When Rights Enter the CSR Field: British Firms' Engagement with Human Rights and the UN Guiding Principles

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Abstract

The adoption of the Guiding Principles for Business and Human Rights by the United Nations (UNGPs) in 2011 created a new governance instrument aimed at improving the promotion of human rights by business enterprises. While reaffirming states duties to uphold human rights in law, the UNGPs called on firms to promote the realization of human rights within global markets. The UNGPs thus have sought to embed human rights more firmly within the field of corporate social responsibility (CSR) and to use CSR practices to improve corporate human rights accountability. In this paper, we explore how this incorporation of human rights into the CSR field has affected the business practices and public commitments British firms have made to promote human rights. We analyse the CSR reports published by the 50 largest British firms over a 20-year period starting in the late 1990s and interview senior CSR managers of these firms. We find that these firms have expanded how they articulate their responsibility for human rights over time. These commitments however remain largely focused on improving management practices such as due diligence and remediation procedures. Firms are often both vague and selective about which substantive human rights they engage with in light of their concerns about their market competitiveness and broader legitimacy. These outcomes suggest that, while firms cannot completely resist the normative pressures exerted by the CSR field, they retain significant resources and agency in translating such pressure into concrete practices.

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Introduction

By unanimously endorsing the United Nations Guiding Principles for Business and Human Rights (UNGPs) in 2011, the UN Human Rights Council introduced a new governance framework aimed at improving the promotion and protection of human rights by business enterprises. The framework is organized around three interdependent 'pillars' directed to states and corporations. The first pillar reaffirms states' primary legal duty to protect human rights, while the third pillar compels states and firms to offer victims of human rights abuses access to effective remedy (Ruggie 2011). The second pillar, the focus of this paper, is arguably the most novel as well as the most contested part of the initiative. It establishes firms' responsibility to respect human rights by implementing a set of due diligence, 'know and show', practices in which firms adopt appropriate policy, management systems and disclosure tools to ensure such responsibility is fulfilled.

While the relationship between business and human rights has a long pedigree (Bernaz 2016), the explicit recognition of the corporate responsibility to respect human rights within Pillar II of the UNGPs has been hailed as 'one of the most deep-rooted developments in the human rights story…' (Jerbi 2009: 320). In particular, this UNGP provision has helped to embed human rights language and goals more firmly within the existing field of corporate social responsibility, which previously had focused more narrowly on employee conditions, core labour rights and environmental sustainability. As Wettstein argued shortly after the publication of the UNGPs, human rights are now 'on the CSR radar' (Wettstein 2012: 739). Indeed, the diffusion of the responsibility to respect human rights enshrined in Pillar II is—by design—reliant on the integration of this principle into the normative texture as well as the established practices of the CSR field (OHCHR 2015).

This field has been created and structured by a network of international organizations, NGOs and often local grassroot movements that since the 1990s have pressured transnational corporations (TNCs) to take responsibility for their impacts on the rights of workers, the natural environment and the communities in which they operate (Loconto and Fouilleux 2014). These actors seek to enhance corporate responsibility by encouraging firms to adhere to international, voluntary codes of conduct such as the UN Global Compact and now Pillar II of the UNGPs. Although they come in different forms and address different issues, most CSR codes encourage firms to engage in continuous improvement through measurement, target-setting, transparency, and stakeholder dialogue (Loconto and Fouilleux 2014; Mueckenberger and Jastram 2010). Together the field's norms and 'know and show' practices are employed to foster greater corporate accountability and collaborative learning.

The inclusion of an explicit responsibility to respect human rights—something corporations historically have argued is the duty of states—among the norms promoted by these networks is key for their effective diffusion among corporations (Kinderman 2018; Ruggie 2013). In so doing, the authors of the UNGPs drew on the successful history of normative change this field has been able to inspire. Over the last two decades the number of CSR codes of conduct have bourgeoned as has corporate membership in such schemes (Pope and Lim 2019).

The literature on private, CSR governance suggests that firms engage selectively with this field of practice. They choose which codes they want to participate in and

abide by and, perhaps most importantly, the extent of their commitments (Perez et al. 2019). Firms thus play an active role in shaping understandings of accepted CSR norms and best practice. Hence, they contribute to determining the evolving structure of the field itself.

The idea of responsibility embedded in Pillar II of the UNGPs is framed in negative terms and is focused on doing no harm in line with the 'the classic human rights meaning of respect' (Ruggie 2013: 100). Historically, CSR advocates have pushed for more progressive notions of responsibility by asking companies to engage proactively in protecting, promoting and realizing sustainability imperatives. This raises the question of how the corporate responsibility to respect human rights is practiced by firms, the targets of the soft law mandates contained in Pillar II.

In this paper, we explore the extent to which the progressive incorporation of human rights norms into the CSR field, including the advent of Pillar II of the UNGPs, has affected relevant business practices and the public commitments these organizations make to promoting human rights. We examine firms' CSR practices conscious that these firms have been exposed to similar normative pressure, yet they may respond differently in relation to their understanding of the CSR field dynamics and what is at stake for them.

To answer our research question, we examine how TNCs headquartered in the United Kindgdom (UK)—the first country to adopt a National Action Plan (NAP) to implement the UNGPs—articulate their human rights responsibilities within their CSR communications over a 20-year period starting in the late 1990s. We pay particular attention to the extent to which firms have engaged with the due diligence, transparency and reporting practices promoted in Pillar II and by NAPs. In addition, we conduct interviews with key actors that make up the CSR field in the UK, including CSR managers, business associations and NGOs to better understand how and why firms' commitments to human rights have changed over time and since the publication of the UNGPs.

