

BUSINESS AND HUMAN RIGHTS INDICATORS: THE CHALLENGE OF MEASURING CORPORATE RESPECT FOR HUMAN RIGHTS

On 7 October 2013, high-level experts from governments, corporations, investment funds, non-financial data providers, human rights organizations and academic institutions will convene at the Cumberland Lodge to discuss a draft report on the challenges and opportunities created by the creation of indicators to measure respect for human rights by corporations.¹ The organisers of the event (Ann Sofie Cloots, Charline Daelman, Damiano de Felice and Irene Pietropaoli) propose to the Working Group a side-event featuring the presentation of the main findings of the report as well as live comments from a balanced representation of interested stakeholders.

Theme and objective of the side-event

The potential relevance of business and human rights indicators cannot be overstated. Valid and reliable indicators could allow States and businesses to track progress and identify best practices, NGOs and active citizens to monitor corporate performance, banks and socially responsible investors to channel their money towards respectful corporations. Yet, measuring and comparing respect for human rights is not an easy task. Business and human rights indicators risk not only producing invalid measures, but also disempowering potential victims of human rights abuses.

The final report to be presented at the Forum aims at addressing practical challenges (such as, how to obtain data on corporate human rights performance?), normative questions (such as, how to measure different dimensions of adverse human rights impacts?) and potential political problems (such as, what are the consequences of quantifying corporate respect for human rights?). In two “laboratories”, the report explores how to create valid indicators for a specific sector (private security companies) and a particular vulnerable group (children’s rights).

The objective of the side-event is to move the discussion on business and human rights indicators forward, from the *if* (should we use indicators?) to the *when* and *how* (when are indicators legitimate tools? How to create valid indicators?).

Relevance to the Forum mandate

The Guiding Principles suggest that indicators are fundamental tools for corporations to meet their responsibility to respect human rights. In order to *verify* whether adverse human rights impacts are being addressed, “business enterprises should track the effectiveness of their response”, and “[t]racking should ... [b]e based on appropriate qualitative and quantitative indicators” (GP20). In addition, in order to *account* for how they address their human rights impacts, “business enterprises should be prepared to communicate this externally” (GP21). The commentary clarifies that external reporting “should cover ... indicators concerning how enterprises identify and address adverse impacts on human rights”.

The Working Group (WG) confirmed the relevance of the issue in several occasions. In 2012, for instance, it argued that “States and business enterprises should scale up and sustain efforts to implement the Guiding Principles, including ... by establishing measurable and transparent indicators to assess their effective implementation” (A/67/285, §79). In 2013, it specified that “the development of

¹ For a list of participants and additional details about the event, visit the following webpage: <http://www.cumberlandlodge.ac.uk/programme/Forthcoming+Events/Business+and+Human+Rights>.

performance indicators that can be used by stakeholders to encourage proper functioning of grievance mechanisms is important, and can be used by stakeholders to understand how operational-level grievance mechanisms are working, and to hold business enterprises accountable” (A/68/279, §41).

Strong interest in the production of indicators is also a recent feature of the general business and human rights community: the Global Reporting Initiative has confirmed the inclusion of a sub-section on human rights in its G4 Reporting Framework; an abundance of alternative lists of indicators have been proposed;² tools to guide general human rights impact assessment (HRIA) have proliferated;³ voluntary sector initiatives have started to develop their own specific KPIs.⁴

Notwithstanding these efforts, results are unsatisfactory. On the one hand, human rights organizations and trade unions raise numerous concerns against the simplification of human rights norms into operational indicators.⁵ On the other hand, uptake by corporations is slow. A pilot business survey conducted by the WG in 2012 highlighted that, “when ... asked if their company tracks progress through developing ‘qualitative and quantitative indicators, informed by experts and relevant stakeholders’, 53% agreed, 47% disagreed or were unsure” (A/HRC/23/32, §33). The conclusion of the Working Group is that “[a]ddressing such challenges in implementing human rights due diligence ... may require innovative approaches. Good practices and lessons learned in this field should be identified and shared with other stakeholders” (ibid). This is exactly the purpose of the side-event we propose.

Format and speakers

The side-event would last two hours and feature a 20-minute presentation of the main findings of the report, plus a 60-minute gender- and region-balanced, multi-stakeholder roundtable, including:

- Maria Elvira Calero, Government of Colombia;
- Eija Hietavuo, UNICEF;
- Teresa Fogelberg, GRI;
- Liesel Filgueiras, Vale S.A.;
- Farnam Bidgoli, Sustainalytics;
- Mark Wielga, NomoGaia.⁶

The remaining time of the side-event will be reserved for questions from the floor and open discussion.

Proponents, plus name and contact details of the focal point

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² See, for instance, the partnership between the Fair Labour Association and the Pension and Capital Stewardship Project at Harvard Law School, as well as the partnership between Mazars and Shift.

³ HRIA tools have been proposed by different organizations, such as the Danish Institute for Human Rights, the International Business Leaders Forum, the Business Leaders Initiative on Human Rights, NomoGaia, etc..

⁴ Examples include the Association of Voluntary Principles on Security and Human Rights, the International Petroleum Industry Environmental Conservation Association and the Roundtable on Sustainable Palm Oil.

⁵ See, for instance, the public responses to the Mazars/Shift project’s discussion paper.

⁶ All participants have already confirmed their interest in participation. The Government of Colombia plans to use indicators to comply with its state duty to protect; UNICEF is in the process of developing indicators for the Children’s Rights and Business Principles; GRI produces the most prevalent corporate sustainability reporting framework in the world; Vale S.A. is working on Key Performance Indicators through the Voluntary Principles Association; Sustainalytics is an award-winning investment research firm specialized in ESG research and analysis; NomoGaia has worked extensively with HRIsAs on specific projects in developing countries.