



The Past, The Present and The Future of Accounting for Human Rights.

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Review

The Past, The Present and The Future of Accounting for Human Rights.

Purpose – This paper discusses a number of important recent developments in the area of business and human rights and considers the impact of these developments for accounting, assurance and reporting. Following the UN endorsement of the Guiding Principles on Business and Human Rights (the Guiding Principles) in June 2011, initiatives related to their implementation have advanced at a rapid pace. Despite the centrality of accounting, assurance and reporting to some of the key initiatives – accounting research has, hitherto, lagged behind this growing momentum. In order to address this lacunae, this paper develops an agenda for future research in the area of accounting and human rights. In doing so, the paper provides an overview of the important contributions advanced by the other papers in this special issue of Accounting, Auditing and Accountability Journal (AAAJ).

Design/methodology/approach – This paper draws together and identifies key issues and themes related to the rapidly evolving research and policy domain of business and human rights and considers the relevance of these issues to accounting research.

Findings – The paper highlights the wide-ranging impact the Guiding Principles and other developments in business and human rights have for accounting practice and draws attention to potential areas of research for accounting scholars. In particular, the paper highlights the emergence of business and human rights due diligence requirements, including their management and reporting. Further, the paper draws attention to the development of business and human rights reporting and assurance practice – which, while still in its infancy, has gathered considerable momentum and support.

Research limitations/implications – The paper provides important insights into emerging issues and developments in business and human rights that have clear relevance to accounting research and practice.

Originality/value – This paper, and the other contributions to this special issue of AAAJ, provide a basis and a research agenda for accounting scholars seeking to undertake research in this significant and emerging field.

Keywords: Accountability, Assurance, Reporting, Human Rights.

Introduction

The United Nations formally endorsed the Guiding Principles on Business and Human Rights (The Guiding Principles) in June 2011. Developed under the auspices of Professor John Ruggie (the Special Representative to the Secretary General on Business and Human Rights) the Guiding Principles were the result of a widespread consultative process, underpinned by what Ruggie referred to as "principled pragmatism". For this reason, the GPs have been widely supported by a range of diverse stakeholder groups (although they are not without criticism), and have been somewhat successful in consolidating a range of previously disconnected regulatory initiatives.

The Guiding Principles are based on three pillars: protect, respect and remedy. The first pillar re-affirms that States are the primary duty-bearers under international human rights law. This duty requires States to have effective laws and regulations in place to address business and human rights related issues. Further, this duty applies to all State engagement with business including, for example, procurement, export credit agencies and public-private partnerships. Finally, although not generally required under international human rights law, the Guiding Principles encourage States to regulate the extraterritorial activities of businesses domiciled in their territory.

The second pillar, stipulates that corporations have a responsibility to respect rights; a responsibility that is independent of the States' obligations (see, Campbell 2006, Kobrin 2009). While this obligation ascribes a negative duty on corporations to do no harm, there is growing debate around the extent to which this principle confers a positive moral obligation to realize rights (Ruggie 2008, 2011, 2014; Wettstein 2012 Cragg (2012). The third pillar, stresses the need for both judicial and non-judicial access to remedy where rights have been violated. While the second pillar arguably gives business a role in realizing rights, this final principle creates an expectation upon corporations to remediate rights abuses, effectively giving business a role in dispensing justice (McPhail 2015). In this respect, it could be argued that the Guiding Principles represent an attempt to make human rights relevant within a pluralist regulatory context where transnational corporations play an increasingly important role both in terms of violating and realizing human rights (Campbell 2006, Kobrin 2009).

The Guiding Principles represent a potentially significant shift in the organisational and institutional context within which accounting operates (Chapman, Cooper and Miller 2009; Hopwood, 1978; Burchell et al, 1985). Accounting will both shape and be shaped by the institutionalization of the requirement for corporations to take on a responsibility for human rights (Hopwood, 1978, 1983; Chapman, Cooper and Miller 2009). A growing list of regulatory agents, for example, the World Bank and the Organization for Economic Cooperation and Development (OECD) have adopted the Guiding Principles.

In outlining a strategy for corporate social responsibility (CSR) for European enterprises, the European Commission (EC) endorsed the UN Guiding Principles and has thus far produced guidelines for the recruitment, ICT and oil and gas sectors (EC, 2011). In 2014, EU Directives governing the way Member States purchase goods, works and services came into effect. Directive 2014/24/EU relates to procurement rules for public supply, service and works contracts. Directive 2014/25/EU relates to procurement rules in the transport, water, energy and postal sectors (the "Utilities Directive"). These new directives have substantially extended the breadth and depth of human rights provisions now available under EU public procurement rules (The Institute for Business and Human Rights 2015). Two subsequent Directives incorporate rights requirements into Free Trade Agreements and the EU's non-financial reporting disclosure directive requires corporate disclosure on human rights.

Nation States are also beginning to enact legislation addressing the human rights impacts of their corporations (Ramasastry 2015). In May 2015, the EU introduced mandatory certification for all EU importers sourcing from conflict zones. All importers of tin, tantalum, tungsten and gold for manufacturing consumer goods will, by law, need to be certified by the EU to ensure that they do not

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3 contribute to conflicts and human rights abuses, a move that will impact 880,000 firms in Europe. The
4 EU also launched its Action Plan on Human Rights and Democracy in July 2015. The action plan will
5 use the Guiding Principles in order to build responsibility in the supply chain.
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7 **The Guiding Principles, Accounting, Reporting and Assurance**

