# Take on Board

Transcript – Alex Newton

Helga Svendsen 0:00

Today on the take on board podcast, I'll be speaking with Alex Newton about human rights and business and what directors need to know and what to ask will also talk through the new modern slavery laws and their implications for governance. First, let me tell you a little bit about Alex. Alex is a lawyer and specialist in business and human rights. She consults to corporations, governments, and non governmental organizations on a wide range of matters relating to responsible business, human rights, anti discrimination, Public Policy and Governance. She's previously worked as director and executive in Australia's department of Prime Minister and Cabinet. And before that in the United Nations Secretary General's strategic planning unit in New York. Welcome to the take on board podcast, Alex.

Alex Newton 0:44

Thank you very much. Yeah, it's wonderful to be here.

Helga Svendsen 0:46

I know that the conversation we're going to have is going to be incredibly useful for directors around an area that is new and emerging and often people don't know about so great to have you here. Before we explore human rights in business. I'd love to hear a little bit more about you. So can you tell me just a little bit more about you?

Alex Newton 1:08

Certainly. So, I guess I've always been really interested in human rights and yet very driven by ideas about quality and equal opportunity. I worked as a lawyer initially in the early years of my career, and then from there went to work more in public policy first for the UN and then for Australia's department of Prime Minister and Cabinet, as you mentioned. So I guess increasingly, I became really fascinated by the role of business as it relates to human rights. And I really started to appreciate just the enormous impact that corporations can have in terms of positive impacts on human rights, but also adversely impacting human rights and their supply chains and operations.

Helga Svendsen 1:51

You've literally written the book around human rights in business and practice and principles. So we did idea for the book come from?

Alex Newton 2:02

Right? Well, basically, it came from my work as an independent consultant. And so I've been running my own consultancy for the past four years or so. And in my work, I've encountered many corporate executives who are really quite unfamiliar with the concept of human rights. And your question its relevance to business. And I found others are aware of the UN guiding principles on business and human rights in general, but don't really know where they might start to implement them. So it really seemed to me that there was a great need for a one on one style guide, explaining why businesses should respect human rights and how they can start doing so. So that's really where the idea came from. So it was originally I guess, inspired by my work with executives, but then also the more I work with government officials and also just talking to people in the in the broader public, I realized that these are issues that have relevance to all of us and they're really pertinent and important today.

Helga Svendsen 3:00

It is interesting when you talk there about people questioning how human rights and business connect. And I imagine that is often the case where it's like, well, what's that got to do with us? What is the relevance of human rights to business?

Alex Newton 3:14

So what's the relevance of human rights to business? So human rights have a range of implications for business, both legal and non legal. So in terms of the legal implications, historically, international law has generally bound states rather than corporations or individuals. But under international criminal law, corporate executives and directors can be investigated or prosecuted for their company's criminal conduct. And likewise, under domestic laws, various countries now have legislation that regulate corporate conduct for human rights. And an example of this is Australia's modern slavery Act, which requires a modern slavery statement to be approved and signed off by the board or whatever principle governing body runs the entity. So yeah, that's one of the legal implications of human rights for business. But there's also non legal implications. And these include the financial costs of human rights impacts for business and also reputational impacts. And we've seen recently some really, absolutely enormous costs to business, for example, in 2010, BP Deepwater Horizon explosion, an oil spill, which actually cost 62 billion US dollars for BP and that obviously had environmental impacts, but also human rights impacts. Likewise, the valet BHP Billiton damn disaster several years ago, had absolutely enormous, not only cost a life but also financial costs for the company. So in terms of how human rights relates to business, there's many, many ways and days really important for directors particularly to keep in mind as they assist They risk to their companies.

Helga Svendsen 5:01

What are the sorts of things directors should be thinking about? How can they bring that to the board table? What are the questions they should be asking? And how should they make sure that the organization that they are governing has a proper Human Rights Framework?

