the performance indicator on turnover rates, stakeholders would like to see the reasons given for high rates of turnover.

Overall, Banarra found that the quality of company reporting around secure work indicators was generally inconsistent with the GRI guidelines. Information on aspects of secure employment was incomplete and the issues of interest to stakeholders highlighted above were left out.

HEALTH AND SAFETY OF WORKERS

Four occupational health and safety performance indicators within the GRI were identified by Banarra in their review. The indicators were then assessed in terms of their adequacy, which was ranked as 'medium', with significant gaps in issues that interest stakeholders. In terms of reporting against relevant indicators by the ten companies, the Banarra review found:

- Only two of the ten companies fully reported on workforce representation on health and safety committees, and eight did not report this.
- All companies partially reported injury, illness and absentee rates.
- Seven companies partially reported programs for managing serious diseases (three did not report).
- No company reported on health and safety coverage in collective agreements.

While five of the ten companies claimed to have fully disclosed injury and absentee rates, all companies were found to have only partially disclosed information against this indicator, with *a significant proportion of the companies failing to disclose inclusions and exclusions from the data; when the lost days count began; and absentee rates.*

EQUAL OPPORTUNITIES

The equal opportunities reporting requirements under the GRI guidelines were ranked highly, but the reporting practice of companies was low. In particular, information on the ratio of basic salary of men to women—considered as *an integral part of equal opportunity*—was incomplete.

Banarra note that some companies may disclose information to other bodies, such as the Equal Opportunity in the Workplace Agency (EOWA), but argue its inclusion in sustainability reports would make it accessible to a wider audience, including investors.

INTERNATIONAL AND NATIONAL STANDARDS

Banarra investigated the application of the International Labour Organisation (ILO) Fundamental Rights at Work principles, ranking both the reporting requirements and the reporting practice of the ten sample companies as moderate. The guidelines were found to overlook several core ILO conventions, whilst highlighting others, such as discrimination. So while the reporting practices of companies were consistent with the GRI guidelines, the GRI guidelines fell short of stakeholder interests, in that they were inferior to a range of ILO standards.

Stakeholders pointed out that there is no requirement on companies to disclose how they are implementing national and international commitments, including commitments in social and environmental charters. Stakeholders sought improvements in compliance and more detail of how companies are incorporating laws and regulations on labour practices into their risk management frameworks.

WORKERS OUTSIDE THE FIRM

Human rights screening of contractors and supply chain companies is gaining increased global attention within the GRI body. In Australia, the St James Ethics Centre has noted that issues such as human rights in the supply chain are not yet in the forefront of the agenda of Australian companies. They found that this was one of the topics requiring the greatest attention of Australian organisations.¹⁶

In their review Banarra found that only one company fully reported against the GRI indicator on supplier human rights screening. Further they ranked the GRI indicator as 'low' in terms of its capacity to address stakeholders' needs and highlighted several areas for improvement. Examples of issues raised include: how sub-contractors and business partners are defined; how companies determine the level of responsibility they take for sub-contractors and business partners; the codes of conduct and contracts that apply and details of compliance, and statistics on off-shoring and its impact on the local workforce.¹⁷

FUTURE ENGAGEMENT AND ACTION

Unions and workers are vital stakeholders in the sustainability reporting process but are generally not engaged in this process in the Australian context

BANARRA CONSULTING, 2010¹⁸

The GRI framework for sustainability reporting is developed through a multi-stakeholder process drawing on expertise from civil society, corporate, accounting, trade union and non-government organisations. In 2010, the former Australian Council of Trade Unions President participated in the GRI Stakeholder Council.

The GRI principles extend this multi-party approach to the reporting process and preparation of reports. Companies are expected to base the final report content on a *clear understanding of who their stakeholders are and the issues of most interest to stakeholders*.¹⁹

Banarra ranked the GRI performance indicators highly in terms of their potential application to include stakeholders in the reporting process.

However, in their review of the ten companies, they found that while most companies identified their stakeholders and to some extent how they engaged with them, the overall level of compliance with the GRI standard was low. Only two of the ten companies included unions in their list of stakeholder groups.²⁰

In determining what is important to stakeholders and relevant to the business, any number of issues can be reported on. The GRI standards refer to this as 'materiality'. Banarra found that while the standards themselves ranked highly, the current reporting practice of the ten companies fell well short of performance expected under the GRI.

Much of the veracity of systems of voluntary reporting against standards such as the GRI relies upon a company making public disclosures against selected benchmarks. In both of the above areas—stakeholder engagement and materiality—Banarra cited challenges in locating information and found inconsistencies between the claimed level of reporting, and information found in the companies' reports. That is, companies claimed a higher level of compliance than was evident from their material. Banarra note: *In identifying issues we were guided primarily by references made within each company's own GRI index table.... It is likely that if we were unable to easily locate the relevant information, then other stakeholders would have similar difficulties*.²¹

Such a lack of rigour is a major threat to the integrity of voluntary reporting under the GRI, and underlines the need for greater community awareness and involvement in the sustainability reporting process.