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9 In addition to the shifting field of regulation and accountability, the Guiding Principles envisage a
10 significant role for accounting in terms of implementing both State and corporate accountability for
11 human rights. For example, the requirement to introduce new human rights due diligence systems and
12 access to remedy procedures will undoubtedly have a considerable impact on accounting and
13 management systems in both the public and private sphere. More specifically, The Guiding Principles
14 outline a number of implications for public sector accounting and articulate requirements for the State
15 in this regard. The commentary to Guiding Principle 5, for example stipulates:
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17 “As a necessary step, the relevant service contracts or enabling legislation should clarify
18 the State’s expectations that these enterprises respect human rights. States should ensure
19 that they can effectively oversee the enterprises’ activities, including through *the*
20 *provision of adequate independent monitoring and accountability mechanisms.*” (UN
21 Human Rights Council, 2011, p.10, *emphasis added*)
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24 Accounting is also viewed as a technology for implementing the second pillar: corporate
25 responsibility to respect rights. Guiding Principle 20, for example, comments on how corporations’
26 responsibility to respect human rights needs to be “based on appropriate qualitative and quantitative
27 indicators.” In this respect, it is anticipated that accountability for human rights will need to be
28 incorporated into existing reporting processes. As Backer (2011, p. 176 *emphasis added*) notes:
29

30 “There is an expectation that data will be harvested from all phases of the human rights
31 due diligence process and all contacts with affected stakeholders [requiring] *integration*
32 *into relevant reporting processes with a cross-reference to the corporation’s remediation*
33 *obligations.*”
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35 In addition, the Guiding Principles outline a number of implications for national and international
36 standard setting. For example, the commentary to Guiding Principles 3 states that:
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38 “Financial reporting requirements should clarify that human rights impacts in some
39 instances may be “material” or “significant” to the economic performance of the business
40 enterprise.” (UN Human Rights Council, 2011, p.9)
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44 Now at their implementation stage, the Guiding Principles are the focal point for a wide range of
45 initiatives concerned with developing new forms of governance and accountability – with a number of
46 those initiatives specifically focused on issues of reporting and assurance. Most notably, The UN
47 Guiding Principles Reporting Framework¹, launched in February 2015, provides the first
48 comprehensive guidance for companies to report on their human rights performance in accordance
49 with the Guiding Principles. The Reporting Framework itself emerged out of a wider Human Rights
50 Reporting and Assurance Frameworks Initiative (RAFI) - a UN supported initiative developed by the
51 human rights NGO *Shift* and the accounting firm *Mazars* (Mazars, 2015; Shift, 2014).
52

53 The Reporting Framework provides guidance to companies on their responsibilities to manage risk,
54 undertake due diligence and report to stakeholders. By requiring a minimum threshold of information,
55 the Framework calls for companies to “know and show” how they are meeting their human rights
56 responsibilities. This includes, amongst other things, a statement on salient human rights issues, and
57 disclosure on how these issue were determined and managed through policies, stakeholder engagement
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3 and tracking performance. As Professor John Ruggie (the Special Representative to the Secretary
4 General on Business and Human Rights) states in his forward to the Framework:

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6 “The Reporting Framework further empowers... stakeholders to call for essential
7 information about how companies are tackling the human rights challenges they face.
8 Reporting that glosses over these realities with easy anecdotes no longer meets the grade.
9 Stock exchanges and rating systems the world over, with an interest in advancing non-
10 financial reporting, can now turn to this Framework to set clear expectations for
11 corporate disclosure and to drive improved accountability” (Shift/Mazars, 2015a, p.3).
12

13 Like the Guiding Principles, The Reporting Framework has garnered a considerable degree of
14 support. For example, a coalition of investors from Europe, North America and Australia have
15 publicly announced their support for the Reporting Framework. The coalition includes 82 investors
16 representing \$4.8 trillion assets under management – and, in their statement of support, noted that the
17 Reporting Framework provided a sound basis for implementing rigorous corporate governance
18 mechanisms for the management and reporting of human rights risks (Shift/Mazars, 2015b). Further,
19 the Reporting Framework has been closely linked to other significant developments in non-financial
20 reporting. Perhaps most notably, the RAFI project has signed a Memorandum of Understanding with
21 the Global Reporting Initiative (GRI, 2013), reflecting their joint commitment and collaborative
22 approach towards the development of human rights reporting. The Reporting Framework has also
23 been linked to developments in Integrated Reporting (IR) with the Chief Executive Officer of the
24 International Integrated Reporting Council (IIRC), Paul Druckman, publically stating that:
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27 “The UN Guiding Principles Reporting Framework will help give clarity to companies
28 wanting to improve their reporting on human rights, and provide guidance on identifying
29 human rights content for inclusion in an integrated report.” (Shift/Mazars, 2015c).
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31 The second phase of the RAFI project is to develop an assurance framework for the assurance of
32 human rights reporting in line with the Guiding Principles – and is due to be launched in mid-late
33 2016. In developing an assurance framework, the RAFI team have consulted with a wide-range of
34 stakeholders in order to understand the issues and challenges of providing assurance in this area. In
35 outlining their “Vision for Human Rights Assurance”, Shift/Mazars acknowledge that a major
36 concern for emerging practice in this area is the danger that human rights assurance becomes a
37 formulaic and ineffectual process (Shift/Mazars, 2015d). In particular, they note concerns raised by
38 civil society organisations (CSOs) that assurance on non-financial reporting tends to be so heavily
39 caveated that the assurance loses much of its potential value. Another key concern relates to the
40 knowledge, skills and training of assurance providers. More specifically, while financial and
41 sustainability assurance providers might have key expertise in relation to assurance processes, they
42 might lack specific human rights expertise. Concomitantly, those with the adequate human rights
43 expertise are unlikely to have the knowledge of assurance processes or the skills to adequately assess
44 the effectiveness of a companies processes and controls (Shift/Mazars, 2015d).
45