Alex Newton 5:18

Right? Well, I think it's really important to look at the particular business that you're in, and the nature of your industry and the particular risks that your company and industry faces in terms of human rights. So this could be in relation to a businesses supply chain. These will vary obviously, relating to whether it's a small company operating perhaps just in Australia, in comparison to an enormous supply chain, operating multinational all around the world. Businesses supply chain, also the location that its operating in, whether it's potentially a conflict situation or post conflict situation, whether there are adequate law in place that respect human rights, and if so if those laws are actually enforced, likewise, questions around the sorts of employees that your company has, and whether you directly employ those or whether you use supplier agreements and third party operators. All these questions can be around the sorts of risks that you face, in your business and in your operations. So in terms of what directors need to think about, it's really asking yourselves, are you meeting your responsibility to respect human rights and that responsibilities sit out under the UN guiding principles on business and human rights that Professor John Ruggie from Harvard, articulated through the wind guiding principles on business and human rights that were endorsed unanimously by the UN Human Rights Council in 2011. The guiding principles set out a terrific framework that directors and corporate executives can apply directly to their operations. And I think crucially, it's important to think about human Due Diligence, which is really different to corporate due diligence. So, you know, as a former corporate lawyer, you conduct due diligence before you undertake a transaction, you tick all the boxes, make sure everything's in place, and then you go ahead, and that that part of the project is done and dusted. However, the Human Rights due diligence is different in the respect that it's continuous and ongoing. You have to ensure that you're constantly monitoring your supply chains and the risks across your operations to ensure that you are across all those risks and that when they do arise that you address them appropriately.

Helga Svendsen 7:36

Okay, so determining, you know, how much of an impact it would have on your organization and then making sure it comes back regularly. So in Australia, there's these new modern slavery laws. Give us the summary. What do we need to know about the modern slavery laws? When did they come into effect? Who do they impact? What do we need to know?

Alex Newton 7:56

Yes, certainly. So Australia's federal modern slavery act was passed by Parliament at the very end of 2018. And it commenced into operation on first of January 2019. So this act states that entities with hundred million dollars or more per annum will be required to submit an annual modern slavery statement to the Australian Government. And essentially what this means is that statement need to outline the steps that the organization has taken to combat the risk of modern slavery in its supply chains. So it's an annual reporting requirement. It applies not only to corporations, but also other entities. So hospitals and universities, not for profits, and actually even the government itself is required to submit a statement. And the Australian Government has said that that's actually a world service that it's the first time of government will also be reporting and a modern slavery act. That's really Interesting, I think and shows the level of commitment. The government has to really following these principles itself and its own procurement and supply chain.

Helga Svendsen 9:11

You know, my ears pricked up there when you said it applies to all organizations, and you reeled off a few and one of them was health. Yes. You had said earlier that you wrote the book, because you'd often heard Oh, that doesn't apply to us. That's not Yes. You know, this human rights framework or the modern slavery framework, it was probably more about human rights generally, because the modern slavery laws weren't in place, but I imagine it's the same sorts of arguments. And I imagine for organizations that are in mining, or manufacturing and some of those industries, they do, hopefully, more regularly look at these things. Now. I'm on the board of a hospital of a health service. Yes. How might these things impact what we do

Alex Newton 9:55

If you look at your hospital and the sorts of equipment materials that you use every day, or that the doctors and nurses use every day. There's just a whole range of things, I guess that will come to mind in terms of medical equipment of machines that are needed in hospital setting. And then also the sorts of disposable things there. The rubber gloves, the syringes, the instruments, and then also their facilities in terms of the sheets, the towels, the cleaning equipment, all these things have an origin somewhere and suppliers that are providing them to the hospital. And so yeah, thinking about where these things have come from, what the potential impacts might be in terms of how they're produced, their potential adverse impacts on the people that are supplying them. That definitely really important questions to be asking. Also in the medical context, and there's been an inquiry recently on the issue of organ harvesting in China. And that's an issue. I think that It also has implications for the business community in terms of individuals traveling to China, in cases of no doubt, extreme desperation, seeking medical treatment, and how we're facilitating that is in terms of the medical system. This is a really, really topical area in terms of the medical industry and what the implications might be for people in that supply chain in terms of abuse and exploitation.

Helga Svendsen 11:28

Interesting. So it's really looking at a quite broadly from, as you say, organs through to the rubber gloves that are being used in the hospital. I feel like I'm getting my director advice here, Alex, and it's because I absolutely am it in a practical sense for me as a director of our hospital. What should I be asking for? It sounds like almost e-procurement people, for example, need to map out exactly where things are coming from and seek assurance about the supply chain as a director, what should I be asking for?