Our results show that although firms have expanded how they articulate their responsibility for human rights over time, this commitment remains largely focused on establishing or improving management practices such as due diligence and remediation procedures. At the same time, firms are often both vague and selective about which substantive human rights issues they engage with in light of their concerns about their market competitiveness and broader legitimacy. As such firms increasingly commit to taking broad responsibility for human rights but fail to be transparent about their existing impacts on rights realization or their specific pledges for future improvements for all but a narrow group of rights, most notably health and safety and diversity. For most other rights firms only rarely demonstrate that they 'know' their impacts or are willing to 'show' such impacts to key audiences.

To understand these outcomes, we argue that the CSR field has to be conceptualized in at least partially Bourdieusian, conflictual terms. The networks, norms and practices promoted in the field by CSR advocates can compel firms to conform to new standards of behaviour. But the field's dynamics also leave corporations significant room to resist and subvert such pressure where they perceive denying their responsibility for a particular right can be justified to key audiences and is necessary to help maintain and improve their position in evolving global markets (van Aaken et al. 2013; Shamir 2004). By highlighting the resources field actors can mobilize to compete and co-exist in social arenas, Bourdieu's understanding of fields helps to explain how and why firms

have adopted variable CSR practices even when confronted with common demands to take responsibility for their human rights impacts.

Human Rights and the Field for Corporate Social Responsibility

Since the 1990s, firms have come under increased scrutiny over their environmental, labour and human rights impacts. The idea that firms have responsibilities to their workers and society is not new. By the mid-1990s, however, corporate social responsibility increasingly had become entangled with the sustainable development paradigm first proposed by the United Nations in the 1980s (Dashwood 2012). This paradigm calls on firms to take responsibility for their environmental and social externalities based on a triple bottom line logic of economic, social and environmental performance (WCED 1987). Through the 1990s and early 2000s the sustainability norm was translated into a growing number of voluntary codes and standards such as the UN Global Compact that firms were encouraged to adhere to. More recently the sustainability logic has been embedded in the high-profile Sustainable Development Goals, which were adopted by the UN in 2015 and have since been endorsed by prominent business actors such as the International Finance Corporation (Ruggie 2017).

Scholars generally share the view that the rise of sustainability CSR is related to the globalization of markets and supply chains. Such market integration has increased the difficulty of regulating powerful TNCs that operate across multiple and often poorly regulated localities (Vogel 2008). In addition to these practical difficulties, others have argued that the market-oriented values that have accompanied economic globalization have made states less willing to regulate firms, even when they have the capacity to do so (Gill 1995). To address these governance gaps, transnational NGOs and intergovernmental organizations have targeted firms directly to take responsibility for their impacts rather than relying exclusively on governments and international law to regulate firms and coordinate rules across borders.

The Organizational Field for Corporate Social Responsibility

A prominent stream of literature in international relations and sociology has argued that the organizations that design and promote voluntary CSR standards for firms have developed into a recognizable organizational field (Dingwerth and Pattberg 2009; Loconto and Fouilleux 2014; Favotto et al. 2016). Defined as 'the organizations that constitute a recognized area of institutional life' such fields are made up of interactive networks that foster frequent contact between its constituent members (DiMaggio and Powell 1983: 150–156). Once established, organizational fields can lead to isomorphism, or greater structural and institutional convergence, through the creation of common ideas of legitimacy (mimetic isomorphism) professional norms (normative isomorphism) and pressure exerted by powerful actors (coercive isomorphism).

The organizational field for corporate sustainability that developed in the late 1990s is held together by organizations such as the International Social and Environmental Accreditation and Labelling Alliance (ISEAL). To reach the goals set out in the sustainability paradigm, these organizations have attempted to structure the CSR field around a core set of norms and best practices including: collective rulemaking through

multi-stakeholder structures, increased transparency of firms' social and environmental impacts, stakeholder dialogue and collaborative corporate learning through procedures such as target-setting, auditing, and reporting (Loconto and Fouilleux 2014; Mueckenberger and Jastram 2010). These structures and practices have been developed, at least in part, to gain the trust of participant market actors by involving business in the drafting of the codes and employing procedures familiar to firms such as auditing and reporting. These practices form the core of the 'know & show' logic that the sustainability CSR field employs to increase corporate accountability for the environmental and societal impacts these organizations have via the global production chains they dominate.

The UNGPs, Human Rights and the CSR Field

The inclusion of human rights concerns in the CSR field is relatively novel. Tracing the historical development of business engagement with human rights, Wettstein (2012, 2015) notes that human rights have long constituted an autonomous domain that developed almost in isolation from the CSR field. For Wettstein (2012), this 'peculiar disconnect' is due to the fact that human rights have historically been defined as legally binding state instruments. CSR, by contrast, has been based on voluntaristic assumptions aimed at going beyond legal compliance. Human rights are seen as instruments to regulate and limit public, and increasingly private power, while CSR is seen to pertain to private discretionality.

The UNGPs have sought to redefine firms' human rights responsibilities and in so doing have changed the relationship between rights and CSR. Specifically, Pillar II of the UNGPs encourages firms to adopt policy commitments and management practices aimed at upholding the core labour and human rights contained in international law regardless of their direct legal liabilities. They recommend that firms carry out regular and extensive due diligence analyses of their operations, including along their supply chains, to ensure that these operations do not directly or indirectly lead to human rights abuses. Where violations are found, firms should take corrective action and seek to remedy past acts through grievance procedures. The UNGPs urge firms to be transparent about these practices and to engage in dialogue with key stakeholders to foster a collaborative learning process about how to improve business human rights practices within global markets.