46 In addition to the Guiding Principles and the Reporting Framework discussed above, reporting
47 requirements related to business and human rights have emerged in other domains. Most notably, the
48 European Union (EU) adopted changes to its Accounting Directive, which now requires public
49 interest entities with more than 500 employees to disclose non-financial information related to social,
50 environmental and human rights issues. Furthermore, the UK’s Modern Slavery Act, which came into
51 effect in October 2015, requires companies with turnover in excess of £38 million to ensure that
52 slavery and human trafficking is not taking place in their business and supply chains. The act requires
53 companies to disclose a statement on human trafficking, signed by one of the company’s directors.
54 Similarly, the California Supply Chain Act has served as guidance for a bill in the U.S. House of
55 Representatives entitled the "Business Supply Chain Transparency on Trafficking and Slavery Act of
56 2015." The act would similarly require companies to disclose their efforts to eradicate slavery and
57 human trafficking from their supply chains. In this context, a number of Californian residents have
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3 recently filled lawsuits against companies linked to slavery – perhaps most notably, a lawsuit was
4 brought against Costco for deceiving consumers through inadequate public disclosures regarding their
5 use of slavery in the supply chain (Kelly, 2015). Finally, in the US, the Dodd Frank Act contains
6 disclosure requirements for companies in relation to their operations in conflict zones.
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8 Amongst investors, interest is also growing for information on companies' human rights performance.
9 Aviva, one of the largest finance houses in the UK are working in partnership with Calvert and others,
10 to develop one of the first corporate human rights benchmarks. While in Australia, changes proposed
11 to the ASX Corporate Governance guidelines require companies to disclose how economic,
12 environmental and social sustainability risks are being identified and managed. Principle 3 "*Promote*
13 *ethical and responsible decision-making*" describes a listed entity's obligation to respect human
14 rights, including: "refrain from acquiring supplies from organisations engaged in socially harmful
15 activities" (*ASX Corporate Governance Council, Corporate Governance Principles and*
16 *Recommendations*, 3rd Edition 2013, p.18).
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18 In short, the above discussion provides an indication of the seismic shifts that have occurred in the
19 corporate reporting, accountability and assurance of human rights in recent years. Despite the
20 significance and influence of these developments – they have received relatively little attention in the
21 accounting literature. No doubt reflecting the gravity of the challenges it presents, and the multitude
22 of regulatory initiatives emerging in the field - concern for the corporate accountability for human
23 rights has burgeoned in disciplines such as business ethics, law, international relations, political
24 philosophy and political science. Yet, despite the centrality of accountability and assurance to many
25 of the major developments, accounting scholarship remains on the sidelines.
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27 And yet, there are other important reasons why accounting scholars might be interested in the
28 implications of the Guiding Principles. More specifically, in the same way that banks and other
29 financial institutions are beginning to identify human rights due diligence in relation to service
30 provision, some accounting firms are beginning to engage with the implications of the Guiding
31 Principles in relation to the provision of client services. The challenge of the Guiding Principles
32 relates both to the human rights records of clients that firms service and the products and services that
33 firms offer. KPMG, for example, published its own human rights policy at the beginning of 2013
34 (KPMG 2015), in which they state:
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37 "On 16 June 2011 the United Nations Human Rights Council endorsed the "Guiding
38 Principles on Business and Human Rights: Implementing the United Nations 'Protect,
39 Respect and Remedy Framework'" (the Guiding Principles). The 30 principles include
40 fifteen that relate to business rather than to governments.
41

42 In following the Guiding Principles, KPMG International and KPMG member firms:
43 (I) undertake to avoid causing or contributing to adverse human rights impacts through
44 their own activities, and address such impacts when they occur and
45 (ii) seek to prevent or mitigate adverse human rights impacts that are directly related to
46 their operations, products or services through their business relationships."
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48 49 **The accounting profession and business and human rights – critical potential or professional** 50 **capture?** 51

52 The above discussion outlines some of the implications of recent developments in the field of
53 business and human rights for accounting work, as well as documenting the engagement of
54 accounting firms in human rights issues. In this respect, the above discussion adds an extra dimension
55 to the critical evaluation of large accounting professional service firms and their claim to serve the
56 public interest (Carter, Spence and Muzio 2015; Sikka, 2008). Of course the economic and social
57 dangers of applying accounting to both business and social problems are now well rehearsed within
58 the literature, as is the incongruence of the professional accountants claim to be serving the public
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3 interest. Drawing on the work of Power (1991), Li and McKernan (forthcoming) remind us of the
4 propensity for accounting and auditing to “colonise and “technologise” (Power, 1991, p. 30) in ways
5 that reflect the narrow pre-conceptions of accounting experts and the narrow conceptions of
6 professionalism that are used to under-write those world-views (Carter, Spence and Muzio 2015).
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8 Nevertheless, Power (1991) also reminds us that the claim that corporations have a social
9 responsibility is at least potentially a “political” act. Muchlinski (2001, see also Hsieh 2015)
10 comments, that the mere claim that corporations can have a duty to observe rights pushes human
11 rights law beyond its limits. This is primarily because the claim to be responsible for both the
12 promotion and protection of human rights represents the corporation in a manner that has been the
13 exclusive preserve of the nation state (Muchlinski 2001; 2012) a responsibility that is ostensibly
14 grounded in its legitimate *democratic* authority. Backer (2011b: 74) explains:

15 “Within the context of governance, the concept of a state duty to protect human rights is
16 entirely understandable. The relationship between state, corporation and law is both
17 conventional and well defined. States are believed to be the legitimate source of binding
18 rules, which when enacted can impose corporate obligations that can produce
19 considerable consequences. Just as important, those legal obligations were bounded both
20 by rule of law limits and commonly embraced notions of legal effects mediated solely
21 through the domestic legal orders of host or home states.”
22

23 The Guiding Principles present a potentially significant challenge to the way we think about the
24 responsibility and governance of corporations. Indeed, Muchlinski (2012) suggests that an evolving
25 understanding of the human rights duties in corporate law has the potential to challenge the
26 established enlightened shareholder self-interest models and move us towards a new understanding of
27 the contemporary role of business in society. Part of the challenge for the emerging business and
28 human rights field is to ensure that the political significance of the claim that corporations have a
29 responsibility for rights isn’t lost in the rush to translate this claim into standards, performance
30 indicators, targets and other accounting and auditing technologies (Power, 1997; Kamuf, 2007;
31 McKernan and McPhail, 2012; McPhail, 2015).
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34 **Guiding Principles vs Treaty?**

