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# Beyond Due Diligence: Enhancing Business Respect of Human Rights through Engagement with the UN Sustainable Development Goals

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## ABSTRACT

*Endorsed four years after the establishment of the United Nations Guiding Principles on Business and Human Rights, the Sustainable Development Goals underscored the vitality of a multi-stakeholder approach to global progress. However, despite emphasizing corporate contribution, Agenda 2030 failed to link the SDGs to the existing framework for business and human rights. In order to realize the Global Goals, the compatibility of the SDGs and the UNGPs must be further explored. The following research aims to expand the link between the SDGs and the UNGPs and explore the practical integration of the SDGs into existing business responsibilities. In order to provide a practical understanding of the theoretical developments, the research examined the business case of Marks and Spencer. A thematic assessment of the company's dual-approach to human rights and sustainability revealed the possibility and potential of UNGP and SDG integration.*

### Key Words

United Nations Guiding Principles on Business and Human Rights, Sustainable Development Goals, Due Diligence, Agenda 2030, Business and Human Rights, Corporate Strategy, Corporate Social Responsibility, Marks and Spencers, Business Case Study, Ethical Business

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## INTRODUCTION

*“The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.”*

*Franklin D. Roosevelt*

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Since the dawn of the Industrial Revolution, businesses have profited to the detriment of people and planet. From the infamous Triangle Shirtwaist Factory fire in New York City in 1911 to the tragic collapse of Rana Plaza a century later, the corporate desire for profit and productivity has outweighed considerations for secure working conditions, healthy environments, and the welfare of workers. In our globalized world today, the reach and breadth of corporations is vast. Directly or indirectly, positively or negatively, businesses interact with the full range of human rights. The everyday decisions made by business leaders offer scalable ramifications for society at large. Businesses outpace many States in terms of yearly revenue and global influence—with some corporations boasting workforces larger than the populations of entire countries.<sup>1</sup> Yet, as the old adage goes, with great power comes great responsibility.

At the international level, businesses are called to fulfill two great responsibilities: to respect human rights and to partake in a global partnership for sustainable development. The United Nations Guiding Principles (UNGPs) govern the former, and the Sustainable Developments Goals (SDGs) guide the latter. The UNGPs rose out of a global need to clarify State and corporate responsibilities in regards to Business and Human Rights (BHR). The UNGPs rest on three pillars: the State responsibility to protect, the corporate responsibility to

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<sup>1</sup> Moynihan, Ruqayyah, and Fernando Belinchón. "25 Giant Companies That Are Bigger Than Entire Countries." Business Insider. July 25, 2018. Accessed April 07, 2019. <https://www.businessinsider.com/25-giant-companies-that-earn-more-than-entire-countries-2018-7?r=US&IR=T>.

respect, and the joint responsibility to remedy human rights violations.<sup>2</sup> Commonly equated with the principle of “do no harm,” the UNGPs are primarily concerned with mitigating risk and preventing egregious human rights abuses. While widely viewed as a compliance mechanism, the UNGPs are a powerful framework for generating positive change. Established in 2011, the UNGPs predate the endorsement of Agenda 2030 and the 17 SDGs.

Endorsed by the United Nations in 2015 and launched in 2016, Agenda 2030 is an ambitious goal-based initiative for sustainable development. Building upon previous definitions, the Agenda calls for sustainable development characterized by social inclusion, environmental protection, economic development, good governance, and for overall “. . . development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>3</sup> To achieve this vision, it calls for multi-stakeholder engagement. However, despite endorsing a global partnership and acknowledging the vitality of business involvement, Agenda 2030 only mentions the UNGPs once.

The compatibility of the global standard for business and human rights and the global agenda for humanity warrants further investigation. Both documents are universally endorsed and human-rights based. Much like the UNGPs, human rights lie at the heart of the SDGs, with 92 percent of the SDG targets relating to rights mentioned in the International Bill of Human Rights.<sup>4</sup> However, despite the symbiotic relationship, few scholars have explored the integration of the frameworks, and few businesses have combined human rights and SDG policies.

On this basis, the following research seeks to explore the link between the two frameworks and investigate the practical integration of the UNGPs and SDGs. An integrated approach holds the potential to expand and simplify responsibilities, extend the longevity of the SDGs, and empower businesses to simultaneously “do no harm” and “do good.” If the core

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<sup>2</sup> UN Human Rights Council, “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, 7 April 2008, A/HRC/8/5.

<sup>3</sup> WCED (ed.). *Our Common Future: The World Commission on Environment and Development*. Oxford University Press: Oxford. 1987.

<sup>4</sup> “Human Rights Data Explorer.” Danish Institute for Human Rights. Accessed June 26, 2019. <https://sdgdata.humanrights.dk/>.

tenets of sustainable development are enveloped into the existing BHR framework, the new interpretation of business strategy will last beyond the Agenda 2030 deadline.

Businesses have delivered economic growth alongside inequality, and prosperity alongside environmental degradation. To sustain growth, the nature and purpose of business must be reexamined. We need a stronger interpretation of business responsibilities and sustainable businesses models that meet the needs of the present without compromising the ability of future generations to meet their needs. This paper will evaluate the existing frameworks while remaining focused on the ultimate aim of securing a future characterized by peace, prosperity, environmental protection, and the full realization of human rights.

