

# Working Around the Great Firewall of China

Recommendations for U.S. Internet Companies



**Jessica Droste Yagan**

Master in Public Administration 2007

John F. Kennedy School of Government, Harvard University

July 2006 | Student Paper No. 2

A Student Paper of the:

**Corporate Social Responsibility Initiative**

A Cooperative Project among:

The Mossavar-Rahmani Center for Business and Government

The Center for Public Leadership

The Hauser Center for Nonprofit Organizations

The Joan Shorenstein Center on the Press, Politics and Public Policy

## **Citation**

This paper may be cited as: Yagan, Jessica Droste. 2006. "Working Around the Great Firewall of China: Recommendations for U.S. Internet Companies." Corporate Social Responsibility Initiative Student Paper No. 2. Cambridge, MA: John F. Kennedy School of Government, Harvard University. Comments may be directed to the author.

## **Corporate Social Responsibility Initiative**

The Corporate Social Responsibility Initiative at the Kennedy School of Government is a multi-disciplinary and multi-stakeholder program that seeks to study and enhance the public role of the private enterprise. It explores the intersection of corporate responsibility, corporate governance and strategy, public policy, and the media. It bridges theory and practice, builds leadership skills, and supports constructive dialogue and collaboration among different sectors. It was founded in 2004 with the support of Walter H. Shorenstein, Chevron Corporation, The Coca-Cola Company, and General Motors.

The views expressed in this paper are those of the author and do not imply endorsement by the Corporate Social Responsibility Initiative, the John F. Kennedy School of Government, or Harvard University.

## **For Further Information**

Further information on the Corporate Social Responsibility Initiative can be obtained from the Program Coordinator, Mossavar-Rahmani Center for Business and Government, John F. Kennedy School of Government, 79 JFK Street, Cambridge, MA 02138, telephone (617) 495-1446, telefax (617) 496-0063, email CSRI@ksg.harvard.edu.

The homepage for the Corporate Social Responsibility Initiative can be found at: <http://www.ksg.harvard.edu/cbg/csri/home.htm>

**Working Around the Great Firewall of China:**  
**Recommendations for U.S. Internet Companies**

Jessica Droste Yagan  
Master in Public Administration Candidate  
John F. Kennedy School of Government  
Harvard University

Submitted May 22, 2006  
To Professor John G. Ruggie

## **Introduction**

The information technology industry is under attack for its involvement in human rights abuses related to privacy and freedom of speech in repressive regimes. In particular, leading consumer Internet companies are struggling to meet the expectations of two discordant governments and societies in a climate of suspicion and high stakes in the developing Chinese market. Despite these challenges, IT executives are well-positioned to learn from the lessons of older industries and their approaches to similar human rights challenges.

This paper summarizes the current human rights situation facing the information technology industry and focuses on the four largest U.S. companies active in China: Cisco, Google, Microsoft, and Yahoo. It begins by putting the problem in context and then reviews and critiques alternative approaches, focusing on the three consumer Internet companies (Google, Microsoft, and Yahoo). It concludes with recommendations for Internet companies as they continue to address this situation.

## **Background**

The OpenNet Initiative, a collaboration of several academic centers that monitor state surveillance and filtration practices, documents at least three dozen countries that control Internet access in ways that most democracies find unacceptable. Some of the most egregious offenders include Bahrain, China, Burma, Iran, Saudi Arabia, Singapore, Tunisia, United Arab Emirates, and Yemen.<sup>1,2</sup> This paper focuses on China, not only the largest country, but also the country employing the most sophisticated technology to control information. What happens in China will set the stage for Internet-related human rights challenges everywhere.

### *The Great Firewall of China*

The Congressional Research Service estimates that 111 to 134 million Chinese people had Internet access in 2005.<sup>3</sup> Reportedly, 87% of these use online search, more

than 400 million search queries take place every day (an increase of almost 1600% since 2002), and there are 166 million active mailboxes and 87 million instant messenger users.<sup>4</sup> While representing only 8 to 10% of China's total population, this Internet-savvy subgroup is growing quickly and represents a formidable challenge for the Chinese government's control over communications and organizing activities. As it does with offline media, the Chinese government seeks to limit online content about democracy, minority interests in Taiwan or Tibet, and labor unrest, among other issues.<sup>5</sup> The state's response to the challenge has been three-pronged (commonly referred to as the Great Firewall of China): direct state surveillance and filtration, state mandated third-party surveillance and filtration, and state-induced self-censorship.

The Chinese government directly monitors only the content that goes through Internet Exchange Points (IXPs) at the country's borders and major IXPs within the country through the use of sophisticated technology and significant human resources. China has invested tens of millions of dollars on the most sophisticated Internet filtering and surveillance equipment.<sup>6</sup> As Liu Zhengrong, a senior Chinese official, put it, they have built "a sophisticated firewall to protect the Communist Party from web-based challenges."<sup>7</sup> There are more than twelve different government agencies involved in Internet regulation, including more than 30,000 human monitors within police departments around the country who screen Internet traffic and investigate online crimes.<sup>8</sup> The government also pays neighbors such as "the old woman on [the] block" to monitor others' Internet use and offers rewards to all citizens who report "illegal" or "harmful" Internet actions.<sup>9,10</sup>

Because much of the Internet traffic in China does not go through government-monitored IXPs, the Chinese government must also rely on third parties to execute surveillance and filtering on its behalf. This affects every Internet-related company in China: private Internet Service Providers (ISPs), IXPs, and Internet access points (such as Internet cafes) are required to monitor and filter content; private web publishers (publicly available websites) must self-censor their content; providers of forums for user-generated content such as blogs or social networks must monitor and filter content; and providers of

search engines must log queries and censor search results. Content providers are also required to record all content published and the date of publication, keep those records for 60 days, and make them available to the government upon request.<sup>11</sup>

Every private company that offers Internet services in China must first sign a license agreeing “not to circulate . . . material that damages the honor or interests of the state, . . . disturbs the public order, . . . [or] infringes upon national customs and habits.” The combination of vague instructions and associated harsh penalties often results in companies censoring even more aggressively than does the Chinese government.<sup>12</sup>

Perhaps most powerful of the Chinese government’s strategies is its inducement of fear. Most Chinese self-police and do not use the Internet to say or do things that will aggravate the government because they understand the consequences all too well. The government has jailed between fifteen and fifty-four “cyber-dissidents” (people who post subversive content on the web) to send a clear signal to Chinese Internet users.<sup>13</sup> Businesses in China also self-police because they would otherwise risk losing their licenses to operate; aggressive censorship serves both executives’ self-interest and also protects shareholders and staff.