The inclusion of the corporate 'responsibility to respect' human rights in Pillar II seeks to leverage the work of IOs and private governance regulators operating in the CSR field by aligning corporate human rights due diligence with the 'know & show' practices of the CSR field (Ruggie 2013; Kinderman 2018). Recent research suggests that this tactic has had significant success. The publication of the UNGPs led to a proliferation of indicators and methods for measuring corporations' human rights performance, something that is key to CSR practices such as reporting, target setting and auditing (De Felice 2015). National Action Plans have also encouraged firms to report more transparently on their human rights impacts. Indeed, many European NAPs have linked the promotion of corporate human rights due diligence to their promotion of CSR more broadly (De Felice and Graf 2015).

Although the UNGPs have garnered global attention and been widely endorsed by the governments of UN member states as well as incorporated into prominent CSR initiatives, we have little insight into how firms have engaged with these new

understandings of their human rights responsibilities. We know particularly little about what specific human rights firms are willing to take responsibility for, on what basis or to whom they feel they are accountable. Field theory as developed by institutional theorists and applied to private, transnational CSR governance by IR scholars would predict increasingly isomorphic behaviour across firms (Powell and DiMaggio 1990; Dingwerth and Pattberg 2009). Such accounts would expect convergence to occur as human rights due diligence procedures become embedded in professional standards and as firms engage in mimetic behaviour to address these new but often poorly defined responsibilities (Loconto and Fouilleux 2014; Shamir 2004).

Similar to other variants of new institutional theory, this approach posits that the CSR practices adopted by firms reflect their attempts to conform to institutionalized social expectations. In order to guarantee their legitimacy, firms tailor their CSR activities to respond to common external pressures exerted by formal and informal institutions in which they are embedded. This understanding of how firms have reacted to increasingly prominent CSR practices has been criticized by some scholars for being too deterministic and ignoring the agency firms have to react creatively to these new pressures.

This conception of organizational fields also ignores the consistent empirical finding that firms have engaged unevenly with the newly emerging sustainability norms and practices. Many prominent firms have ignored calls to take responsibility for their social and environmental impacts altogether, while those that do engage can pick and choose which initiatives to participate in, the issues they take responsibility for and the practices they embed in their organizational cultures (Lim & Tsutsui 2012; Favotto et al. 2016). Furthermore, as many scholars have argued powerful corporations are able to shape the content of these private standards through their participation in multi-stakeholder initiatives (MSIs) such as the Kimberley process for blood diamonds and the SA 8000 scheme for labour rights (Haufler 2009; Bartley 2018). These findings suggest firms do not merely mimic the behaviour of other actors in the field, but rather have the ability to find novel ways to make sense of their new situation, create their own narratives of legitimacy and implement field practices to match these understandings (Hofferberth 2017).

To address the ambiguities left by neo-institutional accounts of the CSR field and to better recognize this field's conflictual nature, we draw on the theory of Pierre Bourdieu (Bourdieu 1991; Bourdieu and Wacquant 1992). Bourdieu conceives of fields as relatively autonomous social arenas in which agents with differing social positions interact and compete over various types of resources or capitals. Forms of capital and their associated desirability are idiosyncratic to an actor's understanding of the field in which they operate: capital may entail material elements such as economic resources as well as symbolic elements including the benefits deriving from membership in networks. Fields organize around socially structured activities, or practices, that actors put in place in an attempt to acquire or transform different forms of capital that yield them legitimation in the field. Hence, the practices of each firm may vary depending on how such actors sense their place in the CSR field and how they mould the capital they have to enhance their position. Positioning and capital play a role in determining how established practices are enacted, but 'practicing' implies an actor's 'feel for the game' that is not fully rational or reducible to either material interests or common social scripts. Bourdieu thus highlights the dynamic interplay of the material and non-material

capitals firms possess and try to secure to 'exist' in the field (Bourdieu and Wacquant 1992).

TNCs' need for legitimation and the symbolic forms of capital provided by CSR initiatives have increased in the current era of globalization. These organizations, however, often possess the necessary resources to enact CSR practices on their own terms and to articulate their human rights responsibilities. This agency is reflected in firms' variable participation rates in CSR initiatives and their influence over the content of prominent multi-stakeholder schemes such as the Kimberley Process and SA 8000 (Haufler 2009; Bartley 2018). Research in this paradigm has explored the ways in which firms leverage their economic and relational capitals to avoid more stringent CSR accountability or to counteract efforts to enshrine CSR standards into mandatory regulation (Shamir 2004).

The UK context is an interesting one in which to examine how firms have practiced the incorporation of human rights into the CSR field. The British government was the first to adopt a NAP to implement the UNGPs in 2013. The early adoption of the UK NAP complemented other government initiatives to improve corporate transparency and accountability in the areas of labour rights and environmental sustainability. The *2013 Regulations of 2006 Companies' Act*, for example, require large firms to publish an annual 'strategic' report in which the company outlines its non-financial risks and plans to mitigate such risks, including its performance on greenhouse gas emissions and gender diversity (Financial Reporting Council 2014). This was followed two years later by the adoption of the 2015 *Modern Slavery Act*. This law was considered pathbreaking at the time and require large firms to publish an annual statement detailing the steps the firm has taken to ensure there is no forced labour in the organization or its supply chain. Thus, British firms came under early pressure from the UK government to be more transparent about and take steps to mitigate their human rights risks and impacts (LeBaron and Rühmkorf 2019).

A number of scholars have also noted the early engagement of UK firms with the human rights agenda. Preuss and Brown (2012), for example, writing before the publication of the British NAP and increased reporting requirements, observed a diffusion of human rights policies among large British corporations. In another study based on data gathered before the publication of the NAP, Obara (2017) used qualitative interviews with the managers of large British corporations to gain insight into how these firms define and understand their increasingly public commitments to upholding human rights. Both studies found that British firms tend to define their human rights responsibilities in largely vague and ceremonial ways. Human rights are a label that they use in official policies and CSR publications but rarely use in internal communications, or to directly structure their operations (Obara 2017: 256–7). Our analysis of the human rights practices of UK firms picks up where these analyses left off by examining the extent to which these firms' public commitments to human rights changed in light of the publication of the UNGPs and the merger of the human rights and CSR fields.