### **Statement of Research**

The following qualitative research aims to establish a link between the SDGs and the UNGPs, explore the practical integration of the SDGs into existing business responsibilities, and analyze leading business strategies. Embracing both theory and practice, the research question is twofold. First, the research seeks to understand the extent to which the UNGPs and the SDGs can coexist. Secondly, it aims to explore the practical integration of SDGs into Pillar II responsibilities. In doing so, the following sub-questions will be addressed:

- How do the SDGs relate to the corporate responsibilities outlined by the UNGPs?
- What the theoretical points of integration between the UNGPs and SDGs?
- In practice, how does a business enterprise simultaneously engage with the UNGPs and SDGs?

### **Methodology and Outline of Research**

The purpose of this work is to examine the links between the UNGPs and the SDGs and to explore the practical integration of the two internationally recognized frameworks. To carry out the research, the work will be divided into three sections. Chapter One will contextualize the emergence of the UNGPs within the larger development of CSR and BHR. Thereafter, it will introduce the UNGPs and outline the three pillars, placing particular emphasis on the second pillar. To narrow the scope and maximize comprehensivity, the chapter will situate Pillar II as

the subject for further examination. Given the limited number of sources by academics, the research will rely heavily upon the publications of NGOs, intergovernmental organizations, consulting groups, and business and human rights experts. These sources will be used to develop an understanding of the UNGP and SDG compatibility, to explore points of integration, and to propose an integrated approach to fulfilling the related frameworks.

With the second pillar situated as the subject, the second chapter will seek to explore the SDGs compatibility with the corporate responsibility to respect. To do so, Chapter Two will first examine the international antecedents to the SDGs, offer a holistic definition of sustainable development, and articulate the business benefits and drawbacks of engaging with the SDGs. Having built a case for corporate SDG engagement, the chapter will propose a new framework for integrating the SDGs into the existing Pillar II responsibilities. Using the three components of the corporate responsibility to respect as the baseline, the section will examine how the SDGs can be incorporated into a company's human rights policy commitment, due diligence, and remediation practices. Ultimately, the proposed framework will link the SDGs and human rights, highlight key spaces for alignment, and demonstrate the mutually reinforcing nature of the UNGPs and SDGs. In order to ground the theory discussed in the second chapter, Chapter Three will shift attention to the case of M&S.

To ground the theoretical presuppositions, the final chapter will conduct a business case study of M&S. M&S was selected due to its exemplary performance on cross-sectoral benchmarks, its representation and relevance, transparency, and its potential for peer to peer learning. The research will rely solely on publicly available data sources including the M&S website, annual reports, company policies, third party commentaries, as well as, the findings from the Corporate Human Rights Benchmark, and information obtained through the UN Global Compact reporting platform and the UN Guiding Principles Reporting Framework. Further, the research will thematically assess the company's performance in regards to human rights, SDG engagement, and its integrated approach to human rights and sustainability. Through analysis and synthesis, the research aims to produce a multidisciplinary exploration and a practical understanding of UNGP and SDG compatibility.



# 1

## CHAPTER ONE: LINKING THE SDGS TO THE BUSINESS RESPONSIBILITIES OUTLINED BY THE UNGPS

*“The world we want is an enormous responsibility.”*

*Paul Polman*

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Allegations and reports of corporate human rights abuses are a permanent fixture in the modern media cycle. International action, corporate codes of conduct, and increased consciousness by consumers has yielded meaningful developments within the field of business and human rights. However, the state of play remains unfair. News outlets, NGOs, and watchdog groups around the world continue to unearth egregious human rights abuses at the hands of businesses. Every region, every industry, and every level of the supply chain remains susceptible to intended or inadvertent lapses in respect of human rights.

Abuses abound. Young children in Uzbekistan are pulled from class to labor in the cotton fields,<sup>5</sup> female workers in South Africa are forced to perform sexual acts for fair working hours,<sup>6</sup> and indigenous people throughout South America are displaced from sacred lands for extractive purposes.<sup>7</sup> In the United States, corporate giants sidestep civic duties through tax evasion and

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<sup>5</sup> Namratha Somayajula, "Forced Labor Lives on in Uzbekistan's Cotton Fields," Human Rights Watch, April 17, 2019, accessed April 07, 2019. <https://www.hrw.org/news/2019/04/16/forced-labor-lives-uzbekistans-cotton-fields>.

<sup>6</sup> Smit, Sarah. "Heineken Workers' Forum Prepares to March against 'sex for Shifts'." The M&G, accessed April 07, 2019. <https://mg.co.za/article/2019-04-04-heineken-workers-prepare-to-march-against-sex-for-shifts>

<sup>7</sup> Amnesty International. "Ecuador: Justice and Protection for Amazonian Women, Defenders of the Land, Territory and Environment." London: Amnesty International, 2019. Accessed April 8, 2019. <https://www.business-humanrights.org/sites/default/files/documents/AMR2800392019ENGLISH.PDF>

corporate loopholes, with sixty Fortune 500 companies paying zero taxes on their federal income.<sup>8</sup> These abuses do not occur in the absence of defined responsibilities, rather in the presence of an internationally recognized framework.

The 2011 UN Guiding Principles on Business and Human Rights outline the State obligation to protect human rights, the corporate responsibility to respect human rights, and the dual responsibility of State and business to provide remediation for abuses. By articulating the expectations of governments and business, the UNGPs have bridged governance gaps and began to pierce the corporate veil. Until a binding treaty is signed, the UNGPs stand as the guiding force and authoritative standard for business and human rights.<sup>9</sup>

In order to address the emergence of the UNGPs, the chapter will situate the Guiding Principles in the broader context of Corporate Social Responsibility (CSR) and Business and Human Rights (BHR). Secondly, it will highlight the key similarities and differences and discuss the comparative strength of the two systems. Finally, the chapter will describe the development of the UNGPs and justify a further examination of the Pillar II responsibilities.