While experts agree that Chinese Internet policies have a negative impact on the Chinese, the magnitude remains unclear. Human rights groups claim that the Chinese government blocks access to hundreds of web sites because they are critical of state policies or leaders but government officials claim that such controls are similar to those used by the U.S. government. For instance, many private companies in the U.S. “reserve the right to delete or block content in reader discussion groups that editors determine to be illegal, harmful or in bad taste” and law enforcement and intelligence agencies have the ability to monitor email and other Internet traffic.<sup>14,15</sup>

Despite its strict controls, the Internet has forced the Chinese government to be more transparent and has thus given the Chinese people greater freedom. In the case of the recent SARS outbreak in Southern China, the state media tried to control the release

of information as usual, but news of the outbreak spread quickly on the Internet and forced the Chinese government to deal more openly with the problem.<sup>16</sup> Along with greater access to information, the Internet allows easier communication among the Chinese people. According to a recent study released by the Chinese Academy of Social Science, most Chinese Internet users believe that the Internet provides more opportunity for criticizing the government and that the Internet is changing politics in China.<sup>17</sup> U.S. sources agree: a recent report by RAND asserts that “the Internet has allowed dissidents on the mainland to communicate with each other with greater ease and rapidity than ever before.”<sup>18</sup>

### *The Internet and human rights in China*

At least four categories of human rights abuses occur as a result of Chinese Internet control policies. Specifically, they include the following articles of the Universal Declaration of Human Rights, the foundational document of human rights:<sup>19</sup>

Article 12: “No one shall be subjected to arbitrary interference with his privacy, home or correspondence, nor to attacks upon his honour and reputation.”

While there is a popular consensus for the acceptability of using Internet surveillance and filtering to address other societal concerns such as child pornography or terrorism threats, using such actions to control political expression violates Article 12.

Article 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

The Chinese government censors unsanctioned religious or political beliefs, in violation of Article 18.

Article 19: “Everyone has the right of freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Perhaps the most egregious of all the Chinese violations, Article 19 explicitly refers to the exchange of information through any media and across any frontier, which the government interferes with and prosecutes in violation of this Article.

Article 20: “Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

The Internet allows people to associate on websites and to gather in virtual groups; the Chinese government strictly regulates and monitors such activity, in violation of Article 20.

Most of the international community believes that, according to the Universal Declaration of Human Rights, which does not carry the weight of law (China has signed but not ratified the International Covenant on Civil and Political Rights)<sup>20</sup>, the Chinese government violates human rights and does so not only through the Internet but also through many other interactions with its citizens. The Chinese government would argue that its people’s rights are only limited in accordance with Article 29 of the Universal Declaration of Human Rights, which in part states that “everyone shall be subject only to such limitations as are determined by law solely for the purpose of . . . meeting the just requirements of morality, public order and the general welfare in a democratic society.”

This paper assumes that the Chinese government has overstepped its mandate to protect public order and has violated human rights. The question then, is: given the fact that human rights are being violated, to what extent are American companies complicit in – and therefore responsible for – these abuses?

### *U.S. companies involved in human rights abuses*

China is one of the few countries where U.S. companies do not dominate the Internet,<sup>21</sup> but as the second largest Internet market,<sup>22</sup> it represents an important business opportunity for them. In the process of staking their claims, they have had to deal with some challenging allegations and truths about their relationships with the Chinese government and how they might be committing or contributing to human rights violations. These companies have taken different approaches to entering the Chinese market (despite the fact that they often get lumped together by the media and the U.S. Government), but they tend to face the same three types of human rights challenges, as they relate to: selling technology to China, altering online products for China, and cooperating with the Chinese government's prosecution of Internet users.

The first issue faces companies that sell Internet filtering and surveillance equipment to China. While Cisco Systems is not the only U.S. company implicated, it is a leading provider and can illustrate the challenges of the industry as a whole. Cisco is a primary source for routers and other Internet equipment in China and it recently received part of the contract for China's latest network upgrade, CN2.<sup>23</sup> Reporters Without Borders claims that Cisco has "marketed equipment specifically designed to make it easier for the Chinese police to carry out surveillance of electronic communications" and suspects that Cisco also provides censorship training to Chinese engineers.<sup>24</sup> Cisco, on the other hand, argues that China buys only "off-the-shelf" technology that has standard capabilities such as filtering (commonly used throughout the world to defend against viruses or other malicious content).<sup>25</sup> Cisco, whether or not it modifies its products for the Chinese government, does profit from the use of its equipment to violate human rights.

The second set of challenges faces companies that comply with Chinese government directives to alter online products such as search engines and blogging tools for the Chinese market. This has usually involved blocking or filtering words such as "democracy" or "human rights."

Yahoo has operated in China since 1999.<sup>26</sup> Because it hosted its sites on servers located in China from the beginning, executives felt pressured to sign China's "Public Pledge on Self-discipline for the Chinese Internet Industry," sponsored by the Internet Society of China.<sup>27</sup> Among other things, the pledge requires that the company "refrain from producing, posting, or disseminating harmful information that may jeopardize state security and disrupt social stability."<sup>28</sup>

Microsoft began its MSN China portal and accompanying MSN Spaces service in the spring of 2005. It originally forbade "inappropriate blog titles such as 'human rights,' but eventually allowed words like freedom and democracy."<sup>29,30</sup> Its new policy also promises to remove access to blog content only after receipt of a legally binding notice from the Chinese government and to notify users when and why it blocked that content.<sup>31</sup>

Until early 2006, Google made no special accommodations for China – it simply offered a Chinese-language version of Google.com. As a result, the Chinese government and private Internet companies filtered Google.com themselves, which not only limited search results but also caused Chinese users to experience delays, occasional unavailability, and frequent redirection to local Chinese search engines. Concerned about users experiencing a manipulated, poor quality product and losing market share, Google introduced Chinese-based Google.cn, which is subject to Chinese government self-censorship requirements, this year. The Chinese-language version of Google.com is also still available in China, allowing Chinese Internet users to see the difference between a state-filtered search and a self-censored search and sometimes offering less comprehensive censorship when government censors fail. Google also brought unprecedented transparency to the issue by announcing that "search results would be filtered according to Chinese government specifications."<sup>32,33</sup> Google did this without seeking the approval of the Chinese government.<sup>34</sup>

Whether or not these companies inform their users or wait for a legally binding notice, their partnership with the Chinese government makes them complicit in China's abuse of human rights.

The third and final set of human rights challenges involves compliance with Chinese government demands related to the punishment of specific Internet users. These demands range from removing a specific user's blog to turning over personal information about a specific user. Google has completely avoided this issue thus far; it does not offer its blogging or communications services in China "out of concern for the privacy of potential users."<sup>35</sup> Microsoft deliberately hosts its servers in the U.S., but it has nonetheless removed at least one blogger's site at the request of the Chinese government, and without requesting a legal order to do so.<sup>36</sup>

Yahoo, on the other hand, offers these communication services in China and also hosts its servers in China, giving it more exposure.<sup>37</sup> Human Rights proponents accuse Yahoo of assisting the Chinese government in its prosecutions of four cyber-dissidents: Li Zhi who was sent to jail for eight years in 2003, Shi Tao who was sentenced to ten years in prison in 2004, Jiang Lijun who was imprisoned in 2003, and Wang Xiaoning who was sentenced to ten years in prison in 2003.<sup>38,39,40,41</sup> Yahoo acknowledges that it shared relevant information at the request of the Chinese government but claims that it did not know why the information was being requested.<sup>42</sup> Whether or not Microsoft and Yahoo are knowingly abetting human rights abuses by the Chinese government, their actions have had that effect.