Research Methods

To address our research question, we analysed the CSR/sustainability reports published by 50 British TNCs since the late 1990s and conducted 19 interviews with senior CSR

managers from these firms, as well as representatives of business associations and NGOs. CSR reporting represents a vantage point for examining the logics underlying the CSR field and the 'know & show' best practices the field promotes (Perez et al. 2019). Pillar II of the UNGP framework has encouraged firms to use this medium for reporting human rights-related information and to employ metrics allowing stakeholders to compare firm performance (Ruggie 2011).

We compiled a sample of the 50 largest firms headquartered in the UK using the S&P *Capital IQ* database and gathered the CSR reports from the *CorporateRegister* online archive. We focus on large corporations because of their established positioning in the CSR field and their capital endowments that allow them to play a key role in shaping pressure for compliance with sustainability norms through their supply chains and networks (Preuss and Brown 2012; Perez et al. 2019).

We analyse the CSR reports published at four points in time: 1995–1999; 2005–2006; 2012–2013 and 2014–2015. Our timeframe spans the period in which the CSR field formed and gained prominence. Looking at field dynamics longitudinally is a sine qua non for grasping a field's progressive structuration (Bourdieu and Wacquant 1992). The inclusion of two intermediate time periods allows us to gauge the extent to which firms have reacted to the incorporation of human rights into the field. In particular, the inclusion of the 2006 period captures the start of Ruggie's mandate while the 2013 period allows us to explore corporate practice before and after the UNGPs and the subsequent UK NAP came into being.

We use a self-generated coding scheme that roughly measures the extent to which British TNCs 'know and show' their human rights impacts (Ruggie 2011). Specifically, we analyse disclosure on policy and management systems associated with human rights due diligence as well as firms' reporting on specific human rights impacts and improvement goals. The identification of these coding themes is consistent with the indices utilized by prominent human rights actors in the CSR field such as the Corporate Human Rights Benchmark (2019), which was developed explicitly to implement Pillar II of the UNGPs. Our instrument codes for (1) the existence of a corporate human rights policy; (2) implementation of due diligence systems (3) firms' disclosure of their impacts and improvement targets for core labour and human rights and (4) the provision of remediation and grievance mechanisms. We use the ILO Declaration on Fundamental Principles and Rights at Work to identify core labour rights such as child labour, forced labour, collective bargaining, diversity, health and safety and a living wage (International Labour Organization, 1998). In addition, we included the following emerging rights based on the results of a preliminary pilot study: security practices, privacy and personal data protection, indigenous rights and conflict minerals.

For each of these rights, we analysed the information firms provided about their impacts and improvement targets by coding whether they included narrative information, quantitative metrics, trend data and variance analysis. These criteria were aggregated into indices that allow us to assess the overarching quality of disclosure associated to each human rights issue (Bebbington et al. 2012). The coding frame thus allows us to evaluate the extent to which large British TNCs have engaged with the 'know & show' due diligence practices promoted within Pillar II of the UNGPs as well as the specific rights for which they are rhetorically willing to take responsibility (Kollman and Favotto 2017).

We supplement the analysis of CSR disclosure with insights taken from 19 semi-structured interviews conducted with 11 senior CSR managers from the firms included in our sample as well as eight representatives of business associations and sustainability NGOs operating in the UK. The interviews, which lasted between 40 and 90 min, were conducted over an 18-month period from late 2014 to early 2016 as part of a larger project examining how UK firms engage with the practices and substantive environmental and rights issues embedded in the sustainability CSR field. Our results from that larger study found that firms were both less transparent about and had less ambitious improvement programs for human and labour rights than for environmental sustainability (Favotto et al. 2016). The interviews thus shed light on the organizational, market and societal barriers that exist to using a CSR framework to incentivize and persuade firms to engage more substantively with the human rights and business agenda.

UK Firms' Engagement with the Business and Human Rights Agenda

Evidence from CSR Reports

Our longitudinal analysis of CSR reports illustrates that UK firms have consistently increased their engagement with the human rights agenda since the early 2000s. In 2015, the most recent period in our analysis, 84% of the firms included some information on human rights, a steady increase since 1995–1999 when only 17% of reports touched upon rights issues. By 2005–2006, this proportion had already reached 80% of reports (see Table 1). British TNCs thus increased reporting on their human rights policies and impacts in the mid-2000s before policymakers directly pressured them to do so through the adoption of the UNGPs, the UK National Action Plan and increased reporting requirements. This early engagement was most likely shaped by greater stakeholder pressure and the efforts by NGOs in the UK to advocate for the uptake of prominent international codes in the CSR field such as the UN Global Compact that promote human rights (Arkani and Theobald 2005).

The publication of the UNGPs in 2011 and the UK National Action Plan in 2013 however do appear to have augmented these earlier efforts. In particular, the increase in the number of firms from 42% in 2006 to 58% in 2015 that indicate they are carrying out human rights due diligence assessments of their operations–the center piece of Pillar II–illustrates the likely impact that the implementation of the UK NAP in 2013 had on firm practices. Perhaps more telling than this relatively modest increase in due diligence reporting is the expansion of the number of firms that gave a detailed account of these due diligence procedures after 2011. This number increased from just 6% of firms in our sample in 2007 to 29% in 2015.

