



Accountability and transparency in relation to human rights: A critical perspective reflecting upon accounting, corporate responsibility and ways forward in the context of globalisation

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ABSTRACT

In this paper we critically theorise accountability and transparency, and accounting, in relation to human rights. Consistent with our perspective, we articulate human rights as a complex and very important construct. We link human rights to notions of accountability and transparency (and hence to accounting) and elaborate how theoretical debates and developments in the humanities and social sciences refine but do not displace the argument that governance for human rights is a meaningful pursuit and policy. Indeed, they in some ways promote the mobilisation of accounting in the context. We go on to elaborate further how accounting (we especially focus upon corporate accounting and reporting) may come to the service of human rights. Developing our critical perspective more concretely and positively, we reflect, giving consideration to real world happenings and relevant illustrations, upon the interface of accounting, various actors (especially corporations) and human rights in the context of globalisation. And we reflect upon ways forward.

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'A ray of courage to the oppressed and poor;
A spark, though gleaming on the hovel's hearth;
Which through the tyrant's gilded domes shall roar;
A beacon in the darkness of the Earth;
A sun which, o'er the renovated scene,
Shall dart like Truth where Falsehood yet has been'

From Shelley, 1812, *To A Balloon Laden with Knowledge*, a sonnet included in Shelley, 1988, p. 877, quoted in Gallhofer and Haslam, 2003, p. 1.

1. Introduction

We theorise accountability and transparency, and accounting, vis-à-vis human rights, from a critical perspective.¹ We articulate some key and difficult issues concerning human rights. We link rights to accountability and transparency (and hence to accounting) and reflect how developments in theorising refine but do not displace the argument that human

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¹ Human rights have served as a model for general concerns. When corporate social responsibility is addressed at the international level it intersects with human rights' concerns (Ruggie, 2008). Some would suggest a concern to explicitly reflect upon accounting and human rights is thus long overdue.

rights governance is a meaningful pursuit. Indeed, they actually in some ways promote the – further and to some extent transformed – mobilisation of accounting in this context. We then elaborate accounting's potential (focusing especially upon corporate accounting) vis-à-vis human rights. Developing our argument more concretely and positively, we then reflect, with consideration to real world happenings and relevant illustration, upon the interface of accounting, various actors (State and non-State, especially corporations) and human rights in the context of globalisation. And we reflect upon ways forward. The structure of our paper is thus as follows: (i) a theoretical position on human rights vis-à-vis accountability, transparency and accounting; (ii) a further delineation of how accountings may better serve human rights; (iii) reflections, with consideration to real world happenings, on the interface of accounting, actors and rights in the context of globalisation; (iv) ways forward; (v) concluding comments.

2. A theoretical position on human rights in relation to accountability, transparency and accounting

In developing a position, we seek to understand context, to question and to better things. Questioning implies openness and reflexivity (and sensitivity to change) across all dimensions of theorising as praxis. It extends: to appreciation of context, including that of the theorist; to the questioning (here openness is willingness to re-interpret old questions and add new); and, to envisioning better worlds and strategies (Held, 1980; Held and McGrew, 2000; Gallhofer and Haslam, 2003).

Today's human rights emerged out of the humanitarian catastrophes of World War II. In 1945, protecting individuals, minorities or the marginalized against the power of majorities, where that encroached on the existential human condition, was deemed crucial for future States (Glendon, 2002; Van der Walt, forthcoming). The UN's *Universal Declaration of Human Rights*, enforced in 1948 with the consent of 48 and abstention of 8 countries, was the first international agreement to promote a construct of international human rights. What were the agreement's crucial elements? Firstly, the construct is based on subjective rights (*droits subjectifs*) of individuals entitling them to certain fundamental life conditions under no circumstances to be taken away. Secondly, these rights are claimable against a ruling majority's decision-making if needed. Thirdly, they are taken to apply universally and as moral claims in countries whose laws do not embrace positive human rights norms. Dworkin famously evoked an image from bridge to explain post-war understanding of human rights: it is as if the individual is given a 'trump' card to invalidate results of the normal social decision-making process if threatening his protected sphere (Taylor, 1986; Dworkin, 1990).²

This reasoning (rights creation protects the vulnerable where they live if State-protection fails) explains why rights were rediscovered as a promising tool to regulate globalisation's unbound forces. For John Ruggie,³ the human rights agenda tries to compensate for State failure vis-à-vis globalisation, the *governance gaps*:

'The root cause of the business and human rights predicament today lies in the governance gaps created by globalization – between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation. How to narrow and ultimately bridge the gaps in relation to human rights is our fundamental challenge.' (Ruggie, 2008, p. 3).⁴

The ambitious and far reaching attempt to universally guarantee human rights to individuals has, however, been questioned. A number of objections still challenge human rights discourses (see Kennedy, 2002). A key issue is the foundation or legitimisation of claims made in the name of human rights. If the very definition of human rights implies they are only claimable against elected majorities and thus against normal forms of democratic decision-making, who is legitimate sovereign of those claims? Closely linked to this: which procedures ensure the legitimisation problem does not ultimately lead to abuse or dilution of the language of human rights? This is pertinent given almost any moral claim can be expressed in this language, e.g. does the right to education have the same status as the right not to be tortured, as both are affirmed by the *Universal Declaration*? At issue is how to distinguish (and legitimately) more and less relevant claims made in the language of human rights. Not unrelated to the above is the challenge from theorising that problematises the very idea of progressing rights. Much influenced by Heidegger's critique of modernity, concerns are raised about contradictory and totalitarian possibilities and dimensions in so-called emancipatory or progressive drives, including in grand universal narratives of legitimisation (see Lyotard, 1984; Kolb, 1986; Ross, 1988; Alvesson and Willmott, 1992; Doornbos, 1992; Norris, 1993; Ray, 1993; Squires, 1993; cf. Arendt, 1958; Bronner, 1994). For Lather (1991), this problematisation suggests a break with universalising metanarratives (in favour of the particular and appreciation of reality's 'messiness') and the humanist view of the subject as autonomous and stable (Lyotard, 1984; Fraser and Nicholson, 1988; Garnham, 2000).

A related challenge stems from affirmations of diversity. For cultural relativists, human rights are Eurocentric, promoting Western individualism and rights hardly compatible with more communitarian ways (Tharoor, 2000, 2001; Brunkhorst,

² To give an example: freedom of speech can be called a human right only once the individual is enabled to revoke a decision that inhibits his freedom of speech, although made by the democratic majority, in a court of law (Dworkin, 1990; Van der Walt, forthcoming).

³ Harvard Law Professor and UN Special Representative of the Secretary-General on Human Rights and Business.

⁴ Besides Ruggie's very influential initiative, a number of NGOs and private initiatives have also put human rights high on the agenda of international business regulation. To mention only some of them: Human Rights Watch; Amnesty International; The Global Reporting Initiative; The Business Leaders Initiative on Human Rights.

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