Alex Newton 12:00

Yes, I think you should really be asking questions around. How is your organization? How is the hospital meeting its responsibility to respect human rights, how are these issues applied by the procurement team? How many suppliers are in the supply chain? What are the particular industries that the suppliers are coming from? And particularly asking, Where are those suppliers in industries that may be indicative of higher risks in terms of the impacts for human rights. So there are certain sectors where we know the apparel sector for example, we know that there are high risks of human rights violations in terms of the fast fashion industry. I'm not sure about sheets and towels, the cotton presumably that used in those products and very well could come from circumstances that are compromised in terms of the human rights of the individuals producing them. So I think it really as I said before, focusing in on the products and services that you provide As an organization, and looking at where are the particular risks likely to be greatest because I think one of the problems people often faces, they feel understandably quite overwhelmed. When you look at the number of suppliers you may have, whether it's a hospital or university Corporation, many organizations have really limited supply chain that is dispersed and Levantine in terms of its layout. And I think you can't do everything at once. But you need to start with the highest risk issues. So start with those first and go through systematically devising a plan for how you get to the lower down recent issues later on.

Helga Svendsen 13:44

So as a director of a health service, we are clearly covered by these by the sounds of things. and we are required to make a statement around the modern slavery laws. One around timelines for these how does how does this work for us? When do I need to get it on the board agenda?

Alex Newton 14:00

Yes, this is a really good question. Hello, thank you for asking me. So it will depend upon the timing of your financial year as an entity. So whether it is a an Australian financial year that you follow or whether it's a calendar year that you follow. So essentially, the modern slavery statement must be delivered to the Minister within six months of the end of the reporting period. So that will vary.

Helga Svendsen 14:29

Great. Alright, well, it sounds like I need to be getting it on the agenda, given our financial year for us finished at the end of June. So I'm, thank you for that beautiful pro bono advice about how we should be handling this. It's incredibly useful for us, I think for which also, I suspect means it's going to be incredibly useful for a whole range of other directors that might be listening to this and knowing that we actually need to be doing something about it. So it's great.

Alex Newton 14:56

Yeah, and just on that also might just add that the statement is the end of the process. So, essentially, it's important to start well ahead of the statement to date, because there's a whole lot of work and due diligence and conversations that need to happen both with your suppliers, but also internally, with your corporate executives and we get bored. So it's really important that you start as early as possible as a board to look at these issues. And if you don't have the expertise internally to just seek resources from outside to help you to meet these requirements, adequately.

Helga Svendsen 15:33

Excellent. Okay. Well, you have prompted me to ask this at the next board meeting, it may well be that the organization has already started work on this. But as a director, I need to assure myself that they have so I will be asking around what work we have done to fulfill our requirements under the modern slavery legislation and be seeking a bit of a timeline to make sure that we can find out about that. So thank you. That is fantastic advice. And I would encourage others directors to be doing the same in their organizations as well, because it sounds like it has quite a broad brush applicability. So with finding out about. Now, one of the other areas I know you touched on in your book around how human rights might impact businesses is another area that's got quite a bit of media attention and other attention around sexual harassment and discrimination. Certainly, if we're thinking reputational risk and others, leaving aside just wanting to be a good workplace, we know there might be some implications, but can you talk us through the sorts of things that directors should be thinking about here and having a look out for.

Alex Newton 16:38

I included a chapter in a book specifically dealing with sexual harassment in the workplace? And I think this is a critical issue for directors to engage with actively. And we know that sexual harassment is extremely prevalent, like harassment and other forms of sexual discrimination. And we know that it's also a very complicated issue. When there are no easy answers, so I think one of the key things for directors to be focusing your minds on is what kind of corporate culture I you encouraging and inculcating across the organization. And this, this comes down to what sort of conduct is encouraged and tolerated? How is this encapsulated in corporate policies, and really importantly, how these behaviors modelled by the leaders of the organization. And when there are issues that arise, does the organization put their money where their mouth is and take decisive action to deal with it effectively. So I think it is a range of really important issues for directors to consider. It's crucial that they have the relevant policies and procedures in place so that you can roll out appropriate training on a regular basis and ensure that that is up to date, both in terms of the content but also in terms of the procedures that employees are trained in that you can ensure that everyone's Today, I'm really cognizant of these issues. So you can try to prevent it as much as possible. But then also being aware that no doubt it will happen from time to time. And how do you respond to that as an organization? And how does the board lead to ensure that best practices followed?

Helga Svendsen 18:19

I imagine with an increased focus on sexual harassment in the workplace and discrimination in the workplace that, you know, somewhat ironically, my point is that there is more reports of these things happening, which doesn't mean that it's happening more in the workplace, it just means it's now being reported more often. And then as management and directors become aware of it, that response to what is vital.