### *Selling technology*

After briefly addressing Cisco's unique challenge of selling technology to the Chinese government, the rest of this paper will focus on the issues facing Google, MSN, and Yahoo.

Cisco denies accusations that it alters its products or creates customized products for the Chinese. The Chinese happen to use Cisco's products to violate human rights, but

Cisco is not actively involved in the process in the same direct manner as the consumer Internet companies. Further, there is limited opportunity for an industry-wide code of conduct to improve the situation. The industry could agree to use product design or licensing to make it difficult for the Chinese government to use its products for certain purposes, but an industry in which success derives from technological innovation and differentiation is unlikely to do so. It could also pledge not to sell certain products to the Chinese government, which would remove it from the fray but would not necessarily address the problem if there are non-participant competitors who will gladly step in.

The U.S. government could force Cisco's and other Internet technology companies' hands by using the Export Administration Act. This Act allows the Commerce Department to "restrict the sale of 'crime control equipment' to repressive regimes"; IT has not yet been recognized under its purview but it could be.<sup>43</sup> The Commerce Department's Bureau of Industry and Security has already begun to engage this issue and hopes to work with other government agencies to determine the appropriate course of action.<sup>44</sup> A second option would be new legislation to limit sales of Internet control technology to repressive governments. In either case, it seems likely that China's response would be to source hardware from other countries.

### *Rights and Responsibilities*

Given the widespread agreement on the nature of the human rights abuses taking place in China, the next question is to assess the responsibilities of U.S. corporations that operate there. This question has only recently been brought into the sphere of public debate with the interest and involvement of the U.S. Congress and the growing concern of human rights activists. Stakeholders disagree about whether U.S. companies have a duty to stay in China or to leave China, and, if they stay what responsibilities they bear.

Those (including the companies themselves) who believe that U.S. Internet companies have a responsibility to stay in China often point to positive impacts on political freedom (such as those articulated above by the Chinese Academy of Social

Science) and claim that their presence in China causes more good than harm. In addition to those limited empirical results, this claim is based on two beliefs:

- More information gets to the Chinese because U.S. companies provide better technology and censor less aggressively than Chinese Internet companies.
- Pressure from U.S. competitors forces local providers to provide more content than they would otherwise, further increasing access.<sup>45</sup>

The idea is that if U.S. companies leave, Chinese companies will dominate the market and will likely capitulate even more to the Chinese government, further decreasing access. China's top Internet companies, collectively the Beijing Association of Online Media, have just committed themselves publicly to self-police more aggressively and to "rid their sites of 'unhealthy' content."<sup>46</sup>

Others (including human rights advocates) believe that these companies have a responsibility to leave China when staying requires implicit involvement in human rights violations. They argue that although more Chinese people have more access to information, "the greater good does not necessarily trump the rights of individuals" which the U.S. companies are complicit in abusing.<sup>47</sup> They also cite the Chinese government's reliance on the technology and expertise of U.S. companies as evidence that pulling out could be used as leverage to combat the government's censorship demands.<sup>48</sup>

Human Rights Watch asserts that these companies have not (in contrast to their passionate defense of free speech and privacy in the U.S. and Europe) even attempted to lobby the Chinese government or directly cite its violation of international law.<sup>49</sup> Only Google seems to have directly confronted the government by removing the description of Taiwan as a province of China on Google Maps.<sup>50</sup> Although it has also stated publicly that it does not plan to lobby the government about censorship laws, this subtle step was bold and unprecedented.<sup>51</sup>

A complicating factor in the evaluation of the responsibilities of these companies is that Yahoo and Microsoft have reduced control (and risk) by operating through Chinese partners. Since October 2005 (after the alleged complicity in jailing political dissidents), Yahoo operates in China through a local partner, Alibaba.com, of which it owns only 40% and holds only one of four board seats.<sup>52,53,54</sup> Microsoft's MSN Spaces is operated by Shanghai MSN Network Communications Technology, of which Microsoft owns a 50% stake.<sup>55</sup> These joint ventures allow U.S. companies to benefit from the growth of the Chinese market without being fully liable for human rights violations and other risks, but they do not negate powerful public opinions in the U.S. Nor do these legal vehicles release companies from ethical and moral norms that they purport to maintain.

### *Looking for an answer*

Third parties are increasing pressure on U.S. Internet companies to address the human rights challenges they are involved with. Reporters Without Borders has convinced 32 investment funds controlling \$24 billion in assets to “avoid companies involved in violations of online political freedoms.”<sup>56</sup> In February, the U.S. Congress held hearings suggesting that it might hold the companies responsible for their behavior. Google has begun to face protesters outside its headquarters in California and along with Microsoft is the subject of a “take action” initiative by Amnesty International.<sup>57,58</sup> Whether out of interest in the rights of Chinese people or out of fear of bad publicity, these three Internet companies are eager to find common ground with other stakeholders. As Carly Fiorina, former CEO of Hewlett-Packard stated: “business can either take control of the corporate social responsibility trend, or the corporate social responsibility trend will take control of business.”<sup>59</sup>

The companies, for their part, have unanimously called on the U.S. government to get involved. Their desires to operate in China while respecting human rights combined with their refusal to overtly disobey Chinese law puts them in a difficult position. As the Microsoft Associate General Counsel put it, “the legal framework in any particular jurisdiction is not one that private companies are in a position to define for ourselves.”<sup>60</sup>

The U.S. government has already recognized that it will need to play a role and has begun to look for answers, both through legislation as well as through other diplomatic channels.

In the meantime, and in part to further encourage government action, corporations have also begun working on internal policies and have expressed interest in working together as an industry. Google has stated that it “supports the idea of Internet industry action to define common principles to guide the practices of technology firms in countries that restrict access to information.”<sup>61</sup> Yahoo has committed to “work with others to explore policies that could guide industry action.”<sup>62</sup> Microsoft and Yahoo issued a joint statement that acknowledged responsibility “to identify ‘appropriate practices in each market.’”<sup>63</sup> These companies are also actively engaging their critics. Google has agreed to enter a dialogue with Reporters Without Borders; Microsoft has met with unnamed human rights NGOs; and Yahoo consults with Human Rights Watch.<sup>64,65,66</sup>

### **Government Alternatives**

In many situations involving international corporate social responsibility (CSR) issues, either the government of the host country or the government of the company’s home country can play a role. Many solutions to past challenges have relied on the commitment of host countries. In this case, the problem is being created by the host government (China), so any government intervention will rely on the leadership and action of the home country.

U.S. government concern about and engagement with Chinese human rights issues is not new. The U.S. has been sending human rights representatives and other spokespeople to China to voice its concerns for years. Since 2003, the International Broadcasting Bureau for Counter-Censorship Technology has received more than \$2 million in funding from the U.S. government to promote the development of counter-censorship software that would allow Chinese to access Voice of America and Radio

Free Asia web sites (two sites that are often blocked).<sup>67</sup> Now the U.S. government must also address the actions of U.S. companies that are complicit in the very human rights violations it is fighting against.