### **Contextualizing the UNGPs:**

“Corporate Social Responsibility” and “Business and Human Rights” are often lumped into the same category and used interchangeably. In the *Journal of Human Rights*, Anita Ramasastry describes Corporate Social Responsibility (CSR) and Business and Human Rights (BHR) as “close cousins,” intertwined, yet carrying distinct identities and traditions.<sup>10</sup> CSR predates the development of BHR and remains foundational to its core. The intention in including a section devoted to CSR is to differentiate between CSR and BHR and to prevent

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<sup>8</sup> Gardner, Matthew, Steve Wamhoff, Mary Martellotta and Lorena Roque. “Corporate Tax Avoidance Remains Rampant Under New Tax Law.” Institute on Taxation and Economic Policy, April 2019. <https://itep.org/wp-content/uploads/04119-Corporate-Tax-Avoidance-Remains-Rampant-Under-New-Tax-Law ITE P.pdf>

<sup>9</sup> On July 6, 2015, the UN Human Rights Council established a working group tasked with developing an internationally binding instrument concerning business enterprises and the respect for human rights. In July 2018, a “zero draft,” was released. However, the treaty remains hotly debated and it will likely take years for negotiations and endorsement. For more information, please reference: “Debate the Treaty.” Business & Human Rights Resource Centre. Accessed July 1, 2019. <https://www.business-humanrights.org/en/about-us/blog/debate-the-treaty>

<sup>10</sup> Anita Ramasastry. “Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability,” *Journal of Human Rights* (2015), 14:2, 237-259, DOI: 10.1080/14754835.2015.1037953

confusion between the two terms. It is important to note, this section is not a comprehensive literature review on the vast amount of CSR scholarship. Rather, it aims to provide a bird's eye view of the topic as a whole. In doing so, it will highlight the main theorists and familiarize readers with the different manifestations of CSR practice.

The notion of “social responsibility” for business was first articulated in the 1950s; however, the practice began centuries before. Scholars reference Hammurabi’s Code and ancient Roman law as the earliest forms, while others point to the Victorian era as the genesis of business philanthropy.<sup>11</sup> In the late 19th and early 20th centuries, wealthy industrialists and business owners began practicing philanthropy to offset the perils of industrialization.<sup>12</sup> Business philanthropists established foundations, charities, and made sizable donations to community organizations.<sup>13</sup> The funds supported the arts, helped vulnerable communities, and elevated the social perception of the contributors.<sup>14</sup> These efforts sat outside the business operations and were irrespective to the morality or legality of core business actions. Philanthropy remained the dominant paradigm until the 1950s and 1960s when CSR entered the scene.

Known as the “Father of CSR,” Howard R. Bowen first articulated the notion of *socially responsible* decisions by business executives in 1953.<sup>15</sup> Bowen defined social responsibility as, “the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society.”<sup>16</sup> It was a theoretical response to a changing socio-political environment. The decades succeeding WWII brought substantial systemic changes; the international human rights regime emerged, the Civil Rights Movement flourished, and students took to the streets to protest the Vietnam War. Rachel Carson published *Silent Spring* and massive oil spills off the coast of California ignited a

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<sup>11</sup> Richard T. de George, “The History of Business Ethics” in *Values and Ethics for the 21st Century*. (n.p; BBVA, 2012), 339.

<sup>12</sup> Shift. *Business, Human Rights, and the Sustainable Development Goals*, 29.

<sup>13</sup> Mauricio Andrés Latapí Agudelo, Lára Jóhannsdóttir, and Brynhildur Davídsdóttir. "A Literature Review of the History and Evolution of Corporate Social Responsibility." *International Journal of Corporate Social Responsibility* 4.1, 2019.

<sup>14</sup> Shift. *Business, Human Rights, and the Sustainable Development Goals*, 29.

<sup>15</sup> Howard R. Bowen. “*Social Responsibilities of the Businessman*.” University of Iowa Press, 2013.

<sup>16</sup> *Ibid*, 6.

public outcry against the oil industry.<sup>17</sup> Voices rose against social injustice, environmental degradation, and the perils of capitalism. The political and social climate laid the foundation for further development of Bowen's initial social responsibility theory. Keith Davies (1960) urged business leaders to reexamine their economic and social role in society. He called for social action proportional to capital profits. Further, he warned of possible repercussions if businesses did not engage with the social world.<sup>18</sup> Echoing Davies, other scholars, such as McGuire and Walton, developed interpretations of CSR.

Meanwhile, an opposing school of thought developed. Milton Friedman famously discredited the notion of corporate social responsibility claiming the production of profit to be the core responsibility of businesses.<sup>19</sup> Friedman held to the free-market view of business and claimed that the ultimate, "business of business is business."<sup>20</sup> Under such a model, businesses function as amoral actors with the sole aim of making money for their shareholders. Friedman believed CSR practices inhibit business innovation and increase consumer costs. This line of reasoning, as known as the Shareholder Value Theory, has been used to justify the globalized "race to the bottom," in pursuit of the highest possible profit margins. However, Friedman did clarify that all business actions must occur within the "rules of the game."<sup>21</sup> While it is important to note, the "rules of the game" have evolved throughout the years, Friedman's theory left sufficient space for human rights abuses.

As some businesses and theorists sided with Friedman's model, others began to further the theory and practice of CSR. In 1971, the Community for Economic Development in the United States stated that "businesses function by public consent, and its purpose is to serve constructively the needs of society-- to the satisfaction of society."<sup>22</sup> In line with this statement, CSR was mainstreamed into the corporate vernacular, and businesses (such as Ben and Jerry's)

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<sup>17</sup> Richard T. de George, "The History of Business Ethics," 340. See also, Mai-Duc, Christine. "The 1969 Santa Barbara Oil Spill That Changed Oil and Gas Exploration Forever." Los Angeles Times. May 20, 2015. Accessed July 01, 2019.