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36 While regulators and policy makers have been quick to engage with the Guiding Principles,
37 corporations have been cautious in their uptake (Methven O’Brien et al., 2016). A pilot study by the
38 University of Denver and the UN Business and Human Rights Working Group (2012) of the
39 implementation of the UN Guiding Principles in 117 companies across a diverse range of countries
40 and industries found that while 57% had a stand-alone human rights policy, respondents said it had
41 proved difficult to translate policy commitment into appropriate operational procedures. 41% of
42 respondents agreed that their company had the potential to have a significant negative impact on
43 human rights but that they did not actively assess those risks. Only half of the respondents had
44 developed qualitative and quantitative indicators to track and manage their human rights performance,
45 while 22% of respondents felt that their company had an effective remediation process where human
46 rights abuses were identified. Similarly, a joint ACCA, Net Balance report (2011) on the
47 management of human rights risk and reporting quality of Australian companies in the ASX 100, also
48 found that of the 47 ASX 100 companies identified as ‘exposed’ to human rights risks through their
49 areas of operations, 90% had inadequate systems in place to manage that risk. The study found that
50 while 15% disclosed evidence of human rights policy, only 6% were judged to have adequate
51 disclosure on human rights management. However, despite the lack of policy statements and
52 disclosure, there is evidence that the Guiding Principles are now impacting commercial law as rights
53 criteria are being incorporated into private contracts (Ruggie and Sherman, 2015; see also Cragg,
54 Arnold and Muchlinski, 2012; Arato, 2015). Indeed, Muchlinski (2012) argues that the focus on due
55 diligence within the guiding principles will lead to the evolution of legally binding duties under both
56 national and international law.
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3 Yet regardless of the extent to which the requirements of the Guiding Principles have been
4 incorporated into the regulatory and legal environment, the lack of substantive engagement by
5 corporations and the lack of impact on the rights of the most vulnerable², has lead to calls for a legally
6 binding international treaty on business and human rights (Lopez and Shea, 2016; de Schutter, 2016).
7 Ramasatry (2016) for example comments:

8 “By 2013, a debate was underway among governments and within the human rights
9 community (International Commission of Jurists 2014). While some governments,
10 businesses, and civil society representatives contend that implementation of the UNGPs
11 is still in its infancy, critics have argued that the UNGPs are inherently weak and will not
12 provide meaningful accountability and access to remedy... A more effective tool, they
13 argued, was needed in the form of binding global regulation.”

14 In June 2014, the UN Human Rights Council established an Intergovernmental Working Group “to
15 elaborate an international legally binding instrument to regulate, in international human rights law, the
16 activities of transnational corporations and other business enterprises” (UN Human Rights Council
17 2014a: para. 9; see also Business and Human Rights Resource Center 2014) (Ramasatry, 2016)³.

18
19 The first intergovernmental session on a legally binding treaty on business and human rights was held
20 in July 2015. De Schutter (2016) outlines four non-mutually exclusive options for a legally binding
21 international treaty as follows:

22 “(i) to clarify and strengthen the states’ duty to protect human rights, including
23 extraterritorially; (ii) to oblige states, through a framework convention, to report on the
24 adoption and implementation of national action plans on business and human rights; (iii)
25 to impose direct human rights obligations on corporations and establish a new
26 mechanism to monitor compliance with such obligations; and (iv) to impose duties of
27 mutual legal assistance on states to ensure access to effective remedies for victims
28 harmed by transnational operations of corporations.”

29
30 Attempts to develop the legal accountability of corporations for human rights abuses is clearly a
31 contested area (Grear and Weston, 2015). Grear and Weston (2015, see also Cragg, Arnold and
32 Muchlinski, 2012) for example look at how the US Kiobel case ruling was used to close the door on
33 one of the few legal avenues available for activists to hold corporations accountable for human rights
34 violations in the States. They contend:

35 “the neo-liberal structural order within which corporate accountability is sought means
36 that all strategies, no matter how promising, are potentially undermined by corporate
37 and/or ideological capture. The challenge of ending corporate impunity for gross
38 violations of human rights demands the imposition of mandatory forms of direct
39 corporate human rights responsibility, but the nature of the neo-liberal structural context
40 should be understood to mandate continuous critical reflexivity, even if and when
41 mandatory corporate human rights law accountability is established.” (Grear and Weston
42 2015)

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44 Yet it would be wrong to conclude that the Guiding Principles can only be effective if they are
45 translated into a legally binding treaty. Costanza (2015) for example studies the unexpected effects of
46 International Labor Organization Convention No. 169 when appropriated by grassroots actors. The
47 convention states that indigenous peoples have a right to consultation prior to the approval of natural
48 resource development projects. Costanza (2015) shows that within the context of Guatemala, this
49 right has become a crucial political tool for indigenous people, with hundreds of indigenous
50 communities drawing on this self-constructed legal and contentious political strategy to exercise the
51 right to consultation, with little state support. The study shows how rights are being formulated and
52 used politically and indicates that although community consultations failed to block any unwanted
53 projects in some instances, they have, “altered indigenous peoples’ conceptions of their identity,
54 rights, and the state” (Costanza, 2015, p.260).

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56 The Guiding Principles, therefore, at least potentially represent a significant shift in the organizational
57 and social context in which accounting operates (Hopwood, 1978; Burchell et al, 1985; Chapman,
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3 Cooper and Miller 2009). This significance is evidenced in the scholarly response to the idea that
4 corporations should have a responsibility for rights (See for example, Seppala, 2009, Whelan, et al
5 2009, Nolan, 2009, Campbell 2006, Kobrin 2009; Macdonald, 2011, Wettstein 2010; Campbell 2006,
6 Kobrin, 2009). A special issue of Business Ethics Quarterly (Cragg, Arnold and Muchlinski, 2012;
7 Cragg, 2012; Wood, 2012; Wettstein, 2012; Bishop, 2012), has explored the broader philosophical
8 dimensions of corporate responsibility for rights while a recent special issue of the Journal of Human
9 Rights (see for example Santoro 2015; Hsieh 2015; Ramasastry 2015; Costanza, 2015; Grear &
10 Weston, 2015) has explored how the business and human rights agenda impacts on the theory and
11 practice of human rights. January 2016 also saw the launch of a new journal dedicated to the
12 development of the field: the Business and Human Rights Journal, (Ramasatry, 2016; Methven
13 O'Brien, et al., 2016; Lopez and Shea 2016; de Schutter 2016).