In drawing attention to these and other issues, several important topics are highlighted for further research and policy development. Driven by the Construction, Forestry, Mining and Energy Union, Mining and Energy division—a union with vast experience in sustainability reporting—the review also reveals that unions, non-government organisations and others with an interest in human rights at work need to engage more with sustainability reporting around labour practices.

This is an important ambition: the establishment of minimum reporting standards as expected by the GRI would greatly enhance security about rights at work while at the same time creating a more positive environment concerning rights for workers.

Human Rights at Work hopes to spark an interest in these issues and to direct a wider audience to the important findings of the Banarra review.

APPENDIX 1

Ten reports were selected for review in consultation with stakeholders.

Reports were selected to include companies from a range of different industry sectors. Banarra also took account of the maturity level of sustainability reporting, so companies selected had released at least three reports.

- 1 ANZ 2009 Corporate Responsibility Review
- 2 BHP Billiton 2010 Sustainability Report
- 3 Bluescope Steel 2009 Community, Safety and Environment Report
- 4 Coca-Cola Amatil 2010 Corporate Responsibility Report
- 5 Foster's Group 2009 Sustainability Report
- 6 NAB 2009 Annual Corporate Responsibility Review
- 7 Orica 2009 Sustainability Report
- 8 Rio Tinto 2009 Sustainable Development Report
- 9 Wesfarmers 2009 Sustainability Report
- 10 Woolworths 2009 Corporate Responsibility Report.

1 Fussler, Claude (ed), Raising the Bar: *Creating Value with the United Nations Global Compact* The World Business Council for Sustainable Development, *Chapter 1. The Un Global Compact: A Primer On The Principles*, 2004

2 Fussler, op cit, pp 20-21, 2004

3 See Banarra Consulting *2010 Labour Practices in Sustainability Reporting—A review*. A report for the Construction, Forestry, Mining and Energy Union, Mining and Energy Division, October 2010. For a discussion of the GRI framework. See also www.globalreporting.com

4 See Catalyst, *Full Disclosure: How corporations tell their story*, 2011. This report outlines that there are 108 signatories to the PRI in Australia: 33 were asset owners and 57 were investment managers. Globally there are 769 signatories to the PRI. This shows a strong take up of the UN PRI principles by Australian investors. It is estimated that approximately half of the funds managed by Australian asset managers (around \$338 billion) fall under the PRI commitments to environmental, social and governance integration. See also: Responsible Investors Association Australia, *Responsible Investment 2009*, www.riaa.org.au

5 In the 2010 Federal Election campaign the Opposition Leader, Tony Abbott signed a contract promising WorkChoices was 'dead and buried.' See Patricia Karvelas, *Tony Abbott signs contract on Work Choices but muddles message on workplace laws*, 19 July 2010, www.theaustralian.com.au

6 Catalyst, *Attitudes to Corporate Australia, An online survey of 1360 adult Australians, conducted by the Australia Institute, March 2010*, 2010

7 Fussler, op cit.

8 Fussler op cit, citing World Bank, *Unions and Collective Bargaining: Economic Effects in a global Environment (2003)*, Washington DC, 2004.

9 In selecting ten benchmarks to measure performance against, Banarra was informed by interviews with stakeholder unions and published material, such as the ISO standard 2600:2010 and the *Trade Union Guide to GRI Sustainability Reporting Guidelines*.

10 The selection of factors and firms was influenced by the Catalyst's *Full Disclosure* project, which sought to capture a representative sample of 12 companies covering blue and white collar workers in manufacturing, resources and service sector firms. The Banarra review looked at ten of these 12 firms with a history of three years or more of sustainability reporting. See Banarra op cit, pp 10 and 11. Appendix 2 to the Banarra report looks at the performance of individual companies, pp 51-80

11 Barbara Pocock, Natalie Skinner and Sandra Pisaniello, *How much should we work? Working hours, holidays and working life: the participation challenge, Australian Work and Life Index 2010*, University of South Australia, 2010

12 Banarra, op cit, page 22

13 Ged Kearney *Precarious job security is not confined to the third world*, The Punch, 15th November 2010.

14 Australian Bureau of Statistics, *Measures of Australia's Progress*, Cat No. 1370.0, 2010. These preferences were reported by about half of all casual employees.

15 *ibid*.

16 St James Ethics Centre, *Measuring and Managing Corporate Social Responsibility* www.ethics.org.au, 2005

17 For example how sub-contractors and business partners are defined and how companies determine the level of responsibility they take for sub-contractors and business partners; the codes of conduct and contracts that apply and details of compliance, and statistics on off-shoring and its impact on the local workforce.

18 Banarra, op cit, page 4

19 Banarra, op cit, page 16

20 Banarra, op cit page 16

21 Banarra, op cit page 11

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ABOUT CATALYST

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