<https://www.latimes.com/local/lanow/la-me-ln-santa-barbara-oil-spill-1969-20150520-htlmstory.html>.

<sup>18</sup> Mauricio Andrés Latapí Agudelo, et.al. "A Literature Review," 5.

<sup>19</sup> Milton Friedman. "The Social Responsibility of Business is to Increase Its Profits The New York Times Magazine, September 13, 1970." *The New York Times Company* (1970).

<sup>20</sup> Ibid

<sup>21</sup> Mauricio Andrés Latapí Agudelo, et.al. "A Literature Review," 5.

<sup>22</sup>Committee for Economic Development. *Social Responsibilities of Business Corporations*. USA: Committee for Economic Development, 1971, 11.

began to implement CSR policies.<sup>23</sup> The practice grew; however, it remained limited in scope and subject matter. Scholars note that the growing “. . . popularity led to the unrestricted use of the term CSR under different contexts, and by the end of the decade the concept became unclear and meant something different for everyone.”<sup>24</sup>

In 1979, Archie Carroll attempted to reconcile the lack of clarity and presented one of the first widely accepted definitions. Carroll defined CSR as when “the social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has of organizations at a given point in time.”<sup>25</sup> This definition later inspired the development of Carroll’s CSR Pyramid. The framework addresses four elements of business: the economic, legal, ethical, and philanthropic. The base of the pyramid rests on the responsibility of business to make a profit. Secondly, the legal tier refers to a business’s obligation to obey laws and fulfill other legal obligations. The third tier rests on duty to act beyond legal obligations and to be moral and ethical as well. Once the bottom three layers have been met, the top tier focuses on philanthropy and giving back to society.<sup>26</sup> Carroll’s “CSR pyramid” defined CSR expectations; however, it did not advance the practice of CSR. Like the early days, CSR practice remained largely philanthropic and voluntary in nature.

In the following decades, a litany of new terms emerged related to CSR. Including corporate citizenship, social investment, strategic philanthropy, corporate social responsiveness, corporate community involvement, and triple-bottom-line.<sup>27</sup> To this day, the terms are used interchangeably with CSR, and often confused with BHR. Not only does this distort a universal understanding and standardized practice, it gives businesses considerable leeway for amoral actions under the guise of strong marketing. Of the terms mentioned, corporate citizenship gained considerable traction.

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<sup>23</sup> Mauricio Andrés Latapí Agudelo, et. al.. "A Literature Review," 6.

<sup>24</sup>Ibid, 15.

<sup>25</sup> Archie B. Carroll. A Three Dimensional Conceptual Model of Corporate Social Performance. *Academy of Management Review* (1979), 500.

<sup>26</sup> Fifka, Matthias S. "Towards a More Business-Oriented Definition of Corporate Social Responsibility: Discussing the Core Controversies of a Well-Established Concept." *Journal of Service Science and Management* 2.04 (2009), 314.

<sup>27</sup> Ibid, 313.

Carroll coined the term “corporate citizenship” in 1991. Stating: “The CSR firm should strive to make a profit, obey the law, be ethical, and be a good corporate citizen.”<sup>28</sup> On its face, there is no distinguishable difference between CSR and corporate citizenship. Under this model, and many related models, CSR action remains isolated from the core business practices and associated with how money is spent, not how money is made.<sup>29</sup>

At the farthest end of the spectrum lies the “Shared Value Model.” Developed by Michael E. Porter and Mark R. Cramer at the Harvard Business School, the creators view the innovation as a step beyond CSR. They define Shared Value “as policies and operating practices that enhance the competitiveness of a company while simultaneously advancing the economic and social conditions in the communities in which it operates.”<sup>30</sup> Shared Value creation focuses on identifying and expanding the connections between societal and economic progress. Unlike previous models, it places action at the center of business strategy and scales social ambitions. Yet, it retains the division between mitigating harms and generating positive impacts.<sup>31</sup> The modern BHR regime bridges this division.

Corporate Social Responsibility is an invaluable practice and a useful vehicle for delivering benefits to society. However, it should not be confused with BHR. Comprehensive CSR policies likely correlate, but they do not equate to the corporate respect for human rights. A company can build community centers, institute health programs for workers, or create a scholarship fund for underprivileged students, but these actions do not guarantee that abuses are not being committed elsewhere. Ultimately, CSR has been integral in shaping corporate mindsets and policies, and it should be acknowledged for its added value. Yet, it should be delineated and viewed as a separate entity from business and human rights. The following section delves deeper into this issue.

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<sup>28</sup> Archie B. Carroll, “The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders,” *Business Horizons*, Vol. 34, No. 4, (1991), 39–48.

<sup>29</sup> Shift. *Business, Human Rights, and the Sustainable Development Goals*, 34.

<sup>30</sup> Michael E. Porter and Mark Kramer, “Creating Shared Value,” *Harvard Business Review*, August 25, 2015, accessed May 04, 2019, <https://hbr.org/2011/01/the-big-idea-creating-shared-value>.

<sup>31</sup> Shift. *Business, Human Rights, and the Sustainable Development Goals*, 35.

