

'TAKE-AWAYS' FROM RAFI CONSULTATIONS IN 2013

Introduction

The following document sets out the key messages that the RAFI project team drew from the expert multi-stakeholder consultations it held in Jakarta, London and New York in October and November 2013, as well as the project workshops in Medellín and Bangkok, and the CSO meeting in Jakarta. Through these meetings, the Project Team consulted with over 150 individuals from business, civil society, governments as well as legal, assurance, academic and other expert backgrounds, in addition to a wide range of bilateral consultations with individuals and organizations since June 2013.

The team welcomes any comments on this summary, which will guide the direction of the project moving forward. The specific next steps envisaged are set out in a separate note available on the [RAFI project portal](#).¹ The project's development in the months ahead will remain grounded in broad and deep consultations across different geographical areas and encompassing all stakeholder groups. All views and comments are welcomed and can be sent to the contacts at the end of this summary.

Summary of consultation take-aways

The **process of inclusive multi-stakeholder consultation** will remain crucial to the potential success of the RAFI frameworks in terms both of support from different stakeholder groups and of their uptake in practice. The project team must continue to be transparent about how the project's process is evolving, to consult openly and frequently with all stakeholder groups, and to shape the drafts of the frameworks on the basis of feedback received.

Formalized governance structures for projects of this kind can have both advantages and disadvantages. For most observers, the dominant concern for RAFI is the transparency, inclusiveness and seriousness of its consultation processes. This will remain a priority for the project. Ultimately, the project will necessarily be judged on the quality of the resulting frameworks. At the same time, many see potential for the ideas and frameworks generated through this project to feed into more formalized multi-stakeholder debates and decision-making processes in other settings.

RAFI's **collaboration with GRI** is important in helping ensure that the reporting framework dovetails to the extent possible with the G4 framework. This should help ensure it adds value for GRI-reporting companies, rather than duplication, contradiction or undue burden. RAFI's **liaison with IIRC** is also seen as helpful. It would be useful to produce more analysis of how RAFI's reporting framework could fit with each initiative.

¹ <http://hrrca.org/system/files/RAFINextStepsMarch2014.pdf> ; see also <http://www.hrrca.org/business-and-human-rights>

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Views on the **merits of an accompanying assurance framework** vary widely. A few stakeholders think it should be dropped; some feel it's an important addition but could come second; many in ASEAN would like to see the two frameworks developed in parallel. Overall, the idea that development of the reporting framework should start ahead of the assurance framework seems acceptable to most. This can help ensure that the reporting framework is informed by what it is meaningful to report, not what it is easy to assure. A staggered process for development of the two might therefore be best.

The **frameworks should set the floor, not the ceiling** for reporting and assurance. Importantly, where industry or issue-specific initiatives are defining detailed due diligence processes tailored to those contexts, the frameworks should not undermine, but where possible point to, such initiatives as a source of leading practice. There is also value to be gained from examining these initiatives and their learning with regard to indicators and assurance.

The **frameworks should not be over-complex**, but should remain relatively simple while being carefully targeted to advance good practice that is accessible by SMEs as well as large and multi-national companies.

The **reporting framework should not seek to redefine materiality** or to select any one definition for what makes reporting on human rights material. It can assume that any company that uses the reporting framework has identified human rights as being in some way material. With that starting point, the framework can then focus on what it is most important to report, which need not be framed in terms of 'materiality' per se. This said, it would be helpful to ensure that it is workable within existing definitions of materiality being used in other contexts.

It will nevertheless be necessary to **define parameters for reporting** in an appropriate way, in particular for large companies with multiple operations and multiple human rights considerations. One filter would naturally be the most salient human rights risks for the company as a whole. It may also be important to capture potentially severe human rights risks in one operating context that may not be salient across the whole company. Another filter could be operating contexts where there are particularly high risks to human rights in relation to the company's operations. It is possible that the framework does not need to dictate one approach or another, but rather to ask the company to explain and justify the choices it has made, including that such choices are based on risk to human rights, not risk to the company.

Reporting could be based around **indicators** that are quantitative (e.g. percentages or absolute numbers), qualitative (e.g. yes/no or scale-based responses) or 'narrative indicators' (i.e. targeted questions that elicit narrative responses). It is likely that

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relatively few quantitative and qualitative indicators will be useful in terms of reporting on a company's respect for human rights unless accompanied by explanatory narrative.