Similarly, the proportion of firms that indicate they have put grievance procedures in place to address past human rights violations increased significantly after the publication of the NAP from just 14% of firms in 2007 to 56% in 2015. UK firms also appear to monitor their supply chains for human rights abuses more rigorously than in the past. These commitments to monitor suppliers indicate that TNCs increasingly are willing to take at least some responsibility for their indirect human rights impacts in addition to the impacts for which they are strictly legally liable. It is in these three areas that the UK

Table 1 Disclosure of human rights impacts, future targets and reporting quality in CSR reports over time: % reporters

	1995–1999 n = 12			2005–2006 n = 35			2012–2013 n = 44			2014–2015 n = 45		
	Current Impacts	Future Targets	Disclosure Quality	Current Impacts	Future Targets	Disclosure Quality	Current Impacts	Future Targets	Disclosure Quality	Current Impacts	Future Targets	Disclosure Quality
Child Labour	0%	0%	0%	20%	3%	4%	23%	0%	5%	34%	3%	5%
Collective Bargaining	9%	0%	3%	46%	0%	8%	43%	0%	10%	45%	2%	11%
Diversity	9%	9%	5%	66%	31%	31%	82%	41%	39%	89%	39%	39%
Forced Labour	0%	0%	0%	20%	0%	5%	14%	0%	3%	34%	0%	6%
Health & Safety	45%	27%	27%	74%	37%	40%	77%	52%	47%	80%	48%	42%
Indigenous Rights	0%	0%	0%	3%	0%	0.4%	5%	0%	2%	16%	0%	3%
Conflict Minerals	0%	0%	0%	0%	0%	0%	5%	2%	1%	7%	0%	1%
Privacy	0%	0%	0%	3%	0%	0.4%	7%	0%	1%	9%	5%	2%
Security Practices	0%	0%	0%	6%	0%	1%	7%	0%	1%	18%	0%	3%
Living Wage	0%	0%	0%	11%	3%	3%	16%	2%	3%	30%	2%	7%

NAP appears to have had its biggest impact on the human rights practices of British firms. It is notable, however, that just over half of large British TNCs report that they conduct systematic human rights due diligence assessments of their operations (Fig. 1).

If our findings reveal that British firms have increased the attention they pay to human rights in their CSR programs, our analysis also reveals that they have largely done so by focusing on procedural changes such as adopting human rights policies and reporting on due diligence reviews. Most TNCs remain hesitant to report their impacts on specific groups of rights, thus indicating their reluctance to engage with the 'know & show' procedures of the CSR field. Although the scope of the rights issues that firms report on did expand after publication of the UNGPs, the disclosures of their impacts on
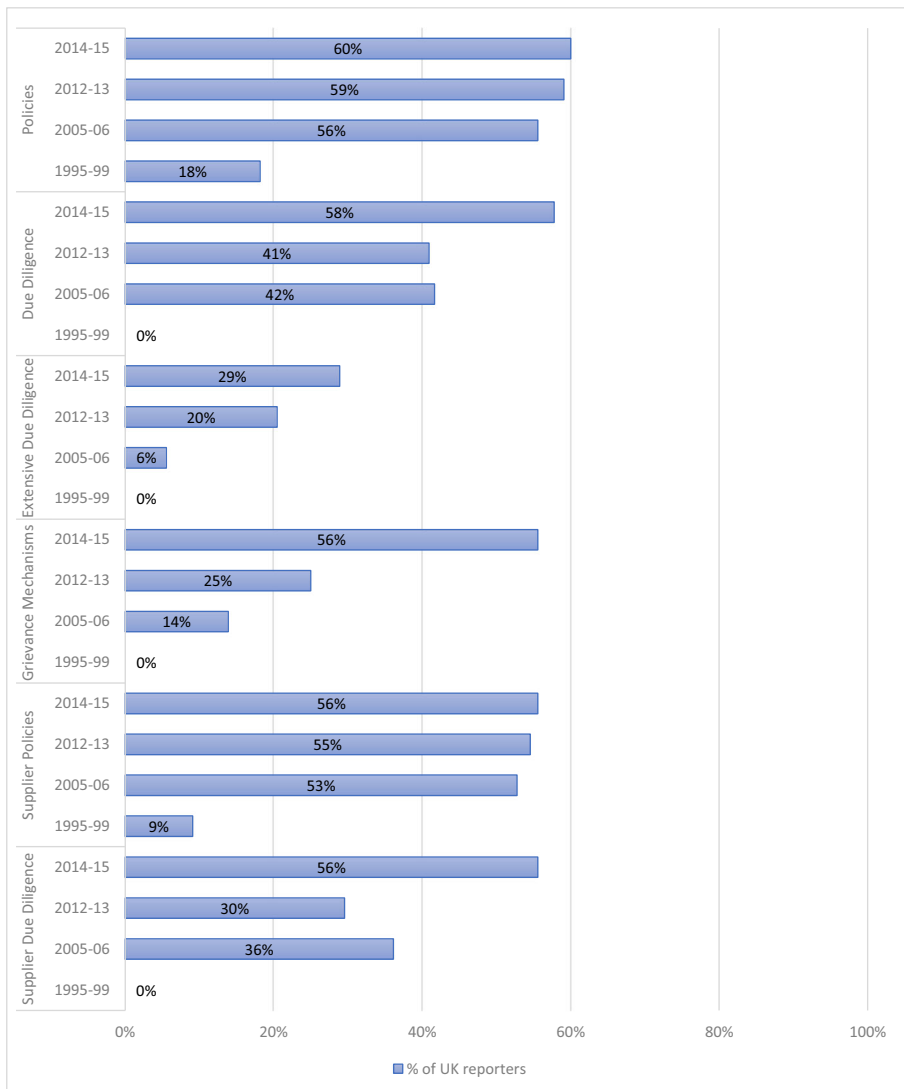

Fig. 1 Human rights management practices over time

specific rights remains quite low (Table 1). With the exception of certain labour issues such as health and safety, diversity and collective bargaining less than a third of firms disclosed their impacts on other core rights including child labour, a living wage or forced labour in any period. Fewer than 10% of firms disclose information on emerging rights issues such as privacy, indigenous rights or the use of private security forces.