The U.S. government's effort will be coordinated by the Global Internet Freedom Task Force (GIFT), which Secretary of State Condoleezza Rice established in February. GIFT aims to bring together government agencies, U.S. information technology companies, NGOs, academics, and other stakeholders to establish common goals and strategies to promote Internet freedom not only in China but in all repressive countries.<sup>68,69</sup> As it determines the best course of action, GIFT should pursue three categories of options: creating legal mandates; engaging other governments and NGOs through diplomatic means; and using its credibility to legitimize industry or third-party actions.

#### *Legal mandates*

The U.S. government can impose legal mandates on U.S. Internet companies; it could limit where or how they can operate and impose sanctions on those who disobey. It could even limit the ability of U.S. companies to invest in companies that work with the Chinese government (thus nullifying the joint venture approach taken by Yahoo and Microsoft).

Only recently has Congress indicated that it might go down this path. Following February 2006 hearings in the House of Representatives, Congressman Christopher Smith (R-NJ) circulated a discussion draft of the Global Online Freedom Act of 2006. The Act purports "to promote freedom of expression on the Internet" and "to protect United States businesses from coercion to participate in repression by authoritarian foreign governments." In addition to pledging resources of the U.S. government to promote Internet freedom (which has been done before), it also prohibits U.S. businesses from cooperating with any countries that restrict Internet access. The Act outlines "Minimum Corporate Standards for Online Freedom," establishes an Office of Global Internet Freedom in the Department of State, and places export controls on products that

might be used by repressive governments to facilitate censorship. Infractions could be punished by fines of up to \$2 million and jail time of up to five years for any U.S. citizen acting on behalf of the company.<sup>70</sup>

This bill makes a strong statement, but likely will not pass, especially without a counterpart in the Senate.<sup>71</sup> Critics charge that the bill will not increase the openness of the Internet in China but will penalize U.S. companies by forcing them to choose between U.S. law and Chinese law and withdrawing from China entirely. One China Internet sector analyst at JPMorgan in Hong Kong believes that the companies would simply choose to follow Chinese law; they would “essentially operate with business as usual and that investors would just consider this as part of the country risk that an investor has to face.”<sup>72</sup> In other words, the U.S. fines would be negligible compared to the Chinese government’s ability to shut down a site, and executives could protect themselves from jail time by acting through intermediaries.

Congressman Smith seems to be aware of the limitations of his bill and more generally of the legislative path with regard to the issue of Internet rights in China. He has admitted that his bill “in some ways is meant to establish a starting point for discussion about what standards should exist for U.S. Internet companies” and has publicly stated that he is willing to change the bill if the companies themselves agree on standards for operating in repressive countries.<sup>73</sup> He hopes the bill will make change happen, not through its passage but by its forcing the companies to engage the issue precisely to avoid adoption of legislation. If the many recent statements and meetings by and between Internet companies is any indication, this tactic seems to be working and it would behoove GIFT to proactively support the process.

### *Diplomatic approaches*

Diplomacy will play a critical role in the resolution of this issue. Some examples of diplomatic tactics include: direct pressure on China, use of free trade agreements, action through the Organization for Economic Cooperation and Development (OECD), and support for new international governance bodies.

The U.S. government already attempts to push China's policies in a more democratic direction. As mentioned above, U.S. human rights representatives regularly visit China and other countries to share U.S. concerns about human rights violations. In his recent visit to Beijing, Barry Lowenkron (Assistant Secretary for Democracy, Human Rights, and Labor) explicitly raised the issue of restricting Internet access.<sup>74</sup> GIFT can encourage this issue to be continuously raised and (ideally but perhaps unrealistically) moved to a higher priority among China-U.S. diplomatic issues.

GIFT can also pursue diplomatic action through existing free trade laws. According to the Berkman Center for Internet and Society, Article XIV(a) of the General Agreement on Trade and Services (GATS) "permits countries to go against their market-access commitments if taking measures 'necessary to protect public morals or to maintain public order.'" Based on this interpretation, the U.S. won a case against Antigua and Barbuda in which they challenged U.S. restrictions on the supply of gambling and betting services via the Internet. However, the precedent is that the WTO panel itself will decide whether the country's filtering regime is justified, "in light of the panel's own evaluation of the importance of the problem, as well as its assessment of the measure's effectiveness in addressing that problem as weighed against the measure's trade restrictiveness."<sup>75</sup>

If the U.S. brought a case against China for filtering U.S. search engines and making them so slow they cannot compete with Chinese search engines (*e.g.* the case of Google.com), a WTO trade panel could find China's actions illegal on the basis that its reason for filtering is "unimportant" by global standards. This is a promising path of diplomacy but it faces the challenge of competing with more powerful U.S. trade interests.

The U.S. succeeded (albeit after twenty years) in lobbying the OECD to require all member states to criminalize bribery when it found itself at a competitive disadvantage after passing the U.S. Foreign Corrupt Practices Act of 1977.<sup>76</sup> If the U.S. government were to mandate certain actions by its Internet companies that made them

less competitive (such as some of those in Congressman Smith's bill), it could lobby other OECD countries to do the same. China remains outside the treaty for now but it is increasingly likely to join as its economic and political ambition increases.<sup>77</sup> Even if China remained outside of the organization, OECD action would at least extend the human rights burdens of U.S. Internet companies to other OECD Internet companies and further limit the Chinese government's options.

The international governance community also has begun to engage this issue. In the first consultations on the convening of the United Nations' Internet Governance Forum (IGF) in February, two of the top ten most frequently cited issues for the IGF to address were privacy and data protection and freedom of expression and human rights. Even if such large global forums tend to be slow to act, they can create powerful results; support from the U.S. will greatly facilitate that progress.

#### *Legitimizing nongovernmental action*

The U.S. government can create legitimacy for industry or multi-stakeholder solutions by convening relevant parties and publicly supporting extra-governmental pro-human rights solutions. It has already indicated its understanding of the growing importance of nongovernmental action by funding research through the Department of State to understand the impact of "private voluntary initiatives" on foreign manufacturing and agricultural labor conditions.<sup>78</sup>

Governments can intervene in a human rights or CSR problem by convening the appropriate players to design an efficient and effective solution instead of mandating a government-sponsored solution. For example, the extractives industry stakeholder dialogue that became the Voluntary Principles on Security and Human Rights (VPs) was convened by the governments of the United States and the United Kingdom. Similarly, the Extractives Industry Transparency Initiative (EITI) was launched by UK Prime Minister Tony Blair after NGOs found that oil companies were hesitant to push back on corrupt regimes themselves.<sup>79</sup> The Clinton administration convened the Apparel Industry Partnership, which ultimately became the Fair Labor Association, in 1996.<sup>80</sup>

Governments can lend a unique level of seriousness to an issue that can make a solution seem, though not mandatory, somewhat less voluntary. GIFT can play a convening role on behalf of the U.S. government.

Governments can also create legitimacy by publicly recognizing certain actions as positive or negative. Clinton's Secretary of Labor Robert Reich created a "trendsetter's list" to recognize apparel manufacturers that effectively monitored their contractors for labor violations. He also used negative publicity to call attention to manufacturers who used contractors that had violated labor laws.<sup>81</sup> GIFT would do well to begin distinguishing between the various Internet companies and the choices they have made, crediting those with Chinese business policies that have been more human rights-conscious than others. Without positive feedback, companies have less incentive to make further concessions or take more risks.