## **Drawing the Distinction: CSR versus BHR**

Corporate Social Responsibility and Business and Human Rights differ in terms of clarity, intent, and longevity. As established, CSR has undergone many theoretical revisions throughout the years. It is an umbrella term, lacking a clear definition and varying across industries and regions.<sup>32</sup> From Bowen's initial definition to the European Union's definition, CSR is not universally understood or homogeneously applied. While this is not inherently problematic and allows for industry-specific policies, it creates lapses in protection and confusion regarding expectations. On the other hand, the BHR regime amplifies clarity and uniformity. Not only does it define, it provides a framework and a guide for implementation. The expectations are universal and applicable to businesses of all sizes, across industries and regions.

The respect of human rights is the basis of BHR, and an occasional byproduct of CSR. No doubt, human rights influence the uptake of CSR policies, but it is typically motivated by shareholder pressure or brand reputation. As previously discussed, there is a wide array of approaches to CSR. These practices are meaningful and focused on doing social good; however, the practices are not centered on the core obligation of respecting human rights. No social good can offset or compensate for an initial breach in the protection of human rights. Plain and simple, the intent behind the BHR regime is the core responsibility of companies to respect human rights, do no harm, and remediate abuses

Lastly, CSR differs from BHR in terms of longevity and stability. CSR is a department or component of business operations, whereas BHR is placed at the heart of business strategy. Therefore, CSR will ebb and flow with the rise and fall of profit margins and consumer demands. It is privy to changing markets, whereas BHR is rooted in quasi-legal obligations and human rights driven.<sup>33</sup> The following section will address the development of the modern BHR regime and further explain its quasi-legal nature.

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<sup>32</sup>Andreas G.Scherer and Palazzo, and Guido. "Toward a Political Conception."

<sup>33</sup>Anita Ramasastry. "Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability," 237.

## **BHR: Development of Hard and Soft Law Sources**

The UNGPs descended from a long lineage of binding international agreements and soft-law instruments. The Framework commentary refers to the International Bill of Human Rights, the OECD Guidelines for Multinational Enterprises, the ILO Declarations, and the UN Global Compact as the BHR “International Legal Framework.”<sup>34</sup> The precedent of these documents is woven throughout the UNGPs.

Pillar I, the State Duty to Protect, affirms the positive and negative obligations and extends the applicability to include third parties. Previously understood as armed rebel groups, third parties, by definition, include business enterprises. A state maintains its duty to uphold human rights as outlined by ratified treaties whilst also protecting its people against the business abuse of human rights. Therefore, the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, and the International Convention on Economic, Social and Cultural Rights) and all relevant UN Treaty bodies sit at the core of the modern BHR regime.<sup>35</sup> While important, these treaties are state-based, and there are no formal legal obligations imposed on businesses. Businesses are not subjects of international law, and are only bound to national law. However, if States created comprehensive national laws governing corporate conduct, legally required due diligence, and realigned their courts to allow for corporate prosecution, businesses would be bound to international instruments via national law. Until then, soft law mechanisms serve to bridge the gap.

The International Labour Organization (ILO) and the Organization for Economic Co-operation and Development (OECD) trailblazed the creation of soft law. In 1976, the OECD Guidelines for Multinational Enterprises were first adopted under the Declaration on International Investment and Multinational Enterprises.<sup>36</sup> The Guidelines are a globally

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<sup>34</sup> UN Office for the Commissioner of Human Rights. “Guiding Principles on Business and Human Rights: An Interpretive Guide.” New York and Geneva, 2012. HR/PUB/12/02, 4.

<sup>35</sup>Ruggie. *Just Business*, 81.

<sup>36</sup>OECD. *Policy Brief: The OECD Guidelines for Multinational Enterprises*. Paris: OECD, June 2001. Accessed May 10, 2019. <http://www.oecd.org/investment/mne/1903291.pdf>



agreed-upon corporate code of conduct. The standards encompass “a variety of areas including employment and industrial relations, human rights, environment, information disclosure, competition, taxation, and science and technology.”<sup>37</sup> Since 1976, the Guidelines have been revised six times. The 2011 revision included a chapter entirely devoted to human rights. The Guidelines include a non-judicial remediation mechanism under which anyone can bring a claim of noncompliance against a business enterprise in an adhering country. The claims are brought to a State-based National Contact Point, and incur no immediate or enforceable consequences.

One year later, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (1977) was adopted.<sup>38</sup> The document was endorsed by States, business enterprises, and labor unions. It provides clear guidance on the provision of decent work. Like the OECD Guidelines, the ILO Declaration has been revised over the years. The newest edition, revised in 2017, added policy provisions and guidance pertaining to the UNGPs and the 2030 Agenda.<sup>39</sup> Responding to the woes of globalization, the ILO also issued the Declaration on Fundamental Principles and Rights at Work in 1998.<sup>40</sup> The Declaration obliged the Member States to respect and protect four specific categories of rights. These categories are the “. . . freedom of association/right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation.” The combined effort of the OECD Guidelines and the ILO Declaration established a semblance of shared understanding and mutually accepted standards for corporate conduct.<sup>41</sup> The UN Global Compact carried on this legacy and elicited historical levels of business cooperation.

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<sup>37</sup> Ibid

<sup>38</sup> “What is the ILO MNE Declaration?” International Labour Organization. August 18, 2017.

[https://www.ilo.org/empent/areas/mne-declaration/WCMS\\_570332/lang--en/index.htm](https://www.ilo.org/empent/areas/mne-declaration/WCMS_570332/lang--en/index.htm)

<sup>39</sup> “Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration)-5th Edition.” International Labour Organization. March 2017.