14 15 **Contents of the AAAJ Special Issue on Accounting for Human Rights**

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17 Yet, as we contend above, despite the centrality of accountability and assurance to many of the major
18 developments within the emerging field of business and human rights accounting scholarship has, in
19 the main, remained on the sidelines. The papers in this special issue go some way towards addressing
20 this lack of engagement.

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22 In the opening paper of this AAAJ special issue, Methven O'Brien and Dhanarajan (forthcoming)
23 provide a comprehensive assessment of a number of key developments related to Pillar II of the
24 Guiding Principles –specifically related to the corporate responsibility to respect human rights. In this
25 regard, the paper provides a timely assessment of due diligence and corporate reporting practice in
26 this area. In this paper, Methven O'Brien and Dhanarajan (forthcoming) suggest that a comparatively
27 small number of transnational corporations have seriously engaged with the Guiding Principles and,
28 in line of the discussion above, explore whether further legal enforcement is required. This critical
29 evaluation of what has been achieved in terms of corporate reporting and accountability indicates that
30 while there has been increasing innovation amongst regulatory actors in operationalizing the Guiding
31 Principles, change on the ground is slow and partial. They call for more democratic accountability,
32 and a more potent mix of mandatory as well as voluntary requirements on corporations.

33
34 Li and McKernan (forthcoming) make an important theoretical contribution to the special issue by
35 drawing on the political writing of Jacques Rancière to articulate and develop the critical potential of
36 accounting and human rights. In doing so, Li and McKernan (forthcoming) provide a sophisticated
37 and provocative response to extant criticism of human rights and to criticisms of social and
38 environmental accounting by critical accounting scholars. In relation to the latter, Li and McKernan
39 (forthcoming) draw on Srnicek and Williams (2015, p. 3) to contend that the emphasis on 'counter-
40 accounts', 'anti-accounts', etc, made by scholars such as Spence (2007, 2009) are merely "folk-
41 political thinking", and doomed to fail as an opposition to capitalism. Instead, Li and McKernan
42 (forthcoming) develop a nuanced application of Rancière's thinking to argue that both the Guiding
43 Principles and accounting for human rights provide the potential context for "the staging of dissensus"
44 and "facilitating the articulation of claims to equality".

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47 McPhail, MacDonald and Ferguson's (forthcoming) polemical piece asks whether the International
48 Accounting Standards Board (The IASB) should have a responsibility to respect rights. The paper
49 contributes to scholarship on the political legitimization of the IASB's structure and activities under
50 prevailing global governance conditions. Drawing on the pluralist regulatory context within which
51 the Guiding Principles have been developed, the authors explore three normative and political
52 arguments for extending conceptions of the IASB's accountability to include a responsibility to
53 respect rights. The first argument draws on an analysis of 'public power' (Macdonald, 2008) and
54 public authorization. The second argument develops reasoning by analogy with reference to recent
55 attempts by legal scholars to apply human rights obligations to transnational institutions like the
56 World Bank. The final argument draws on Thomas Pogge's (1992b) distinction between interactional
57 and institutional human rights responsibilities and in particular his ideas that institutional harms must
58 be associated with a corresponding set of responsibilities.

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4 Sinkoviks and Sinkoviks' (forthcoming) empirical study of the regulatory response to the Rana Plaza
5 disaster highlights how the impact of regulation on practice can work to both advance standardized
6 categories of human rights while undermining local experiences of rights. Drawing on case studies of
7 three medium-sized suppliers in the garment manufacturing sector, the paper sets out to investigate
8 the intended and unintended consequences of compliance and auditing reforms that followed the Rana
9 Plaza accident in April 2013. Sinkoviks and Sinkoviks' show how the pressure for compliance has
10 resulted in the prioritization of measurable standards to the detriment of the socially grounded needs
11 and priorities of workers. They conceptualise this outcome as a destruction of social value. They also
12 contend that both the pressure for and increasing costs of compliance has resulted in technological
13 upgrading which in turn has resulted in increasing pressures on the labour force. The paper concludes
14 that the compliance and auditing reforms have resulted in unskilled workers being excluded from the
15 job market.

16
17 McPhail and Adams (forthcoming) draw on Critical Discourse Analysis (CDA) to study how notions
18 of corporate accountability for rights are emerging in practice. This article critically analyses the
19 human rights discourse of thirty Fortune 500 companies in the mining, pharmaceutical and chemical
20 industries at two key points in the recent evolution of the UN's business and human rights agenda
21 firstly, the publication in 2008 of the *Protect, Respect, Remedy* policy framework; and secondly, the
22 endorsement by the UN in 2011, of a set of *Guiding Principles* designed to implement this
23 framework. In contrast to the business ethics literature that explores the normative basis of what
24 corporate accountability for rights might mean (Santoro 2015), this paper looks at how the meaning of
25 "respect for rights" is linguistically evolving within corporate accountability disclosures on rights.
26 Specifically, the paper explores the *scope* of rights for which corporations are accountable and the
27 *degree* of responsibility a company assumes for enacting these rights. The authors explore four
28 grammars of respect and three different scopes of rights which, they contend, are evident of a shifting
29 order of discourse. Adams and McPhail (forthcoming) conclude that the structuring of this emerging
30 discourse is important, not only because the meaning and scope of corporate respect for rights affects
31 the lived experience of some of the most vulnerable in society, but also because it reflects a shifting in
32 the relationship between the state, business and society (Muchlinski 2012).