Alex Newton 18:40

I think that's right. It's a funny sort of chicken and egg thing, isn't it? And as we saw with the me to movement that started in the US and then really spread globally. I think there's a whole swathe of shame that encapsulates these issues and that movement really empowered mainly women but also men to start cop when they had experienced these issues, either recently or in the past? So I think yeah, it has been a great thing in terms of bringing these issues out from the dark, but to we just have to ensure that we're vigilant so that we can hopefully see an improvement in terms of the outcomes for people that come forward and report.

Helga Svendsen 19:19

So for directors, it's, it's making sure that frameworks are in place around policies and procedures and so on. But I think what I'm hearing There is also, culture is key in this, you know, there's been talk about culture from the financial services Royal Commission and from a whole range of other areas and really leading that and making sure it is open and transparent and responds well to the issues when they arise as they Well, hopefully not inevitably will. I think they'll be a spike in reports, and then hopefully, that will come down the other side.

Alex Newton 19:48

Yes, yes, absolutely.

Helga Svendsen 19:50

So we've covered so much and you've given me some fantastic advice for our organization. Thinking about the conversation and what we've covered. What are the most points that you want people to take away from what we've talked about.

Alex Newton 20:02

So I think one of the key points is that human rights are relevant for all businesses. And it doesn't matter what sector, what industry working, whether you're based solely in Australia, or whether you're working internationally, these issues are pertinent for all organizations. Also, I guess the importance of engagement across not only the board, but also your senior executives, and then right down through the organization so that you can have an ongoing conversation with employees at all levels of the organization. So I'd also underline the importance of human rights, due diligence and starting early, as I said, not only with modern slavery statements, but also starting early to look across your organization at the sorts of risks that it faces in terms of the specific industry in the work it does. Encourage listeners and particularly board directors to really proactively engage with these issues. Read a bit about the topic of business and human rights. And obviously, my book is a great place to start, but also, also the UN guiding principles send out a really wonderful framework that can help you in this process of understanding your obligations, and most importantly, what you need to do to meet them. Fantastic. And we'll make sure we put a link in the show notes both to your book, which will be incredibly valuable for people. And also a link to the UN guiding principles will make sure a link there's a link to both of those in the show notes. Wonderful. Thank you.

Helga Svendsen 21:34

And finally, I mean, you've given me some fabulous actions and steps that I might take away from it, what what's your suggestions for our community around what they can do? What are just some simple steps that people might be able to take?

Alex Newton 21:47

Yes, I mean, I think what I try to emphasize in the book is that really these issues apply to all of us. We're all either consumers of products, many of us are employees were committed members were impacted by business every day of our lives. And in many cases, that's in a positive way. But occasionally, sadly, that is in a negative way. So I really would encourage people to ask questions of corporations to be interested in how business supply chains impact on human rights and on communities more broadly. And I would ask executives and boards to, as I said, to think really proactively about how they're meeting their responsibility to respect human rights, what processes do they have in place, and also what policies they have and whether they reflect best practice in terms of the human guiding principles and other frameworks that have been enormously valuable in recent years. So in many cases, that that expertise may come internally, but in other cases, organizations might have to look outside in terms of the resources that they can pull in to help them make their responsible So it's very much an ongoing process, as I said, to respect human rights. And, you know, obviously something that people need to be vigilant about on a continuous basis.

Helga Svendsen 23:10

Fantastic. Well, I will certainly be taking your advice on that said, thank you so much for that. Alex, thank you so much for this conversation. It has been, as I say, not just incredibly useful for me in my governance of the hospital, and will be raising some of these issues, but I'm sure it will also raise similar issues. And it'll be getting raised in boardrooms, all around the place after this, which is fantastic. And I kind of say, in some ways, the obligations that we have under the modern slavery laws, and because it's such a new piece of legislation, may well allow us to think more broadly for those organizations that haven't considered human rights in business. It is a catalyst for us to have that broader conversation as well. So thank you so much for taking us through some of these things. I know it will be incredibly valuable for people.

Alex Newton 23:56

Thank you so much Helga. It's been so lovely to speak to you and have the opportunity to to connect on these issues that I'm very passionate about. So thank you so much.

Helga Svendsen 24:05

Fabulous. Thanks, Alex.