### **Nongovernmental Alternatives**

In addition to the roles that the U.S. government can play in promoting Internet freedom, there are innumerable possibilities for nongovernmental alternatives that would affect the actions of Internet companies with respect to human rights in China. These possibilities fall into four primary groups: actions taken by individual firms, actions taken by an industry, actions led by third parties such as NGOs, and actions formed through multi-party efforts.

#### *Individual firms*

Each firm acts independently and can choose to take actions to promote a particular human rights cause or component of CSR. Levi Strauss & Company was a leader in the apparel industry when it published its supplier code of conduct in 1991.<sup>82</sup> Similarly, in the midst of pressure on the oil industry to increase transparency, British Petroleum (BP) unilaterally decided to disclose the signing bonus it paid to the Angolan Government.<sup>83</sup> And when Google decided to notify users of blocked searches, it acted alone.

Some experts argue that individual firm strategies are the appropriate path for any CSR-related action. CUNY Professor S. Prakesh Sethi argues that public trust and corporate reputation should be just one more dimension that a company can use to distinguish itself in the marketplace. He concludes that other companies will follow once one company has taken the risk and tested the waters (this happened in the case of Levi & Strauss, which was quickly followed by Liz Claiborne, Nike, Reebok, and Gap).<sup>84,85,86</sup> Another case in which individual firm action is optimal is in response to potential legal or regulatory threats when collective industry action cannot be implemented quickly enough.

Other experts argue that the benefits of individual firm action proposed by Sethi are outweighed by the risks of acting alone on CSR issues. First, it can involve serious risks for the first mover. For example, after BP disclosed the Angolan signing bonus, the state-owned Angolan oil company threatened contract termination.<sup>87</sup> In other cases, companies that step out on their own also receive the bulk of the backlash from activists. In the case of sustainable forest products in the 1980s, some companies tried to label their products with claims of environmental friendliness but the more they tried to differentiate themselves as environmentally friendly, the more environmental groups pushed back and questioned their credibility.<sup>88</sup>

In the case of Internet companies and human rights, there may be little to gain from taking action alone. While public opinion does matter and has been one of the drivers of corporate action thus far, its power may be limited because the public is not emotionally engaged in this issue like it was with issues surrounding sweatshops or deforestation. Unlike purchasing a t-shirt that might have been manufactured in a sub-par Chinese factory, U.S. consumers have no direct connection to China when they choose a U.S. Internet company. Also, Internet products are usually private choices, so common activist strategies like boycotts do not have the same dramatic effect.

## *Industries*

Industry action is particularly helpful when an entire industry is under attack and the positive actions of one firm will not keep it from being publicly lumped in with the others. The Global Mining Initiative was created in such a situation: it was launched as an international industry effort in 1999 primarily to help the industry create a position that it could defend at the 2002 Earth Summit in Johannesburg.<sup>89</sup> Industry action also makes sense when government intervention is imminent and only actions taken by the industry as a whole can convince the government to change course. For example, the Australian Minerals Industry Code for Environmental Management was created by the Minerals Council of Australia in 1996 to convince the Australian government not to consider additional intervention.<sup>90</sup>

Industry action can create peer pressure among firms within the same industry and a powerful incentive for change by CSR or human rights laggards.<sup>91</sup> Also, collective industry action can create more leverage to influence other stakeholders. For instance, apparel companies have found that when they unite and approach a subcontracting manufacturer as an industry association, they have much more leverage and can force more change than if they each approach the manufacturer alone.<sup>92</sup> Finally, creating an industry initiative for one issue can lead to a sustained dialogue about the evolution of that issue or new issues that arise in the future.

Industry approaches also have weaknesses. First, industry initiatives often lack sufficient input from non-industry stakeholders which reduces their credibility.<sup>93</sup> Even if other stakeholders are involved in the process, the legitimacy of any industry coalition would be questioned by those who believe the companies are driven by financial motives rather than human rights. Also, stakeholders often fear that industry action generates standards that are too low because the inclusion of the worst firms in the association could drag the standards to the lowest common denominator. Finally, leading companies may be unfairly punished because critics tend to use the actions of the worst company as an indicator of the whole industry's problems.<sup>94</sup>

Despite the risks, in the case of the U.S. Internet industry collective action may make more sense than individual action. The entire industry is indiscriminately under attack by human rights proponents and faces threats of regulation and legislation from the U.S. government. Also, like the manufacturers who banded together to pressure their contractors to improve factory conditions, Internet firms might find more influence with (or at least protection from) the U.S. and Chinese governments if they act as a group.

### *Third parties*

Third parties such as NGOs or United Nations agencies can also create opportunities for corporate responses to human rights and other CSR issues. Even without lawmaking authority, these stakeholders can apply the “craft of ‘norm entrepreneurship’ – creating a weight of expectation on the relevant actors involved in the debate.”<sup>95</sup>

Third-party involvement increases legitimacy with the public from the start. Studies show that people trust NGOs more than governments or corporations: one UK survey found that while more than 80% have confidence in the World Wildlife Fund and Greenpeace, only 30% have confidence in British Petroleum.<sup>96</sup> The Kimberley Process Certification Scheme (KPCS), which requires diamonds to be certified as “conflict-free,” is an example of a third-party action that has benefited from the reputation of its founder, a UK-based NGO, Global Witness.<sup>97</sup> A similar initiative for gold mining, now being kicked off with a “No Dirty Gold” campaign to bring companies on board, is led by Earthworks and Oxfam America.<sup>98</sup> When public protests and boycotts continued against Coca-Cola even after its own investigation and that of the Colombian government cleared it of human rights violations in Colombia, Coca-Cola asked the United Nations’ International Labor Organisation to investigate the allegations in the hope that its credibility would finally diffuse the issue.<sup>99</sup>

Other third parties have legitimacy related to expertise in a specific area; for instance, the Global Reporting Initiative is well respected and would have a meaningful

platform from which to add the Internet industry to the growing number of sector-specific reports they are developing.

Not only do these initiatives inspire more trust due to the reputations of the third-party organizations, but they also tend to include legitimacy-increasing steps throughout the process. The “No Dirty Gold” group, through the Council for Responsible Jewellery Practices, plans to establish a “set of processes and standards with independent third-party verification at every step of the jewelry creation and selling process.”<sup>100</sup>

In the case of Internet human rights challenges, there is definitely a need for external credibility in the creation of a solution. Reporters Without Borders and Human Rights Watch have already engaged the leading companies. Other organizations such as the Electronic Frontier Foundation, the Center for Democracy and Technology, and the Berkman Center for Law and Society at Harvard Law School are well-positioned to broker a solution and have begun to engage the issue. These types of stakeholders must remain involved in the process moving forward in order to signal to the public (and to actually ensure) that the process is fair and unbiased.