33
34 Siddique and Uddin (forthcoming) draw on Stanly Cohen's work on *States of Denial* to explore the
35 Bangladesh government's response to the Rana Plaza disaster. The paper, which explores the
36 strategies used by the state to avoid accountability, questions the efficacy of the Guiding Principles in
37 the ready-made garments (RMG) industry in Bangladesh. Drawing on Cohen's notion of 'denial' and
38 Black's (2008) legitimacy and accountability relationships of state and non-state actors, the study
39 explores why such "soft" global regulations remain ineffective. The paper focuses specifically on
40 workers rights in relation to factory conditions and trade unions. The final contribution to the special
41 issue is a commentary by Mike Posner, the ex Assistant Secretary of State for the Bureau of
42 Democracy, Human Rights and Labor at the US State Department. This piece makes two important
43 contributions. First, it provides an insight into the shifting institutional field of human rights.
44 Posner's reflections on his transition from the US state department to setting up one of the first
45 Business and Human Rights centers at Stern NYU, provides insights into the conceptual shift within
46 the human rights field, from the state to the corporation. Second, it challenges the academy to reflect
47 on the need for engagement with business and the co-production of a response. The piece therefore
48 contains an important challenge for academia to get practically engaged and to "move beyond being
49 commentators." As Chapman, Cooper & Miller (2009) comment "policy advice in the public interest,
50 however difficult that term is to operationalize, needs to be encouraged."

51 52 53 **Conclusion**

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55 While past accounting scholarship has studied the relationship between accounting and rights (for
56 example, Gray and Gray 2011), the recent shift of focus within human rights, with its established
57 legal, organizational and institutional field, does represent a potentially significant development that
58 requires both further accounting scholarship and practical engagement.
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4 There have been significant regulatory developments within the field in the five years since their
5 endorsement and we anticipate that the field will continue to grow. This momentum is evidenced, in
6 part by the growing engagement at the Forum on Business and Human Rights, an annual policy and
7 practice forum, set up by the UN to aid the implementation of the guiding principles. Just some of the
8 issues that have emerged as areas of focus include: judicial and non-judicial access to remedy; the
9 need for a legally binding international treaty on business and human rights; guidance for the SME
10 sector; capacity building within the business community; the rights of indigenous people; the role of
11 public finance in advancing the Guiding Principles and the need for adequate grievance mechanisms
12 for rights violations associated with activities funded via public finance⁴; the human rights
13 responsibilities of the World Bank and other intergovernmental organizations; the role of the financial
14 services sector in advancing human rights and the application of the Guiding Principles in relation to
15 conflict-affected areas. Finally, there is an increasing focus on the Guiding Principles in relation to
16 ICT companies specifically in relation to the increasing pressure that governments are placing on
17 ICT companies to act in ways that may impact the fundamental human rights of privacy and freedom
18 of expression. This debate has come to the fore in the UK, in relation to the proposed Investigatory
19 Powers Bill, a piece of legislation which, it is argued, would legalize mass surveillance.
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21 While commenting on the need for social science to engage more substantively in the practice of
22 accounting Chapman, Cooper and Miller (2009) comment that “Accounting is too important to be
23 studied only by accountants!” This is true. But it is also the case that this shift within the discourse
24 on human rights is too important to be studied only by lawyers. While it is possible to detect a
25 measure of cautious optimism within the accounting literature on the possibilities that this shift
26 represents (Sikka, 2011, Gallhofer et al. 2011; Gray and Gray 2011, Li and McKernan forthcoming),
27 it is far too early to say whether the business and human rights agenda will be a game changer or
28 another false dawn. Nevertheless, whatever critical impact might be achieved will depend on what we
29 choose to do with the opportunity.
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31 References

32
33
34 ASX (2013), “Corporate Governance Council, Corporate Governance Principles and
35 Recommendations”, available at: [http://www.asx.com.au/documents/asx-compliance/cgc-principles-](http://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf)
36 [and-recommendations-3rd-edn.pdf](http://www.asx.com.au/documents/asx-compliance/cgc-principles-and-recommendations-3rd-edn.pdf) (accessed August 2015).
37

38 Arato, J (2015) “Corporations as Lawmakers” *Harvard International Law Journal* Vol.56(2).
39

40 Backer, L. (2011), “From institutional misalignment to socially sustainable governance: the guiding
41 principles for the implementation of the United Nation’s ‘Protect, Respect and Remedy’ and the
42 construction of inter-systemic Global Governance”, *Pacific McGregor Global Business and*
43 *Development Law Journal* , Available at SSRN: <http://ssrn.com/abstract=1922953> (accessed, 12 Oct
44 2015)
45

46 Bishop, J. (2012). "The Limits of Corporate Human Rights Obligations and the Rights of For-Profit
47 Corporations," *Business Ethics Quarterly* Vol.22, No.1 pp.119-144.
48

49 Burchell, S., Clubb, C., Hopwood, A., Hughes, J., and Nahapiet, J. (1980), “The roles of accounting
50 in organizations and society”, *Accounting, Organizations and Society*, Vol.5, No.1, pp. 5–27.
51

52 Campbell, T. (2006). "A Human Rights Approach to Developing Voluntary Codes of Conduct for
53 Multinational Corporations," *Business Ethics Quarterly* Vol.16, No.2, pp.255-69.
54

55 Carter, Chris, Crawford Spence, and Daniel Muzio. "Scoping an agenda for future research into the
56 professions." *Accounting, Auditing & Accountability Journal* 28.8 (2015): 1198-1216.
57
58
59
60

1
2
3 Chapman, C., Cooper, D. and Miller, P. (2009), "Linking Accounting, Organizations, and
4 Institutions", In: Chapman, C., Cooper, D. and Miller, P. (Eds). *Accounting, organizations, and*
5 *institutions: essays in honour of Anthony Hopwood*, Oxford University Press, Oxford, pp. 1–30.

6
7 Costanza, J.N.(2015), "Indigenous Peoples' Right to Prior Consultation: Transforming Human Rights
8 From the Grassroots in Guatemala.", *Journal of Human Rights*, Vol 14. No. 2, pp. 260-285.

9
10 Cragg, W. (2012) "Ethics, Enlightened Self-Interest, and the Corporate Responsibility to Respect
11 Human Rights: A Critical Look at the Justificatory Foundations of the UN Framework," *Business*
12 *Ethics Quarterly*, 22:1 9-36.

13
14 Cragg, W., Arnold, D.G. and P. Muchlinski (2012) "Human Rights and Business," *Business Ethics*
15 *Quarterly* Vol.22:1 pp:1-7.

16
17 De Schutter, O. (2016), "Towards a New Treaty on Business and Human Rights." *Business and*
18 *Human Rights Journal*, Vol.1 No1, pp. 41-67.