Narrative reporting is likely to have particular value. But this too will need to be concise and targeted and avoid cherry-picking success stories. The use of carefully-targeted questions to elicit meaningful information will therefore be especially important. There may also be some quantitative and qualitative indicators that are good proxies for the quality of a company's performance, and which can also add value. Investors, companies and civil society organisations that engage with companies can be good sources of information on what some of the most valuable questions might be. The same is true of specific initiatives that have focused on particular sectors or issues.

Reporting on processes to prevent and mitigate potential human rights impacts is widely seen to have inherent value, so long as it provides some confidence in the effectiveness of those processes. Assurance can have a useful role to play in this regard. There are natural links between a process focus and the language of many existing reporting requirements or guidelines in related areas.

Reporting on actual impacts that have occurred and why, together with how they have been handled and remedied, can also provide important information for the reader in terms of illustrating the robustness of company processes. There are genuine constraints (for instance of legal liability) on the extent to which disclosure of some actual impacts will be possible. At the same time, there are certain kinds of impacts that companies can and do discuss in their reports, including endemic issues in certain locations such as child labor, building safety or access to water, as well as more specific impacts that are already in the public domain. There is scope to learn from and potentially build on these precedents.

Companies' reports cannot be a panacea with regard to assessing companies' human rights performance. They are unlikely to become an appropriate place to look for a full review of a company's impacts on human rights, due to the basic interests of self-reporting. Other resources, including civil society reports will remain a crucial source of additional information in this regard. However, a reporting framework should help push smart thinking within companies about how far they can share information about actual impacts, thereby making their reports more credible to the reader. Moreover, where actual impacts are reported, they should be representative examples and not 'cherry-picked' or otherwise misleading.

A reporting framework should aim to **elicit valuable, foundational information** about a company's performance that can then inform more detailed and situation-specific conversations with stakeholders, investors and others. It should be a tool to improve the quality of those engagements, rather than trying to provide all the information that would result from those engagements.

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Stakeholder engagement will be a crucial component of both a reporting framework and an assurance framework. It should carry a prominent role in both. The frameworks should emphasise the characteristics of meaningful engagement as well as the particular significance of engagement with potentially affected stakeholders. Stakeholder engagement will be relevant for how the company consults on the content of its report; how it consults with stakeholders as part of its on-going human rights due diligence and relationship-building; and how assurance providers engage stakeholders to verify information being reported and establish any additional information relevant to assessing a report's content.

The **provision of assurance** in the field of human rights is particularly challenging. It cannot be meaningful if it is a tick-box exercise or a very short-term, 1-2 day engagement. It needs to extend beyond verification of the accuracy of what is reported to look also at its sufficiency and at the effectiveness of processes described. It cannot focus on quantitative measures if it is to assure these broader aspects of performance in the context of the report.

This suggests **a need to re-envision assurance with regard to human rights reporting** and look closely at the skill sets that will need to become the norm within the field. These will include competence in human rights, in the particular sector and relevant operating contexts, and an ability to engage effectively and appropriately with stakeholders outside the company. This suggests that providers of assurance, from whatever kind of organization, might typically need to work collaboratively with others in order to ensure the requisite skills are available. Moreover, an assurance process under the framework should have the potential to support improvements in company practices and reinforce the work of an internal audit function, where present.

It will likely be very challenging to achieve a **level of 'reasonable assurance'** in the field of human rights given the highly qualitative nature of the issues. 'Limited assurance' is more likely to be feasible. There may also be opportunities to look afresh at how a desirable level of assurance is articulated.

The frameworks as initially articulated cannot be the end of the discussion. They will have to be able to learn from experience in their application, from evolving understandings of good practice, and from developments in the field of human rights. They should therefore be capable of evolution and amendment over time through appropriate processes, under the supervision of appropriate institutions. Discussion of what the optimal institutional ownership would be for the frameworks will need to form part of the consultation process going forwards.

All views and comments are welcomed and can be sent to Anna Triponel at Shift (anna.triponel@shiftproject.org) or Bahtiar Manurung at Mazars (bahtiar@mazars.co.id).