### *Multi-party*

None of the aforementioned nongovernmental initiatives exist in a vacuum. Often, different types of actions and actors are brought together to reinforce each other: “modern governance systems . . . involve complex arrangements and interactions between public and private actors.”<sup>101</sup>

The Fair Labor Association is a multi-stakeholder coalition of eighteen firms and hundreds of NGOs and retail outlets.<sup>102</sup> It was convened and partially funded by the Clinton administration, became an independent NGO, solicited input from apparel companies and manufacturers, and was enforced by a private monitoring industry.<sup>103</sup> New parties can also pick up where others leave off. For instance, if a voluntary regulation scheme creates a widely respected industry standard, it will be easier for government to invoke it in regulation. This happened in South Africa when parts of the

King Committee's Code of Corporate Practices and Conduct were added to the South African Companies Act.<sup>104</sup>

### **Criteria for Action**

Regardless of the building blocks of the approach taken, any initiative should be judged by its inclusion of critical characteristics. Based on parts of a framework suggested by Berkeley's Dara O'Rourke,<sup>105</sup> these include legitimacy, rigor, and accountability.

#### *Legitimacy*

Achieving legitimacy is primarily dependent on inclusion of unbiased, trustworthy participants throughout the process. Although each group of stakeholders might define an unbiased, trustworthy participant differently, in general corporations do not fit that description: "neither activists nor the general public put much credence in corporate self-evaluation and monitoring."<sup>106</sup> Even if one of these companies were to implement a strict code and enforce its own violations, the public would likely not view the code as legitimate simply because it does not include unbiased or even skeptical third parties. Even the respected leader Levi Strauss, after initial support from the labor rights community for its code of conduct, was forced to implement external monitoring and verification.

In the case of the Internet industry, three types of participants can create legitimacy: recognized independent experts on the issue of Internet freedom (such as the OpenNet Initiative, the Center for Democracy and Technology, or the Electronic Frontier Foundation), representatives from NGOs that have already engaged in the issue (such as Reporters Without Borders and Human Rights Watch), or representatives from the U.S. government (such as the office of Congressman Adam Smith and GIFT).

### *Rigor*

The rigor of any initiative on this issue will depend on the strength and enforceability of proposed standards.

With regard to the strength of proposed standards, a successful initiative should start first with issues that can be agreed upon at a high level rather than including every possible issue up-front and risking dilution. The Sullivan Principles, a code of conduct for U.S. companies doing business in South Africa in the 1970s and 1980s, started with a limited number of pledges such as desegregated workplaces and over the years raised standards to include such pledges as paying a living wage.<sup>107</sup> Inclusion of the right stakeholders can provide not only the pressure to create tough standards but also the mix of expertise, experience, and resources necessary to choose and define the critical ones that can support a strong initiative.<sup>108</sup>

Measurable standards must be specific and quantifiable. Suggestions of possible standards that have been made public so far include fairly specific directives such as “do not host email or other content servers within a repressive country” or “offer Secure Socket Layer (SSL) encryption on your sites to keep governments from being able to monitor or record what searches were being entered.”<sup>109,110</sup> They also include quite vague points such as “avoid collecting personally identifiable data” and “support technologies that innovate around censorship and surveillance.”<sup>111</sup> These general statements will have little practicable effect and will be unenforceable.

### *Accountability*

The level of accountability associated with a given initiative depends on whether the actions of Internet companies are monitored in an independent and transparent way.

Studies show that monitoring significantly raised the rate of compliance with codes of conduct in the apparel industry.<sup>112</sup> One reason that initiatives such as the Kimberley Process have been successful is their ability to effectively and legitimately label certain firms or countries as compliant (or not). Even without sanctions attached,

monitoring allows firms to be held publicly accountable by consumers, activists, investors, and governments. The Internet industry has the advantage that it is by nature relatively easy to monitor. Determining accountability does not require sending people into forests or hundreds of thousands of small factories on a daily basis. A computer program can do the work of thousands of people and with much more accuracy.

The perceived independence and transparency of monitoring will depend on including monitors who are perceived to be expert and impartial participants. The Internet companies alone may be able to achieve actual transparency, but it will not matter if stakeholders doubt their motives and independence. The fact that monitoring can be done fairly inexpensively by anyone who has sufficient technological capability and access to the Chinese web will likely encourage multiple monitoring schemes and will greatly enhance accountability.

## **Recommendations**

U.S. Internet companies understand that the status quo is not a viable option. Pressure from activists and the media is intense and growing, and the U.S. government has made it clear that it is watching the industry closely and might force costly actions if conditions do not improve. Employee morale is also bound to suffer at these companies as individual and corporate ethics are challenged and public image deteriorates. Given that they not prepared to give up the Chinese market or to defy China's laws, these companies will need to chart an alternate path to address the human rights problem. As they debate their course of action over the coming months, they should consider the following recommendations:

### *1) Collaborate*

Companies should follow up on their early interest in working together and with outside parties such as the U.S. government and relevant NGOs with a firm commitment. Many stakeholders are critical of the information technology industry as a whole, so a coordinated response will likely have the strongest effect. The Internet companies would

also benefit from the legitimacy, expertise, and experience that third-parties can bring to their interactions with the public and even the Chinese government.

## *2) Leverage the U.S. government*

The U.S. government should be a strong ally in this process. It has already taken an interest in the industry's actions and will continue to stay engaged as the path unfolds (whether it is welcomed by companies or not). The industry should be as specific as possible about how the government can help it reach the mutual goals of respecting human rights while operating in China. In particular, it should lobby the government to start with two priorities:

- Pass a non-binding resolution stating that it expects the industry to take proactive steps to address the human rights issues. This is much more politically feasible than a legal mandate and also much less painful to the industry. Companies would be able to cite official U.S. government language to strengthen their leverage in China.
- Begin developing a trade barrier case against China. Even if the government is not prepared to formally pursue the case now, it should be ready to go in the event that the Chinese government creates additional competitive disadvantages for U.S. Internet companies or goes so far as to push them out of the country.

## *3) Test Chinese boundaries*

Aside from brief instances of courage, the U.S. Internet companies have made it clear both in their actions and their words that they do not think they have the clout to push back against the Chinese government. They fear that if they push too far they may face serious consequences, including the possibility of losing their licenses to operate in China. Such a drastic move by the Chinese government would be out of line with past behavior and would expose China to severe diplomatic repercussions.

In 1999, the Chinese government tried to limit the use of cryptography to maintain confidentiality of corporate communications, but a coordinated effort by technology companies and other groups forced the issue to be dropped.<sup>113</sup> Google avoided repercussions for refusing to label Taiwan as Chinese, and neither Google nor Microsoft has been reprimanded for notifying users when they are being censored. U.S. Internet companies can take advantage of the vagueness of Chinese law to move towards greater freedoms. If the companies cross the line, the Chinese government will likely give clear signals of their unhappiness before taking any draconian action.

#### 4) *Be transparent*

If companies shared with each other their approaches to and interactions with the Chinese government, they could all rise to an industry best practice because they could each take advantage of the advances made by the others (they would know that a particular action had occurred without sanction and would not have to test the waters for themselves).

Another reason for transparency comes from the fact that neither the U.S. government nor NGO stakeholders will want to support the industry if it lacks transparency. Many in the media and the public will assume the worst of the industry without proof of the advances made.