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/---emp\\_ent/---multi/documents/publication/wcms\\_094386.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf)

<sup>40</sup> “ILO Declaration on Fundamental Principles and Rights at Work.” International Labour Organization. 18 June 1998. Available at:

[https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_467653.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_467653.pdf)

<sup>41</sup> In total, there are eight relevant ILO Declarations. However, Ruggie specifically mentions the two mentioned above as the most prominent soft-law instruments in the BHR space. Ruggie. *Just Business*, 46.

Launched in 2000, the UN Global Compact is a non-binding and voluntary initiative outlining “Ten Principles” for sustainable business. The principles encompass four main areas including human rights, the environment, labor, and anti-corruption. As of 2019, nearly 10,000 businesses and 159 countries are signatories to the Global Compact. The signatories promise to uphold the ten principles and publish a yearly “Communication on Progress” report. The Global Compact initiative is an important educational platform for businesses and normalized sustainability reporting practices. Regardless, like its predecessors, the Global Compact is non-binding and voluntary.

The final antecedent to the UNGPs is The Draft Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights (2003). The Draft Norms aimed to shift the paradigm and impose mandatory human rights obligations on businesses. Under the Norms, businesses would inherit the full range of human rights duties imposed on States (“Protect, Respect, Fulfill”) within their given ‘sphere of influence.’<sup>42</sup> The Norms were praised and championed by civil society and NGOs. However, States and businesses remained reluctant for two primary reasons. First and foremost, the Norms detracted from State responsibilities. The Norms placed undue burdens on businesses and failed to distinguish “between primary and secondary duty-holders.”<sup>43</sup> Without this distinction, the Norms could lead to lapses in the protection of human rights, rather than the provision of greater coverage. Weak States could ignore core human rights obligations and pass off their duties to stronger corporations operating in their jurisdiction. Even more so, there are a number of human rights that inherently cannot be provided by business enterprises. For instance, Article 25 of the International Covenant on Civil and Political Rights enshrines the right to vote.<sup>44</sup> A business could prevent people from voting by not allowing for time off or by stripping workers of formal identification (such as passports), but a business enterprise cannot provide the political and bureaucratic institutions necessary for a free and fair election. For a wide array of human rights,

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<sup>42</sup> Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003). Available at: <http://hrlibrary.umn.edu/links/norms-Aug2003.html>

<sup>43</sup> Ruggie. *Just Business*, 49.

<sup>44</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> (accessed 3 June 2019).

States must remain the primary duty holders. This segues into the second criticism regarding the enigmatic notion of the corporate “sphere of influence.”

Unlike States, corporations do not have defined territorial borders. It is legally difficult to delineate a corporation’s “sphere of influence,” and calculate which rights they affect and to what degree.<sup>45</sup> It complicates the universal notion of human rights. Whereas, States must protect the full range of human rights for all people their jurisdiction; for business, the rights of people within the given “sphere of influence” would trump the rights of those situated outside of the circle. Due to these concerns, amongst others, the Commission on Human Rights did not endorse the Draft Norms and held that they hold “no legal standing.”<sup>46</sup> However, the Draft Norms should be commended nonetheless. They were a response and recognition of corporate human rights abuses and a perceived legal need for change. However, they produced uncertainty and proved to be too much too soon. It is within the context of the failed Draft Norms project that Ruggie’s mandate took flight.

### **The Birth of the UNGPs**

In 2005, the UN Commission on Human Rights appointed a Special Representative to explore the subject of business and human rights. The mandate was two-fold. First, to identify the existing international human rights standards relevant to corporate action, and secondly, to articulate the role of governments and businesses in upholding those rights.<sup>47</sup> Kofi Annan asked John Ruggie, Harvard professor and former Assistant Secretary-General for Strategic Planning, to fulfill the role. The original mandate was a part-time, two-year contract requiring two reports and several consultations. However, it slowly evolved into a six-year project boasting “nearly fifty international consultations on five continents, numerous site visits and pilot projects, and several thousand pages of research reports.”<sup>48</sup> The Framework was released three years into Ruggie’s mandate. The Framework rests on three pillars:

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<sup>45</sup> Ruggie. *Just Business*, 52.

<sup>46</sup> “United Nations Sub-Commission Norms on Business & Human Rights: Explanatory Materials.” Business and Human Rights Resource Center. <https://www.business-humanrights.org/en/united-nations-sub-commission-norms-on-business-human-rights-explanatory-materials> (accessed May 25, 2019).

<sup>47</sup> Ruggie. *Just Business*, Xi.

<sup>48</sup> *Ibid*, xx.

- I. States' existing obligations to respect, protect, and fulfill human rights and fundamental freedoms;
- II. The role of business enterprises as specialized organs of society performing specialized functions, required to comply with all applicable laws and to respect human rights;
- III. The need for rights and obligations to be matched to appropriate and effective remedies when breached.<sup>49</sup>

After presenting the Framework, the Human Rights Council extended Ruggie's mandate for an additional three years and requested that he operationalize the Framework into practical steps for implementation. The UN Guiding Principles were born. The Framework and the Guiding Principles (GPs) are two sides of the same coin. The Framework describes the nexus of state and corporate responsibilities pertaining to human rights, whereas the GPs offer prescriptive advice for the protection and respect of said rights. John Ruggie describes the symbiotic relationship between the two entities, stating ". . . The Framework addresses *what* should be done; the Guiding Principles *how* to do it."<sup>50</sup> In 2011, Ruggie presented the 31 Guiding Principles to the Council and received unanimous endorsement for his work. Having reached the six-year term limit for UN Special Representative, Ruggie's mandate came to an end, and the baton was passed to the newly-formed Working Group on Business and Human Rights.<sup>51</sup>

## **Pillar II: The Corporate Responsibility to Respect Human Rights**

Pillar II, the Corporate Responsibility to Respect Human Rights is the focal point of the UNGPs. Under the status quo, business enterprises are obliged to abide by all applicable laws in the respective territories of operation. This is the baseline requirement for businesses to maintain their legal license to operate.<sup>52</sup> However, governance systems do not always abide by

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<sup>49</sup> UN Human Rights Council, "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, 7 April 2008, A/HRC/8/5. Accessed April 9, 2019. <https://www.refworld.org/docid/484d2d5f2.html>

<sup>50</sup> Ruggie. *Just Business*, 81.

