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From responsibility to accountability—Social accounting, human rights and Scotland

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This contribution is based on remarks presented in 2009 to a symposium of the Centre for Social and Environmental Accounting Research. It seeks to provide some context and background to the issue of social accounting and human rights. I will firstly give a broad overview on where social accounting fits into the shifting human rights and business landscape and secondly, make a comment on how social accounting complements the Scottish Human Rights Commission's vision of the future of business and human rights. In essence, social accounting can play an important role in not only operationalising the due diligence requirements of companies in order to avoid human rights harm and providing a measuring and reporting framework of accountability, but also in progressing the role of business as a responsible social actor contributing in a positive way to the realisation of human rights for all.

I will begin by taking a look back at the evolving human rights and business agenda. A number of aligning factors have brought to the fore the need to examine businesses role in the realisation of human rights. Globalisation and the expansion of transnational companies, together with the privatisation of economic and political power, have put business in the spotlight. Furthermore, an increasingly sophisticated, active and often respected civil society can quickly and easily disseminate information about corporate related human rights harm almost anywhere in the world creating new forms of awareness, scrutiny and public accountability. We are now witness to allegations of the violations of human rights by corporate actors around the world on a nearly daily basis.¹ Meanwhile the state centred system of international human rights law has historically struggled to keep pace with these developments but is now seen to be entering into a new phase of advancing more robust accountability mechanisms—both legal and non-legal.

Incredibly fast progress has been made over the past 10–20 years in the recognition of the human rights impacts of business, leading to the recognition that business has a responsibility to respect human rights under the international framework of human rights, and an array of accountability measures developed to hold business to account for their human rights impacts, of which social accounting is one.

Global and sectoral accountability initiatives have mushroomed over the past few decades in an attempt to hold business to account for human rights harms and I will mention only a few to illustrate the journey. At international level the UN Global Compact started by Kofi Annan in 1999 as a policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. This is now regarded as the largest corporate citizenship and sustainability initiative in the world with over 5100 corporate participants and stakeholders from over 130 countries.²

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¹ E.g. see <http://www.business-humanrights.org/Home> for daily reported examples.

² UN Global Compact—<http://www.unglobalcompact.org/AbouttheGC/>.

In 2003 the UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights (the Norms)³ were developed to provide clarity and credibility amidst many competing voluntary codes about the standards business were to apply. While this attempt to assert the international legal principles applicable to business soon lost support from both the business community and from the NGO's the Norms did however lead to a process of standard setting and the establishment of a special representative on business and human rights.

At a regional level there have been initiatives such as the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises⁴ which represent voluntary principles and standards for responsible business conduct for multinational corporations operating in or from countries adhered to the Declaration. Meanwhile at a sectoral level there has been a proliferation of industry initiatives such as, for example, the Extractive Industries Transparency Initiative (EITI), set up to assist the extractive sector in its contribution to poverty reduction and sustainable development; or the Equator Principles, used as a benchmark for the financial industry to measure social and environmental issues in project finance. Large multinational businesses have also been seen to come together to find practical ways of implementing the Universal Declaration of Human Rights in the Business Leaders Initiative on Human Rights (BLIHR) established from 2003 to 2008. BLIHR produced a guide for integrating human rights into business management and a number of tools for companies.⁵

The above initiatives are illustrative of a whole array of voluntary, multi-stakeholder and multi-sectoral initiatives to hold business to account, moving from a recognition of the increasing footprint and therefore responsibility of business to new forms of accountability and standard setting. Social Accounting too has of course played its part in this journey with the Global Reporting Initiative, amongst other reporting standards, representing the most prevalent standard for sustainability reporting around the world.

In the last few years the debate has advanced and momentum has built up following the appointment by Kofi Annan in July 2005 of Professor John Ruggie as Special Representative of the UN Secretary-General on business & human rights. He has contributed a number of reports and consultation documents to the Human Rights Council on business and human rights. Ruggie began by mapping international standards of accountability for corporate acts and mapping of rights violations.

The third and arguably most important report of the Special Representative, published in 2008, was titled "Protect Respect and Remedy: A Framework for Business and Human Rights."⁶ It was unanimously welcomed by Governments of the Human Rights Council and sets out a 3 part policy framework of (1) the state obligation to protect human rights against human rights abuses committed by corporate actors; (2) the corporate responsibility to respect all human rights; and (3) the need for accessible and effective grievance mechanisms (Ruggie framework). The significance of this framework cannot be overstated as much of the debate and consensus around how to progress the business and human rights agenda now centers around these 3 pillars.

It is hoped that under the first "pillar" of the Special Representative's policy framework that state governments around the world will develop their legislative frameworks of accountability which could potentially lead to gradually augmented mandatory social accounting requirements. The corporate responsibility to respect rights set out in Ruggie's framework coined phrase "due diligence" to describe the steps a company must take in order to "discharge"⁷ their responsibilities. The due diligence process is seen to include the adoption of a human rights policy, conducting of human rights impact assessments; integration of human rights into management systems and the monitoring and tracking performance. The role of non-financial accounting has therefore very much been flagged as an important means by which to ensure companies uphold their duty to respect human rights and companies will increasingly be called upon to demonstrate how they are carrying out these due diligence elements of the responsibility to respect rights.

While companies should be encouraged to conduct the "due diligence" requirements, as set out by Ruggie, this should be viewed as merely the starting point of embedding a human rights culture in business. The Scottish Human Rights Commission promotes a human rights based approach to business which would see accounting as an important means of taking business beyond risk mitigation and "do no harm" thinking to maximizing the positive impacts of business and the business contribution to the realisation of human rights. We believe our position as a National Human Rights Institution gives us unique leverage over a range of stakeholders to the issue, from victims and rights-holders, to business, civil society and government, to facilitate dialogue and assist in finding human rights based solutions to problems and advancing human rights through business.

By way of background the Scottish Human Rights Commission is the National Human Rights Institution (NHRI) for Scotland, one of around 110 NHRIs around the world⁸, set up by an Act of the Scottish Parliament in 2006⁹ and operational as of last year.¹⁰ We have a general duty to promote awareness, understanding and respect for human rights, and in particular

³ UN Doc. E/CN.4/Sub.2/2003/12/ Rev.2, 26 August 2003.

⁴ http://www.oecd.org/department/0,3355,en_2649_34889_1_1_1_1_1,00.html.

⁵ <http://www.blihr.org/>.

⁶ Protect, Respect and Remedy: a Framework for Business and Human Rights, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, UN Doc. A/HRC/8/5, 7 April 2008.

⁷ UN Doc. A/HRC/8/5, 7 April 2008.

⁸ National Human Rights Institutions Forum, list of NHRIs—<http://www.nhri.net/nationaldatalist.asp>.

⁹ Scottish Commission for Human Rights Act 2006, – http://www.opsi.gov.uk/legislation/scotland/acts2006/asp_20060016_en.1.

¹⁰ The Commission's current strategic and operational plans can be found at—<http://www.scottishhumanrights.com/research/ourpublications>.

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