

**THE BUSINESS AND HUMAN RIGHTS
REPORTING AND ASSURANCE FRAMEWORKS INITIATIVE:**

Multi-stakeholder workshop: Medellín, Colombia: 30 August 2013

On 30 August 2013, Shift facilitated a workshop as part of the Latin American and Caribbean regional consultation held by the UN Working Group on Business and Human Rights. The workshop focused on the joint project by Shift, Mazars and the Human Rights Resource Centre for ASEAN to develop global, public frameworks for reporting and assuring company alignment with the UN Guiding Principles. It was attended by a range of participants from business, civil society and government from across the region.

Project overview

In the first of the workshop's two sessions, **Caroline Rees from Shift** set out the project's rationale, the context within which it sits and the process envisaged for its development, as summarized below.

There is a growing number of requirements and requests for companies to report on their human rights performance, whether from regulators, stock exchanges, investors or civil society organisations. These often reference the UN Guiding Principles on Business and Human Rights as a key framework for reporting. Moreover, companies are increasingly taking their own initiative to explore how they can better report against the UN Guiding Principles; and more and more internal audit functions in companies are asking how they should approach an internal human rights audit process.

As these demands increase, there is a risk of proliferating interpretations of what constitutes good reporting and assurance based on the UN Guiding Principles. Such a proliferation would undermine the clarity, predictability and global convergence that the UN Guiding Principles have brought to the field of business and human rights. There is therefore a need and opportunity to develop widely-accepted frameworks for reporting and assurance that can retain that clarity and provide a robust reference point for companies and assurance providers alike, as well as their stakeholders. To succeed, such frameworks must recognize and dovetail with other leading reporting and assurance initiatives – notably the Global Reporting Initiative and the integrated reporting movement. The project team is collaborating with these initiatives to ensure synergies to the greatest extent possible.

There is a range of challenges in developing frameworks for reporting and assurance based on the UN Guiding Principles, and these are the main subject of this workshop. The overarching challenge is to develop frameworks that promote reporting and assurance that are both meaningful for stakeholders to read and viable for companies and assurance providers to provide. Achieving this will require deep and broad consultations with all relevant stakeholder groups. The project team is therefore

proposing a range of modes of consultation – from bilateral conversations to group webinars to multi-stakeholder expert consultations and regional consultations. Initial consultations are focusing on broad themes and challenges, before any move towards drafting.

In addition, the project will be overseen by a multi-stakeholder Eminent Persons Group, whose membership is in the process of being finalized; and information on the project's consultations and emerging proposals will be posted regularly on the website of the Human Rights Resource Centre for ASEAN¹ (a project team partner) and the Business and Human Rights Resource Centre² for public comment. In the later stages of the project it is envisaged that the emerging frameworks should be piloted with individual companies. The project is likely to run for two to three years, depending on the pace of progress and driven by the needs of the consultative process.

Ernst Ligteringen, Chief Executive of the Global Reporting Initiative, shared some opening remarks on broader developments with regard to sustainability reporting movement and the position of human rights reporting within this context. He underlined the introduction of 'report or explain' requirements by some regulators – moving from a stance where reporting is entirely voluntary to a requirement that companies at least reflect and articulate reasons if they don't report. He foresaw that within five years all large companies globally would be reporting on their material sustainability issues, and noted recent statistics that requirements from the Brazilian Stock Exchange had led to a 20% increase in reporting by listed companies in the last year.

Ernst noted that the GRI's latest framework – the G4 standard – already contains references to the UN Guiding Principles, including key concepts such as human rights due diligence, dialogue with stakeholders and the relevance of both actual and potential impacts on people. G4 guides companies to think about the materiality of human rights in the context of their operations, and provides 12 human rights indicators. Ernst underlined the substantial opportunity for this project on reporting and the UN Guiding Principles to build on these foundations in a coherent way, and mentioned plans for collaboration between GRI and the project team.

Participants raised a number of questions and comments. The importance of defining 'materiality' in such a project was underlined, and in particular the need for attention to what information is material for stakeholders. The issue of dialogue with stakeholders was also raised, but with questions about the ability to 'regulate' for dialogue. One participant asked whether the project would or should include components addressed to government; in response, the representative of the UN Working Group noted that

¹ <http://hrrca.org/business-and-human-rights>.

² <http://www.business-humanrights.org>.

reporting and assurance frameworks should be equally relevant to companies with government ownership and might also have implications for government procurement.

A question was raised with regard to the governance and process of the project, noting that global standards related to human rights are traditionally developed through an inter-governmental process. The concern was expressed that if this project was to lead to a normative standard, it should not be a 'private initiative'. Others, including the facilitator, noted that standards in the areas of business, including reporting and assurance/auditing, typically emerged through other kinds of process; and that the Guiding Principles themselves had reflected a hybrid process, developed through multi-stakeholder consultation and then endorsed by governments. One participant urged that there should not be a rush towards legally-binding 'standards' since the field of reporting was evolving so fast; instead, it was suggested that an incremental, consultative approach toward frameworks could be more productive.

The facilitator, Caroline Rees, noted that it may be unhelpful to talk about 'standards' as being the result of this project: this clearly was understood by many to mean something legally-binding. Rather, the term 'framework' may better describe the kind of widely-accepted reference point for good practice that was envisaged. She confirmed that the project would not and could not produce something binding – rather, it is responding to market drivers for reporting and verification that came from other organisations, including regulators, stock exchanges, investors and others. The project team is therefore focused on a broad and open, consultative process that could shape frameworks that would be both meaningful for stakeholders and viable for companies and assurance providers. The project team acknowledges that the credibility of the project will be judged on the quality both of that process and of its product.