<sup>51</sup> *Ibid*, xlviii

<sup>52</sup> UNOCHR. "Guiding Principles on Business and Human Rights," 13.

international human rights treaties, enact laws concerning business conduct, or fulfill their obligations to protect human rights. The Corporate Responsibility to Respect, rooted in globally accepted norms, exists irrespective of national laws. The content of Pillar II is best understood in terms of its technical definition, scope, and practical application.

Guiding Principle 11 defines the Corporate Responsibility to Respect. It states: “Business enterprises should respect human rights. This means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.”<sup>53</sup> The responsibility to respect pertains to the full spectrum of human rights. While there is not a definitive list, the rights outlined in the International Bill of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work serve as a launching point for business expectations.<sup>54</sup> Given the decentralized nature and complexity of modern supply chains, questions arose concerning the scope of application. Answering to the uncertainties, the Framework clarifies that businesses are responsible for “actual and adverse human rights impact arising from a business enterprise’s own activities and from the relationships with third parties associated with those activities.”<sup>55</sup> This wording extends accountability and emphasizes potentially harmful business relationships. Sweatshops may not be a legal entity of a corporation; however, a business is nonetheless responsible for abuses occurring within the factory.

Much like State obligations within the international human rights regime, respect includes both positive and negative obligations. Likewise, corporate responsibility is not passive; it includes sizable efforts and action on behalf of businesses. Guiding Principle 15 outlines the steps businesses should take to uphold their Corporate Responsibility to Respect. It includes three core operational principles:

- a) *A policy commitment to meet their responsibility to respect human rights;*
- b) *A human rights due diligence process to identify, prevent, mitigate, and account for how they address their impacts on human rights;*

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<sup>53</sup> UNOCHR “The Corporate Responsibility to Respect,” 8.

<sup>54</sup> While all rights are included, the rights in the table attached outlined the minimum protected rights. United Nations Guiding Principles Reporting Framework. “The Relationship Between Businesses and Human Rights. Shift Project and Mazars: 2015. Accessed April 7, 2019.

<https://www.ungpreporting.org/resources/how-businesses-impact-human-rights/>

<sup>55</sup> UNOCHR “The Corporate Responsibility to Respect,” 8.

c) *Processes which enable the remediation of any adverse human rights impacts they cause or to which they contribute.*<sup>56</sup>

In order to operationalize these actions, Principles 11-22 address the Pillar II further specify the road to corporate implementation. The following section will assess the three operational components and their corresponding principles.

### ***Talking the Talk: Corporate Policy Commitment***

In order to “talk the talk,” businesses are required first to make a public commitment to respect human rights. This should take the form of a formal statement, issued by a senior executive, with a clear pledge to embed human rights into the business strategy.<sup>57</sup>

First and foremost, the policy statement should address the human rights most salient to business practices. This necessitates consultations with relevant stakeholders and other available forms of expertise. Once the understanding is achieved, senior executives can codify their human rights commitment. The policy needs to be communicated internally and externally and embedded in all business practices. Additionally, it should articulate the expectations of business partners. Doing so allows for better leverage and creates the potential for change throughout supply chains.<sup>58</sup> Ultimately, a clear policy commitment allows for greater accountability and understanding of a business’s human rights impact. In order to first understand a company’s impact on human rights, the company must first practice human rights due diligence.

### ***Walking the Talk: Human Rights Due Diligence***

Human rights due diligence is the heartbeat of the UNGPs. A company cannot develop a human rights policy without first assessing their human rights impact. Likewise, remediation cannot occur without understanding the weight of their contribution to a human rights abuse.

Guiding Principle 17 describes human rights due diligence, and Guiding Principles 18-21 further address the specifics of practicing due diligence. Human rights due diligence “should

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<sup>56</sup> UNOCHR. “The Corporate Responsibility to Respect,” 2.

<sup>57</sup> Ibid, 26.

<sup>58</sup> UNOCHR. “The Corporate Responsibility to Respect,” 8.

include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.”<sup>59</sup> The two main components of due diligence are: 1) the human rights impact assessment, and 2) the notion of leverage.<sup>60</sup> Due diligence includes four components: assessment, integration and action, tracking, and communication. Stakeholders should be involved in each step of the process.

The assessment process is outlined by Guiding Principles 17, 18, 23, and 24. The first aspect of the due diligence process involves assessing the human rights risks in business actions and relationships.<sup>61</sup> In the assessment, the company should consider the individual and/or community impact of current and past projects. While doing so, the company should take into account vulnerabilities within the supply chain or within key relationships.<sup>62</sup> Ultimately, this process should help the company understand the human rights most salient to the business practices. This understanding is a necessary precondition for further integration and action.