#### 5) *Stay in control*

Despite the fact that it does not own a majority stake in Alibaba.com and is not legally liable for its actions in China, Yahoo has suffered from the same government and NGO attacks and bad press as the other Internet companies. In response, it is taking part in discussions to make changes that it does not actually have the power to implement. As long as a company is going to be held responsible in the court of public opinion for its actions in China, it will be better off having the control to direct those actions.

## 6) *Innovate*

The Internet companies in question have succeeded because they have constantly innovated and pushed the bounds of what technology and the Internet can do. This strength should be an asset in dealing with human rights challenges in China as well. Redirecting a portion of their research and development dollars to efforts that might help users in repressive regimes access more information should be part of the industry's strategy. In the technology arms race against the Chinese government blockers, U.S. technology companies should have no difficulty achieving the superiority that will give them even more leverage.

## **Conclusion**

The time is right for significant progress by U.S. companies and other stakeholders on the issue of the Internet and human rights in China. The upcoming 2008 Olympic Games in Beijing will bring millions of foreign visitors and reporters into the country who will expect to have full Internet access. They will surely call global attention to the issue if they do not, which will embarrass the Chinese government at a time when it most wants to impress the rest of the world.

While the situation is certainly unique and will require innovative solutions, U.S. Internet companies are also in a favorable position to address this issue because of the lessons they can learn from past human rights and CSR-related initiatives. With the momentum already in their favor, they should take advantage of this window of opportunity to do the right thing – for their shareholders and the Chinese people.

## Endnotes

---

- <sup>1</sup> MacKinnon, Rebecca and John Palfrey. "Opinion: Censorship Inc." *Newsweek International Edition*, 2-27-06.
- <sup>2</sup> OpenNet Initiative: [www.opennetinitiative.net](http://www.opennetinitiative.net), 4-16-06.
- <sup>3</sup> Lum, Thomas. "Internet Development and Information Control in the People's Republic of China." Congressional Research Service, The Library of Congress: Updated 2-10-2006.
- <sup>4</sup> "Testimony of Michael Callahan, Senior Vice President and General Counsel, Yahoo! Inc. before the Subcommittees on Africa, Global Human Rights and International Operations, and Asia and the Pacific." 2-15-06.
- <sup>5</sup> Esarey, Ashley. "Speak No Evil: Mass Media Control in Contemporary China." Freedom House, A Freedom House Special Report: February 2006.
- <sup>6</sup> Morillon, Lucie. "Testimony of Lucie Morillon, Washington Representative Reporters Without Borders." Briefing on "The Internet in China; A Tool for Freedom or Suppression?": 2-15-2006.
- <sup>7</sup> Kahn, Joseph. "In Rare Briefing, Chinese Official Defends Internet Controls." *New York Times*, 2-14-06.
- <sup>8</sup> Lum, Thomas: 2006.
- <sup>9</sup> Palfrey, John Jr. "Local Nets: Filtering and the Internet Governance Problem." Berkman Center for Internet and Society: September 2005.
- <sup>10</sup> Lum, Thomas: 2006.
- <sup>11</sup> Lum, Thomas: 2006.
- <sup>12</sup> Thompson, Clive. "Google in China: The Big Disconnect." *New York Times Magazine*: 4-23-2006.
- <sup>13</sup> Lum, Thomas: 2006.
- <sup>14</sup> Kahn, Joseph: 2006.
- <sup>15</sup> Dempsey, Jim. Phone conversation 5-19-2006.
- <sup>16</sup> "Testimony of Michael Callahan": 2006.
- <sup>17</sup> Schrage, Elliot. "Testimony of Google, Inc. Before the Subcommittee on Asia and the Pacific, and the Subcommittee on Africa, Global Human Rights, and International Operations Committee on International Relations." 2-15-2006.
- <sup>18</sup> "Testimony of Michael Callahan": 2006.
- <sup>19</sup> [www.unhchr.ch](http://www.unhchr.ch)
- <sup>20</sup> Ruggie, John. Email dated 5-2-2006.
- <sup>21</sup> Dickie, Mure and Stephanie Kirchgaessner. "Evildoers? How the west's net vanguard toils behind the great firewall of China." *Financial Times*, 2-15-2006.
- <sup>22</sup> Yardley, Jim. "Google Chief Rejects Pressuring China." *New York Times*: 4-13-2006.
- <sup>23</sup> Lum, Thomas: 2006.
- <sup>24</sup> Morillon, Lucie: 2006.
- <sup>25</sup> Chandler, Mark. Testimony to the U.S. House of Representatives, Committee on International Relations: 2-15-2006.
- <sup>26</sup> Zeller, Tom. "House Member Criticizes Internet Companies for Practices in China." *New York Times*, 2-15-06.
- <sup>27</sup> Malinowski, Tom. "U.S.: Put Pressure on Internet Companies to Uphold Freedom of Expression, Testimony before the Congressional Human Rights Caucus." *Human Rights Watch*: 2-1-2006.
- <sup>28</sup> Malinowski, Tom: 2006.
- <sup>29</sup> Zeller, Tom: 2006.
- <sup>30</sup> Dickie, Mure and Stephanie Kirchgaessner: 2006.
- <sup>31</sup> Krumholtz, Jack. "Congressional Testimony: "The Internet in China: A Tool for Freedom or Suppression?" Microsoft Corporation: 2-15-2006.
- <sup>32</sup> Schrage, Elliot: 2006.
- <sup>33</sup> Zeller, Tom: 2006.
- <sup>34</sup> Thompson, Clive: 2006.
- <sup>35</sup> Dickie, Mure and Stephanie Kirchgaessner: 2006.
- <sup>36</sup> Thompson, Clive: 2006.
- <sup>37</sup> Dickie, Mure and Stephanie Kirchgaessner: 2006.
- <sup>38</sup> Pain, Julien. "Verdict in cyberdissident Li Zhi case confirms implication of Yahoo!" *Reporters Without Borders/Internet Freedom desk*, 2-27-06.