Reporting on implementation of the UN Guiding Principles

The second session of the workshop focused on issues related to companies reporting on their implementation of the UN Guiding Principles. It began with remarks from three panellists on what they saw as the opportunities and pitfalls for developing a framework for such reporting.

Amol Mehra from the NGO coalition International Corporate Accountability Roundtable (ICAR) underlined the need to avoid reporting for the sake of reporting, and the importance of reporting as a tool for companies to assess their impacts, and how well they manage them. He underlined the remedial function that reporting should play, as companies integrate learning back into their operations to improve performance and prevent future impacts. He highlighted concerns that the Guiding Principles may not be the right basis for reporting since they define a floor, not a ceiling, for company performance. Already some more detailed standards give greater specificity than the Guiding Principles, and this should not be diluted, including standards developed in multi-stakeholder processes at the OECD. He also urged

reflection from an early stage as to how standards or frameworks might in future move into the arena of regulation.

Paul Maidstone from the Chilean mining company Codelco noted the importance of language around business and human rights. At the national level and at the company and operational site level, there were different languages and perceptions about human rights. It was important to develop a shared language for talking about this, and a reporting framework could help in this regard. He highlighted also the lack of existing quantitative or qualitative indicators around human rights performance and the resulting challenges in assessing whether a company is improving over time. Developing such indicators would add value. He also noted that there would be some issues it would be difficult for a company to report on, as they may lead to legal liabilities: any framework should take this into account.

Luis Fernando De Angulo, an independent business and human rights expert in Colombia, underlined the importance of understanding who the audience for reporting was. It would be important to be able to see, through reporting and assurance, whether a company's due diligence processes were capturing the key human rights issues, establishing priorities, and understanding the vulnerabilities of particular groups. Investors would be one audience, but local stakeholders also needed information, and could contribute to dialogue about meaningful indicators. Luis underlined that reporting should focus on those parts of the business with the greatest risks for human rights, not those with the least. It should also look not only at the corporate level, but at how policies and systems trickle down into the practices of those who generate or manage impacts on the ground. Moreover those local staff should be reporting up the corporate chain so that the information could be captured for reporting.

In the following **conversation between workshop participants** (including panellists) a variety of issues were discussed.

Various participants addressed the challenge of **receiving excessive, unfiltered information** that makes it harder, not easier, to identify relevant issues for decision-making (by the company) or assessing company performance (by shareholders/stakeholders). The experience of GRI was cited – during the development of the G4 standard there had been a recognition that reporting on performance in multiple tiers of the supply chain would be neither viable nor useful.

One participant highlighted the risk of viewing reporting as the production of a 'book' at one point in time, rather than reflecting on what is of genuine interest to stakeholders over a continuum in time. **The importance of the audience** for reporting was re-emphasised: any framework should avoid overburdening a company with redundant processes, and focus instead on the utility of information to audiences at more local levels where operations occur – not just the level of corporate headquarters and investors.

These issues of managing, filtering and targeting information were linked with discussions of **materiality**. Various participants stressed that a framework for reporting on the Guiding Principles should avoid enabling a 'tick-box' approach by the company, and instead require genuine reflection on the material issues. One speaker noted that this would take it out of the office of the person writing the report, and make it an exercise across the company as a whole. This may make it harder, but also more meaningful for the process and the outcomes.

Some company participants noted the challenge of identifying what is material in a context such as human rights where everything seems important. They noted that clarity on this would also be necessary for **small and medium-sized enterprises (SMEs)** to be brought into the reporting movement, as well as companies from the South that may lack the level of resources of many multinationals or 'northern' companies.

Questions were posed as to whether it would help to have some **criteria or indicators to distinguish which information should be prioritised** for reporting. One proposition was to focus on those areas of their company's operations with the greatest risk to human rights. A further focus could be around those human rights issues most at risk from operations – not that companies should ignore certain human rights in their operations, but that they might focus their reporting on those most typically at risk. Could these approaches help act as a filter – distinguishing between the many issues companies have to address and those on which reporting is most valuable?

One participant highlighted the 'Disclosures on Management Approach' (DMA) under G4: asking companies to identify what issues are material, explain that assessment, describe what the company is doing to manage those issues, and evaluate effectiveness. It was suggested that this kind of process approach could be a common building block between the GRI and a framework focused on the Guiding Principles.

Related to the question of the quantity of information was also the **accuracy of information**. Various interventions highlighted the need for any framework to address this issue. Here the role of assurance, or 'verification' was also seen to play an important role. The issue of the **competence of assurance providers** was raised and the need for them to have – or bring in – expertise on human rights (something most auditors and even sustainability assurance providers are seen as lacking).

The fundamental differences between a **quantitative approach** to auditing and the necessarily **qualitative nature** of good human rights reporting and assurance were also underlined. An opportunity was identified to move beyond the flaws of sustainability assurance with the current lack of enforceable standards for how it is conducted.

One participant suggested that parameters for reporting should keep a **focus on prevention**: it shouldn't be just about reporting impacts that happened in the past.

Rather, reporting should convey what the company has done to prevent impacts from occurring, or recurring in the future. From a company perspective, it was suggested there were two key benefits to reporting. First, to have a mirror for the company on how well it is doing and how it can improve; and second, to have a window for others into the company to assess the same.

Conclusion

The issues raised at this workshop form part of the early stages of consultation on the general approach for this project to develop global, public frameworks for reporting and assuring company alignment with the UN Guiding Principles. They will help inform the direction of the project in the months ahead.

A range of participants expressed a wish to be kept informed on project developments, and the facilitator encouraged continuing contributions to the issues and ideas as they develop. Anyone wishing to engage with the project can do so via its web portal: <http://hrrca.org/business-and-human-rights>, or by contacting the project team via: anna.triponel@shiftproject.org or bahtiar@mazars.co.id