Even more striking is how few firms publish information on their targets for future improvements in these human rights areas. Such continuous improvement targets lie at the heart of the CSR approach embedded in Pillar II of the UNGPs and highlight a firm's commitment to particular issues as well as the organization's willingness to 'show' the effectiveness of its human rights policies and practices. The proportion of firms disclosing future targets even in core areas such as collective bargaining, child labour, forced labour or living wage barely reaches 10%, even in the most recent time period of 2015. In addition, disclosure of these rights is brief and seldom supported by quantitative or qualitative data, again suggesting only a shallow commitment to improving the realization of these rights.

Our findings, however, highlight some important exceptions to this general story of rights neglect. The firms in our sample in relatively high numbers disclose information about three core ILO labour rights: collective bargaining, health and safety and diversity. In addition, for diversity and health and safety firms often go beyond simply assessing current impacts and make clear and measurable commitments to improving their future performance. By 2015, more than a third of the firms in our analysis had made commitments to future improvements in these two areas. In all the time periods we examined, firms' disclosure on health and safety and diversity are comparatively detailed and comprehensive thus indicating a commitment to taking responsibility for these issues that surpasses other substantive rights issues promoted within the UNGPs and CSR field more broadly (Table 1).

Overall, our analysis of CSR reporting practice suggests that British firms' engagement with the human rights agenda has increased since the publication of the UNGPs in 2011 and UK NAP in 2013. As outlined above, this engagement has no doubt also been spurred by NGO pressure as well as the adoption of more stringent human right reporting requirements by the UK government and the EU. But the growing proportion of British firms that claim to have implemented due diligence reviews and grievance mechanisms highlights the role of the UNGPs. For many firms, these commitments do not go beyond procedural change. Outside of health and safety and diversity, the vast majority of firms still fail to be transparent about their impacts on specific rights or engage with the 'know & show' practices promoted by the UNGPs and the CSR field.

It is likely that the quality of British firms' disclosures in the area of health and safety is at least partly related to the stringent regulation and mandatory reporting requirements that exist in this policy area. Stringent regulation, however, offers a less compelling explanation for firms' increased focus on gender diversity. Although legislation on equal pay (for equal work) and discrimination in the workplace is long-standing in the UK, firms' commitments to diversity predate either the requirement for such reporting in the 2013 legislation or later rules adopted in 2016 that mandate firms disclose their gender pay gaps (UK Equalities Office 2017). Indeed, with the possible exception of conflict minerals, all ten of the rights issues we analyse are subject to significant regulation in the UK. But firms still selectively engage across these issue areas. Further government regulation cannot account for why firms in large

numbers commit to making improvements in health and safety and diversity that go beyond what is currently required by law, but largely chose not to make such commitments in other rights areas.

These findings echo a recent study that shows regulation influences firms' sustainability disclosures, but that large firms' policies and reporting behaviour often predate legislative requirements and are driven by legitimacy concerns and stakeholder requests for relevant information (Carini et al. 2020). Thus, regulation can only partially account for firms' selective engagement with the new human rights agenda and the know and show practices encouraged by Pillar II of the UNGPs. To a considerable degree firms have been able to pick and choose which rights they take responsibility for.

Barriers to Greater Corporate Human Rights Engagement

To shed light on *why* firms have engaged partially and unevenly with human rights issues, we turn to interviews with the CSR managers of the UK firms included in our analysis as well as key CSR stakeholders. The interviews confirm the main findings of the content analysis while lending insight into the barriers that prevent firms from engaging more substantively with the expanding business and human rights agenda. There was almost uniform agreement across the CSR managers and stakeholders we spoke with that the policies and management practices UK firms have put in place to minimize their negative human rights violations are generally not as developed as the practices firms have in place to promote environmental sustainability. Most managers noted that human rights have become a more important focus of their CSR programs and are a growing priority for the British business community.[1] This view was shared by the stakeholder groups including NGOs. As one NGO representative who works on fair labour practices explained, 15 years ago firm managers would often claim that the human rights abuses that occur along their supply chains were 'not their responsibility'; I do not hear that much anymore'.[2]

The managers and NGO representatives highlighted several factors to explain why British firms began engaging more intensively with the human rights agenda after 2000. Echoing the findings of Arkani and Theobald (2005) cited above, most managers indicated that firms' increased human rights engagement in the early 2000s was primarily driven by legitimacy concerns and the increased scrutiny of key stakeholders such as consumers, NGOs and policymakers. A number noted that the fallout from the 2008 financial crisis accelerated this trend. Many large corporations began to focus on their human rights impacts to restore trust in markets and large corporations.[3] A few explicitly noted the influence that the UN Global Compact and subsequently the UNGPs have had on their human rights practices. These managers noted that these UN initiatives have helped 'raising awareness' and to put rights 'higher on the agenda'.[4]

Despite the increased emphasis on human rights, most managers acknowledged that when compared with environmental sustainability significant barriers still exist to fully

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[1] Interviews UK CSR managers 15 January 2015; 27 January 2015; 2 April 2015; 29 April 2015; 13 August 2015; 4 September 2015
[2] Interview UK NGO 13 November 2014
[3] Interviews UK CSR Manager 29 April 2015; Business Association 23 October 2014.
[4] Interviews UK CSR managers 27 January 2015; 2 April 2015.