19
20 European Commission (EC), (2011), "Communication From The Commission To The European
21 Parliament, The Council, The European Economic And Social Committee And The Committee Of
22 The Regions: A renewed EU strategy 2011-14 for Corporate Social Responsibility", Available at:
23 <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52011DC0681> (accessed January 2016).

24
25 Gallhofer, S. Haslam J. and Van der walt, S. (2011) "Accountability and transparency in relation to
26 human rights: A critical perspective reflecting upon accounting, corporate responsibility and ways
27 forward in the context of globalization" *Critical Perspectives on Accounting*, Vol.22(8), pp.765-780.

28
29 Gray S. and R. Gray (2011) "Accounting and human Rights: A Tentative Exploration and
30 Commentry" *Critical Perspectives on Accounting*, doi:10.1016/j.cpa.2011.07.004

31
32 Grear A. and B.H. Weston (2015) "The Betrayal of Human Rights and the Urgency of Universal
33 Corporate Accountability: Reflections on a Post-Kiobel Lawscape." *Human Rights Law Review*
34 Vol.15 No.1., pp.21-44.

35
36 GRI (2013), "GRI and RAFI collaborate to leverage the power of business to advance respect for
37 human rights", available at: [https://www.globalreporting.org/information/news-and-press-](https://www.globalreporting.org/information/news-and-press-center/Pages/GRI-and-RAFI-collaborate-to-leverage-the-power-of-business-to-advance-respect-for-human-rights.aspx)
38 [center/Pages/GRI-and-RAFI-collaborate-to-leverage-the-power-of-business-to-advance-respect-](https://www.globalreporting.org/information/news-and-press-center/Pages/GRI-and-RAFI-collaborate-to-leverage-the-power-of-business-to-advance-respect-for-human-rights.aspx)
39 [for-human-rights.aspx](https://www.globalreporting.org/information/news-and-press-center/Pages/GRI-and-RAFI-collaborate-to-leverage-the-power-of-business-to-advance-respect-for-human-rights.aspx) (accessed December 2015)

40
41 Hopwood, A.G. (1983), "On trying to study accounting in the contexts in which it operates",
42 *Accounting, Organizations and Society*, Vol. 8, No.2, pp. 287–305.

43
44 Hopwood, A. (1978), "Towards an organizational perspective for the study of accounting and
45 information systems", *Accounting, Organizations and Society*, Vol. 3 No.1, pp. 3–13.

46
47 Hsieh, N. (2015) "Should Business Have Human Rights Obligations?" *Journal of Human Rights*
48 Vol.14, No.2. pp.218-236.

49
50 Kamuf, P., (2007), "Accountability", *Textual Practice*, Vol. 21, No. 2, pp. 251-266.

51
52 Kelly, A. (2015), "The UK's new slavery laws explained: what do they mean for business?", available
53 at: [http://www.theguardian.com/sustainable-business/2015/dec/14/modern-slavery-act-explained-](http://www.theguardian.com/sustainable-business/2015/dec/14/modern-slavery-act-explained-business-responsibility-supply-chain)
54 [business-responsibility-supply-chain](http://www.theguardian.com/sustainable-business/2015/dec/14/modern-slavery-act-explained-business-responsibility-supply-chain) (accessed January 2016)

55
56 Kobrin, S.J. (2009) "Private Political Authority and Public Responsibility: Transnational Politics,
57 Transnational Firms, and Human Rights," *Business Ethics Quarterly* Vol.19, No.3 pp.349-74.

1
2
3
4 KPMG (2015) "Business and Human Rights Statement"
5 <https://home.kpmg.com/xx/en/home/about/citizenship/human-rights-statement.html>
6

7 Li, Y. and McKernan, J. (forthcoming), "Human Rights, Accounting, and the Dialectic of Equality
8 and Inequality", *Accounting, Auditing and Accountability Journal*
9

10 Lopez, C. and Shea. B. (2016) "Negotiating a Treaty on Business and Human Rights: A Review of the
11 First Intergovernmental Session.", *Business and Human Rights Journal* Vol.1 No.1, pp.111-116.
12

13 McPhail, K., MacDonald, K. & J. Ferguson (forthcoming) Should the International Accounting
14 Standards Board Have Responsibility for Human Rights? *Accounting, Auditing and Accountability*
15 *Journal*
16

17 McPhail, K., & C. Adams (Forthcoming) Corporate Respect for Human Rights: meaning, scope, and
18 the shifting order of discourse. *Accounting, Auditing and Accountability Journal*
19

20 McPhail, K. (2015), "Accounting, Ethics and Organization: Accounting for Human Rights in a Post-
21 Sovereign World?" In Pullen, A. & Rhodes, C. 2015, *The Routledge Companion to Ethics, Politics*
22 *and Organizations*, Routledge.
23

24 McPhail, K., & McKernan, J. (2011), "Accounting for human rights: an overview and introduction",
25 *Critical Perspectives on Accounting*, Vol. 22 No.8, pp. 733-737.
26

27 Mazars (2015), "Business and Human Rights: UNGP Reporting Framework to launch". Available at:
28 [http://www.mazars.co.uk/Home/Our-Services/Publications/Consulting-publications/Human-Rights-](http://www.mazars.co.uk/Home/Our-Services/Publications/Consulting-publications/Human-Rights-publications/UNGP-Reporting-Framework-to-launch)
29 [publications/UNGP-Reporting-Framework-to-launch](http://www.mazars.co.uk/Home/Our-Services/Publications/Consulting-publications/Human-Rights-publications/UNGP-Reporting-Framework-to-launch)
30

31 Methven O'Brien, C. & S. Dhanarajan (forthcoming) "The Corporate Responsibility to Respect
32 Human Rights: A status review" *Accounting, Auditing and Accountability Journal*
33

34 Muchlinski, P. (2012), "Implementing the New UN Corporate Human Rights Framework:
35 Implications for Corporate Law, Governance and Regulation", *Business Ethics Quarterly*, Vol 22
36 No.1, pp. 145-177.
37