- 
- <sup>39</sup> Zeller, Tom: 2006.
- <sup>40</sup> “Yahoo accused of helping jail Chinese Internet writer.” Reuters: 4-19-06.
- <sup>41</sup> Garger, Ilya. “Yahoo China is under fire again: Right group says it helps authorities convict dissidents.” MarketWatch: 4-28-2006.
- <sup>42</sup> “Testimony of Michael Callahan”: 2006.
- <sup>43</sup> Zeller, Tom: 2006.
- <sup>44</sup> “Testimony of Honorable Darryl W. Jackson before U.S.-China Economic and Security Review Commission.” States News Service: 3-17-2006.
- <sup>45</sup> Schrage, Elliot: 2006.
- <sup>46</sup> “China Web portals pledge stronger self-policing.” Reuters: 4-25-2006.
- <sup>47</sup> Dickie, Mure and Stephanie Kirchgassner: 2006.
- <sup>48</sup> Malinowski, Tom: 2006.
- <sup>49</sup> Malinowski, Tom: 2006.
- <sup>50</sup> Baker, Mallen. “Google’s Growing Pains.” Business Respect, CSR Dispatches #89: 2-26-2006.
- <sup>51</sup> Yardley, Jim: 2006.
- <sup>52</sup> Garger, Ilya: 2006.
- <sup>53</sup> “Testimony of Michael Callahan”: 2006.
- <sup>54</sup> Zeller, Tom: 2006.
- <sup>55</sup> Malinowski, Tom: 2006.
- <sup>56</sup> Garger, Ilya: 2006.
- <sup>57</sup> Thompson, Clive: 2006.
- <sup>58</sup> Belopotosky, Danielle. “Human Rights Group to Pressure Google.” TechDaily: 5-11-2006.
- <sup>59</sup> Williams, Cynthia A. “Civil Society Initiatives and ‘Soft Law’ in the Oil and Gas Industry.” New York University Journal of International Law and Politics (Vol 36): 2004.
- <sup>60</sup> Krumholtz, Jack: 2006.
- <sup>61</sup> Schrage, Elliot: 2006.
- <sup>62</sup> “Testimony of Michael Callahan”: 2006.
- <sup>63</sup> Zeller, Tom: 2006.
- <sup>64</sup> Morillon, Lucie: 2006.
- <sup>65</sup> Krumholtz, Jack: 2006.
- <sup>66</sup> “Testimony of Michael Callahan”: 2006.
- <sup>67</sup> Lum, Thomas: 2006.
- <sup>68</sup> “Secretary of State Establishes New Global Internet Freedom Task Force.” Office of the Spokesman, Media Note: 2-14-06.
- <sup>69</sup> Shiner, Josette and Paula Dobriansky. “Remarks on Global Internet Freedom.” Washington, DC: 2-14-06.
- <sup>70</sup> “Discussion Draft: H.R. \_\_\_\_.” By Mr. Smith of New Jersey: 2-14-06.
- <sup>71</sup> McCullagh, Declan. “Proposed law targets tech-China cooperation.” CNET News.com: 2-16-2006.
- <sup>72</sup> Myrick, Chris. “FOCUS – Proposed ‘online freedom act’ may hurt US and US-listed China firms.” Forbes.com: 2-16-2006.
- <sup>73</sup> “Smith Open to Adjusting Internet Bill if Companies Adopt Standard.” Inside US-China Trade (Vol 6 No 11): 3-15-2006.
- <sup>74</sup> “Testimony Regarding the 2005 HR Country Reports.” US State Department: 3-19-2006.
- <sup>75</sup> Rundle, Mary. “Beyond Internet Governance: The Emerging International Framework for Governing the Networked World.” Berkman Center for Internet & Society, Research Publication No. 2005-16: Fall 2005.
- <sup>76</sup> Misol, Lisa. “Private Companies and Public Interest: Why Corporations Should Welcome Global Human Rights Rules.” Human Rights Watch: January 2006.
- <sup>77</sup> Misol, Lisa: 2006.
- <sup>78</sup> Schrage, Elliot J. “Promoting International Worker Rights through Private Voluntary Initiatives: *Public Relations or Public Policy?*” A Report to the U.S. Department of State on behalf of The University of Iowa Center for Human Rights: January 2004, p. v, xi.
- <sup>79</sup> Williams, Cynthia A: 2004.
- <sup>80</sup> O’Rourke, Dara. “Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring.” The Policy Studies Journal (Vol 31 No 1): 2003.

- 
- <sup>81</sup> Bartley, Tim. "Certifying Forests and Factories: States, Social Movements, and the Rise of Private Regulation in the Apparel and Forest Products Fields." *Politics & Society* (Vol 31 No 3): September 2003.
- <sup>82</sup> Gereffi, Gary, Ronie Garcia-Johnson, and Erika Sasser. "The NGO-Industrial Complex." *Foreign Policy* (No 125): July-August 2001.
- <sup>83</sup> Schumacher, Joseph Anthony. "Introducing Transparency into the Oil Industry: The Quest for EITI." *Global Jurist Advances* (Vol 4 Issue 3 Article 2): 2004.
- <sup>84</sup> Sethi, S. Prakash. "Effectiveness of Industry-based Codes in Serving Public Interest – The Case of International Council on Mining and Metals (ICMM)." *International Center for Corporate Accountability*: Revised 1-25-2005.
- <sup>85</sup> Sethi, S. Prakash. "Standards for Corporate Conduct in the International Arena: Challenges and Opportunities for Multinational Corporations." *Business and Society Review* (Vol 107 No 1): 2002.
- <sup>86</sup> Gereffi, Gary, Ronie Garcia-Johnson, and Erika Sasser: 2001.
- <sup>87</sup> Schumacher, Joseph Anthony: 2004.
- <sup>88</sup> Bartley, Tim: 2003.
- <sup>89</sup> Brereton, David. "The Role of Self-Regulation in Improving Corporate Social Performance: The Case of the Mining Industry." Revised version of a paper presented to the Australian Institute of Criminology Conference on *Current Issues in Regulation: Enforcement and Compliance*, Melbourne, September 2002.
- <sup>90</sup> Brereton, David: 2002.
- <sup>91</sup> Waddock, Sandra. "Creating Corporate Accountability: Foundational Principles to Make Corporate Citizenship Real." *Journal of Business Ethics* (50): 2004.
- <sup>92</sup> Santoro, Michael. "Beyond Codes of Conduct and Monitoring: An Organizational Integrity Approach to Global Labor Practices." *Human Rights Quarterly* (25): 2003.
- <sup>93</sup> Sethi, S. Prakash: 2005.
- <sup>94</sup> Sethi, S. Prakash: 2005.
- <sup>95</sup> Schumacher, Joseph Anthony: 2004.
- <sup>96</sup> Williams, Cynthia A: 2004.
- <sup>97</sup> Brereton, David: 2002.
- <sup>98</sup> No Dirty Gold. [www.nodirtygold.org](http://www.nodirtygold.org): 4-28-2006.
- <sup>99</sup> "Coca-Cola calls on UN to investigate human rights in Colombia." *Business Respect, CSR Dispatched* #90: 3-12-2006.
- <sup>100</sup> Johnson, Kirk. "With This Ethical Ring I Thee Wed." *New York Times*: 4-6-2006.
- <sup>101</sup> O'Rourke, Dara: 2003.
- <sup>102</sup> "Promotion and Protection of Human Rights." Interim report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises: February 2006.
- <sup>103</sup> Bartley, Tim: 2003.
- <sup>104</sup> Fox, Tom, Halina Ward, and Bruce Howard. "Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study." *The World Bank*: October 2002.
- <sup>105</sup> O'Rourke, Dara: 2003.
- <sup>106</sup> O'Rourke, Dara: 2003.
- <sup>107</sup> Liubicic, Robert J. "Corporate codes of conduct and product labeling schemes: The limits and possibilities of promoting international labor rights through private initiatives." *Law and Policy in International Business* (Vol 30 Issue 1): Fall 1998.
- <sup>108</sup> Santoro, Michael: 2003.
- <sup>109</sup> Morillon, Lucie: 2006.
- <sup>110</sup> O'Brien, Danny. "A Code of Conduct for Internet Companies in Authoritarian Regimes." *Electronic Frontier Foundation*: 2-15-2006.
- <sup>111</sup> O'Brien, Danny: 2006.
- <sup>112</sup> O'Rourke, Dara: 2003.
- <sup>113</sup> Malinowski, Tom: 2006.