incorporating human rights into their firms' CSR programs. Most frequently managers—nine out of eleven—noted that the business community's engagement with individual human rights issues is hindered by a lack of common indicators and the difficulty of measuring firms' human rights impacts.[5] These managers said they would welcome more standardized methodologies for measuring and monitoring issues such as the living wage and indigenous rights. Such standards often exist for firms' environmental impacts, but several managers noted the difficulty that exists in agreeing useful and legitimate indicators for labour and human rights issues across countries and national markets.[6]

Indeed, widely accepted global standards for many of the labour and human rights issues are lacking. For example, there is still no commonly accepted international or even European standard for measuring a living wage despite the issue being recognized as a core labour standard by the ILO since the latter's creation in the early twentieth century (Anker 2011). Efforts to create an international standard have accelerated in recent years (Anker and Anker 2017). But this work is significantly less developed than measures for organizational greenhouse emissions, for example. These measurement issues make it difficult for firms to conduct credible human rights risk analysis, which may explain why firms' commitments to human rights due diligence are often largely procedural in nature and lack detail about organizations' specific impacts.

The interviews indicate that the difficulties firms face in measuring their human rights impacts are not simply technical, but also political in nature. Several managers explained that human rights are simply 'a harder space to navigate' than other parts of firms' CSR programs, particularly environmental sustainability. Some managers expressed uneasiness about adopting uniform human rights policies that would apply to their firm's operations in other countries, especially in instances where national governments had not endorsed or do not adequately enforce such rights. In general, there seems to be some discomfort among managers about taking broad responsibility for the realization of human rights. One manager went so far as to say that in their 'personal view there is a bit of cultural imperialism from the West' within the business and human rights agenda.[7] Another CSR manager echoed these concerns and noted that 'it is very hard to say what is a local politics issue and what is a categoric abuse of human rights'.[8] These responses highlight the ambiguity that still exists in the British business community about how to define corporations' human rights responsibilities.

In addition to the difficulties involved in defining firms' human rights responsibilities, NGO representatives noted they felt it was simply more difficult to make a positive business case for corporate engagement with human rights when compared with environmental sustainability. Most firms do not yet see how their human rights performance touches on their core business strategy or interests. One NGO representative explained it this way.

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[5] Interviews CSR managers 15 January 2015; 27 January 2015; 2 April 2015; 29 April 2015; 9 April 2015; 13 August 2015; 22 September 2015; 4 September 2015.
[6] Interview CSR manager 13 August 2015.
[7] Interview CSR Manager 27 January 2015.
[8] Interview CSR manager 2 April 2015.

Human rights are more about reputation management rather than risk avoidance or market opportunities. Firms care about their reputations, but it is not a direct market concern.[9]

Another NGO representative put it more bluntly by noting that firms are often reluctant to address their labour and human rights impacts because it 'costs them [firms] money.'[10] These views about the difficulty of creating a positive business case for labour and human rights were echoed by several CSR managers. One manager explained the difference this way.

How many companies are going to be excluded from a market because of a failure to have a living wage? None. How many are going to be excluded because of a breach of your [pollution] discharge license? Some.[11]

This impression that it is difficult to create resonant business case arguments for human rights is reinforced by the number of managers that noted investors—although not customers—tended to focus more on firms' environmental risks and opportunities rather than on their human rights risks. Thus, the market drivers of labour and human rights engagement still appear to be under-developed in the eyes of many UK corporations particularly when compared with the market drivers for environmental sustainability.

The lack of clear business case arguments for social CSR may be related to the final barrier to corporate human rights engagement highlighted by our interviews, namely the lack of insider champions within TNCs who are willing to push a stronger human rights agenda. Some noted the 'CV bias' of CSR managers who often had an environmental background and were passionate supporters of pushing a green agenda. Human rights issues by contrast are often handled by human resources departments, which one manager noted do not always have as proactive views on labour rights.[12] Although many firms have re-balanced their CSR programs towards labour and human rights since the mid-2000s, it is not clear that human rights issues always have 'insider champions' who are willing to push the agenda in the same way as seen with environmental issues. Such insider champions may also explain why the issues of diversity and health and safety have remained important exceptions to the tale of corporate human rights neglect. Health and safety is often included in the remit of environmental offices, while diversity, unlike many other labour issues, has become a key goal of many organizations' human resource departments (Dobbin 2009).

Our interviews echo findings from earlier studies of the human rights practices of British firms that were conducted before the publication of the UNGPs, indicating that some 4 years after the publication of the UNGPs and more than 2 years after the adoption of the UK's NAP British firms were still reluctant to expand how they define their human rights responsibilities (Preuss and Brown 2012; Obara 2017). The

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[9] Interview NGO representative 3 November 2014.
[10] Interview NGO 21/10/2014
[11] Interview CSR manager 15 January 2015.
[12] Interview Interviews CSR managers 2 April 2015; 9 April 2015.

comparison with firms' engagement with environmental CSR helps to shed light on the reasons behind firms' continued resistance. The under-development of business case arguments for human rights and the absence of insider champions to make such arguments in part explain why British firms remain reluctant to take greater responsibility for their human rights impacts as Pillar II of the UNGPs calls on them to do (for a similar argument see Gregg 2020). The interviews suggest that firms' engagement is likely to remain focused on vague commitments and management procedures unless something changes in the structure of the CSR field. The creation of market rationales and standards for measuring environmental sustainability, combined with changing professional norms, have spurred more substantive corporate engagement with environmental CSR issues and practices. Their continued absence and underdevelopment is notable in the human rights field.