38 Power, M. (1997), *The Audit Society*, Oxford University Press, Oxford.
39

40 Power, M., (1991), "Auditing and Environmental Expertise: Between Protest and
41 Professionalisation", *Accounting Auditing & Accountability journal*, Vol. 4, No. 3, pp. 30-42.
42

43 Ramasastry, A. (2015), "Corporate Social Responsibility Versus Business and Human Rights:
44 Bridging the Gap Between Responsibility and Accountability.", *Journal of Human Rights* Vol.14.
45 No.2, pp. 237-259.
46

47 Ruggie, J. (2008) Protect, Respect and Remedy: a Framework for Business and Human Rights, Report
48 of the Special Representative of the Secretary-General on the issue of human rights and transnational
49 corporations and other business enterprises.
50

51 Ruggie, J. (2011) *Report of the Special Representative of the Secretary-General on the issue of human*
52 *rights and transnational corporations and other business enterprises*,
53
54

55 Ruggie J. (2014) "Global Governance and "New Governance Theory": Lessons from Business and
56 Human Rights", *Global Governance: A Review of Multilateralism and International Organizations*,
57 Vol. 20 No.1, pp. 5-17.
58
59
60

1
2
3
4 Ruggie, J. and J.F. Sherman (2015) "Adding Human Rights Punch to the New Lex Mercatoria: The
5 Impact of the UN Guiding Principles on Business and Human Rights on Commercial Legal Practice."
6 *Journal of International Dispute Settlement*, Vol.16, No. 3, pp.455-461.

7
8 Santoro, M.A. (2015) "Business and Human Rights in Historical Perspective" *Journal of Human*
9 *Rights*, Vol. 14, No. 2, pp.155-161,

10
11 Seppala, N. (2009) "Business and the International Human Rights Regime: A Comparison of UN
12 Initiatives" *Journal of Business Ethics*, Vol.87, No.2. pp.401-407.

13
14 Shift (2014), "Human Rights Reporting and Assurance Frameworks Initiative - RAFI," Available at: ,
15 <http://www.shiftproject.org/project/human-rights-reporting-and-assurance-frameworks-initiative-rafi>.

16
17 Shift/Mazars (2015a), The UN Guiding Principles Reporting Framework, available at:
18 http://www.ungpreporting.org/wp-content/uploads/2015/03/UNGPRReportingFramework_Feb2015.pdf

19
20 Shift/Mazars (2015b), "UN Guiding Principles Reporting Framework Investor Statement", available
21 at: <http://www.ungpreporting.org/early-adopters/investor-statement/> (accessed December 2015)

22
23 Shift/Mazars (2015c), "The UNGP Reporting Framework and Integrated Reporting", available at:
24 <http://www.ungpreporting.org/resources/the-ungp-reporting-framework-and-integrated-reporting/>

25
26 Shift/Mazars (2015d), "Vision for Human Rights Assurance", available at: [http://business-](http://business-humanrights.org/sites/default/files/RAFI_VisionforHumanRightsAssurance_17April2015.pdf)
27 [humanrights.org/sites/default/files/RAFI_VisionforHumanRightsAssurance_17April2015.pdf](http://business-humanrights.org/sites/default/files/RAFI_VisionforHumanRightsAssurance_17April2015.pdf)
28 (accessed September 2015).

29
30 Siddiqui, J., & S. Uddin (*Forthcoming*) "Human rights disasters, corporate accountability and the
31 state: An Emerging economy case."

32
33 Sikka, P., (2011), "Accounting for human rights: The challenge of globalisation and foreign
34 investment agreements", *Critical Perspectives on Accounting*, Vol. 22, No.8, pp.811-827.

35
36 Sikka, P. (2008), "Enterprise culture and accountancy firms: new masters of the universe",
37 *Accounting, Auditing & Accountability Journal*, Vol. 21 No. 2, pp. 268-295

38
39 Sinkoviks, N & R. Sinkoviks (*Forthcoming*) "Rana Plaza collapse aftermath: Are CSR compliance
40 and auditing pressures effective?" *Accounting, Auditing & Accountability Journal*.

41
42 UN Human Rights Council, (2011), "Guiding Principles on Business and Human Rights:
43 Implementing the United Nations 'Protect, Respect and Remedy' Framework", A/HRC/17/31,
44 available at <http://www.ohchr.org/documents/issues/business/A.HRC.17.31.pd> (accessed 12
45 November 2015).

46
47 Wettstein, F. (2012), "CSR and the Debate on Business and Human Rights : Bridging the Great
48 Divide", "Business Ethics Quarterly", Vol. 22 No.4, pp.739-770.

49
50 Wettstein, F. (2010). "The duty to protect: corporate complicity, political responsibility, and human
51 rights advocacy", *Journal of Business Ethics*, Vol., 96, pp.33-47.

52
53 Whelan, G., Moon, J., M. Orlitzky. (2009), Human Rights, Transnational Corporations and Embedded
54 Liberalism: What Chance Consensus? *Journal of Business Ethics*, Vol., 87. No.2, pp.367-383

55
56 Wood, S. (2012). "The Case for Leverage-Based Corporate Human Rights Responsibility," *Business*
57 *Ethics Quarterly* Vol. 22 No.1. pp.63-98.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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¹ see: <http://www.ungpreporting.org>

² Indeed, the spread of the GP's within the broader regulatory environment has been matched by a growing persecution of human rights activists. According to ECSR-Net there has been a global crack down in human rights activists. According to ESCR Net. there has been a 30% increase in harassment.

³ Led by Ecuador and South Africa, the initiative was supported by a plurality of only 20 of the 47 member states of the Council. Fourteen States opposed and 13 abstained. All states voting in favor were from Africa or Asia, except for Russia, Cuba, and Venezuela. The opposing states included all European States on the Council (except Russia), plus the United States, Japan, and the Republic of Korea. The abstentions included four major Latin American economies (Brazil, Mexico, Argentina, and Peru), three African States, three Gulf States, and one Asian State.

⁴ Comments form a report by Karyn Keenan of the Halifax Initiative at the 2012 forum on Business and Human Rights at Geneva.