This outcome may imply that more stringent legislation is needed to spur greater corporate accountability for their human rights impacts. Indeed, as we have outlined above, the UK government has passed such legislation in the form of the 2015 Modern Slavery Act, which requires large firms operating in the UK to publish a statement outlining how they combat forced labour in their supply chains. Because our data ends in early 2016 before this legislation had been fully implemented, it is likely that British firms have increased their disclosures of forced and child labour in the intervening years. More recent studies, however, have shown that this legislation has had only minimal impact on UK corporate practice (CIPS 2017; Field et al. 2019). A review ordered by Home Office and published in 2019 enumerated numerous flaws in the Act. These include confusion about which firms must publish reports on slavery in their supply chains, a lack of government sanctions to punish non-compliant firms, low-quality corporate disclosures that fail to make transparent forced labour and other violations in firms' supply chains and insufficient change in corporate culture (Field et al. 2019: 9–14).

Although the UK government adopted its National Action Plan for business and human right and the Modern Slavery Act before most other European countries, many analysts argue that this legislation was too weak to significantly change corporate human rights practices (LeBaron and Ruehmkorf 2017, 2019). These scholars argue that legislation that relies primarily on transparency and reporting mandates will not change corporate behaviour to the same extent as policies like the Corporate Duty of Vigilance Law adopted in France in 2017. In addition to reporting requirements, this law mandates that firms combat rights violations in their supply chains and ties these mandates to legal liability. Numerous European states including the UK as well as the EU are now considering similar legislation.

These more stringent mandates would likely do more to change corporate culture and increase their monitoring of supply chains for labour rights abuses. But such legal mandates are not likely to be a panacea for the negative impacts that business have on human rights (Schilling-Vacaflor 2020). Liability rarely stretches beyond individual legal jurisdictions. NGOs in France have already run into difficulties using the Vigilance Law to hold corporations to account in French courts (Reed 2020). Furthermore, the legal liability of corporations continues to be difficult to establish in global production chains where ownership and control of many suppliers is fragmented and diffuse. Indeed, it was these weaknesses in the legal system that led to the creation of private governance schemes and the incorporation of CSR practices into Pillar II of the

UNGPs (Ruggie 2013). Thus, while such legislation may well improve business accountability for human rights violations, firms' engagement will likely also be determined by the evolving norms and practices of the CSR field.

Discussion and Conclusions

Our findings suggest that the inclusion of the corporate responsibility to respect human rights in the CSR field via Pillar II of the UNGPs has raised awareness and encouraged firms to assess the effects of their operations on their labour and human rights impacts. It is particularly noteworthy that the number of firms that have committed to implementing human right rights due diligence procedures and grievance mechanisms for victims increased significantly after the publication of the UNGPs in 2011. But most firms' practice of responsibility remains confined to the implementation of policy and procedural mechanisms. Even though UK firms appear to have progressively equipped themselves with management systems and tools necessary to 'know' their human rights impacts, they are arguably reluctant to 'show' such impacts to stakeholders and affected parties by reporting their current performance and improvement targets. Even in the most recent period we examined, the proportion of British TNCs that are prepared to report and take responsibility for fundamental labour rights identified by the ILO (1998) is limited.

Responsibility for human rights is frequently framed in negative terms, as 'do no harm', while most reports are consistently silent on plans for future improvement with respect to specific rights. By refraining from 'showing' their human rights impacts and future commitments, firms actively resist the scrutiny NGOs, international organizations and actors populating the CSR field demand In this way, firms inscribe practices into the state of the CSR field to suit their positioning and objectives. In so doing, firms hinder the transformative potential of the UNGPs to increase their responsibility for human rights realization.

A notable exception to this story of negligent corporate engagement is constituted by health and safety and diversity, for which a large proportion of corporations rhetorically take substantive responsibility throughout the period covered in our analysis. TNCs thus practice different notions of 'responsibility to respect' depending on the right at stake. Specifically, they appear to assume more substantive responsibility—going beyond compliance by promoting respect and commitments for future improvements – for issues such as environmental sustainability, health and safety and gender diversity that they perceive to be sources of future economic or social capital necessary to retain legitimacy within the field. At the same time, firms resist taking responsibility for issues they fail to see as strategic or hard to navigate in view of capital accumulation to ensure their positioning in the field.

The re-classification of responsibility around specific issues becomes progressively embedded in the field's structures as practice is repeated (Bourdieu 1991). Far from being fully rationalized, the construction of a case for capital and legitimacy associated with compliance with Pillar II of the UNGP is reliant on the structuration of repeated practice. Over the 20-year period we observe incremental repetition, a reification of reporting practices for a limited number of rights that lead to a polarization of responsibility for different issues. For most rights, a 'do no harm', limited and rather

procedural responsibility is deemed acceptable, while for a few exceptions a substantive and proactive promotion of rights is pursued. Before the publication of the UNGPs such repetition remained unquestioned within most firms and assumed normative power. The renewed awareness of human rights via the publication of the UNGPs appears to have contributed to making corporations inquisitive about the opportunities of capital (and legitimacy) acquisition associated with rights that have yet to be explored.

Our evidence points to a need for the CSR field to promote more comprehensive means of corporate reporting on human rights impacts and future targets. Programs such as the UN Guiding Principles Reporting Framework, launched in 2015, have the potential to initiate the diffusion of widely accepted reporting standards on human rights. Yet the success of these reporting initiatives is likely to be mediated by firms' positioning and interests in the CSR field (Backer 2015). Firm managers' frequent calls for human rights indicators and for human-rights leadership may underline a need to see clearer cases for engaging in the promotion of certain rights as have been developed for diversity and health and safety by other field actors, perhaps most prominently by insider champions, the investment community or, as is happening in other European countries, via more stringent government regulation.

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