Understanding human rights risks is a menial task unless followed by action. Guiding Principles 17, 19, 23, and 24 describe effective integration and appropriate action.<sup>63</sup> Tasks related to prevention and mitigation should be integrated into budget allocations, decision making, and oversight processes. The responsibility should be further designated to the appropriate function and level within the company.<sup>64</sup> Action will be dependent on the size of the enterprise and the nature of the human rights abuse committed; as well as, if the company contributed directly or through a business relationship, sourcing, or product. If an abuse occurred from indirect causation, this is when the notion of leverage comes into play.<sup>65</sup> Leverage refers to the influence the enterprise has over third parties to prevent and remediate human rights abuses. The degree of influence or leverage depends on the proximity and power the company holds over the responsible party.<sup>66</sup> This will vary in accordance with the terms of the contract, degree of control,

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<sup>59</sup> United Nations, Office of the High Commissioner for Human Rights. *Guiding Principles on Business and Human Rights: Implementing the “Respect, Protect, and Remedy Framework.”* New York/Geneva: UN, 2011.

<sup>60</sup> UNOCHR. “The Corporate Responsibility to Respect,” 8.

<sup>61</sup> Ruggie. *Just Business*, 110.

<sup>62</sup> “Assess.” Shift Project. Accessed June 17, 2019. <https://www.shiftproject.org/resources/respect/assess/>.

<sup>63</sup> Ibid

<sup>64</sup> UNOCHR. “The Corporate Responsibility to Respect,” 46.

<sup>65</sup> “Act.” Shift Project. Accessed June 17, 2019. <https://www.shiftproject.org/resources/respect/act/>.

<sup>66</sup> Ibid, 50.

the ability of the enterprise to incentivize action, the ability to engage government processes to pressurize compliance, etc. If the company cannot leverage the party to change its ways, it should sever the business relationship.<sup>67</sup>

In order to prevent and mitigate, an enterprise should track and monitor business operations. This allows businesses to detect abuses and improve due diligence processes over time. The tracking process is described at length in Guiding Principles 17 and 20, and the corresponding commentaries.<sup>68</sup> In essence, it should contain quantitative and qualitative indicators and draw on internal and external stakeholder feedback.<sup>69</sup> For larger enterprises, the process is more complex, and it will also include monitoring throughout the supply chain. Throughout each step of the way, effective communication is vital for maximizing impact.

The final component, communication, is outlined by Guiding Principles 17 and 21.<sup>70</sup> First and foremost, a business enterprise should open lines of communication for stakeholders and shareholders to engage in the due diligence process.<sup>71</sup> The line of communication should be both appropriate and accessible for stakeholders (in terms of modality, language, etc.). Secondly, communication should contain sufficient information to “evaluate the adequacy of the enterprise’s response.”<sup>72</sup> This principle circles back to tracking and monitoring. A company first needs adequate information in order to present a comprehensive report. Communication begets transparency, and transparency begets accountability. The full disclosure of a company’s human rights policy and actions allows for shareholders and stakeholders to monitor company action. Consequently, it allows for inter-industry accountability and the development of “best practices.” Lastly, companies posing an elevated human rights risk hold an elevated responsibility to report on prevention efforts.<sup>73</sup> This is especially pertinent for companies operating within conflict zones. Ultimately, assessments accompanied by action and communication constitute the key components of the corporate responsibility to respect.

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<sup>67</sup> John Ruggie. *Just Business*, 114.

<sup>68</sup> "Track." Shift Project. Accessed June 17, 2019. <https://www.shiftproject.org/resources/respect/track/>.

<sup>69</sup> UNOCHR. “The Corporate Responsibility to Respect,” 52.

<sup>70</sup> "Communicate." Shift. Accessed June 17, 2019. <https://www.shiftproject.org/resources/respect/communicate/>.

<sup>71</sup> *Ibid*, 63.

<sup>72</sup> John Ruggie. *Just Business*, 116.

<sup>73</sup> UNOCHR. “The Corporate Responsibility to Respect,” 58.



## ***Walking the Walk: Remediation for Human Rights Abuses***

Abuses will occur even in the presence of a human rights policy and well-conducted due diligence. Once the abuse has occurred, a company cannot fulfill its responsibility to respect unless it enables the remediation process. The act of remediation falls under Pillar III; however, some elements are included within Pillar II. Guiding Principle 22 outlines the corporate responsibility to remedy in light of unearthed human rights abuses, it reads: “where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes.”<sup>74</sup> This principle applies when the enterprise itself uncovers abuses through due diligence or other internal processes. The remedy could take a wide array of forms, including but not limited to: a formal apology, compensation (financial or nonfinancial), provisions to prevent a recurrence, cessation of a business relationship/activity, or another form agreed upon by both parties.<sup>75</sup> *Legitimate processes* refer to State-based mechanisms, as well as, operational-level grievance mechanisms. When appropriate, there numerous State-based mechanisms outside of regional and national courts. Dependent on the country, it may include, the labor standards office, the State ombudsman, national human rights institutions, the OECD National Contact Point, or any other statutory body fit for the task.<sup>76</sup> In many cases, it is beneficial and more efficient to use alternative grievance mechanisms. Because of their proximity to the abuse, companies may be best-suited to remedy. Pillar II recommends for enterprises to create internal grievance mechanisms to detect and rectify problems as they arise. However remediation is achieved; the rights of the affected should be the highest priority.

### **Narrowing the Scope: The Poignancy of Pillar II**

In order to minimize the scope and maximize comprehensivity, the research will focus only on Pillar II of the UNGPs and the corresponding principles. The justification for doing so rests on three factors: relevance, necessity, and scalability. The reasoning predominantly pertains to the second pillar’s compatibility with the SDGs and the possibilities related to an integrated

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<sup>74</sup> Ibid, 63.

<sup>75</sup> Ibid, 64.

<sup>76</sup> Ibid, 66.

understanding. While Agenda 2030 and the SDGs have yet to be addressed, one entity cannot be discussed without the other.

Agenda 2030 established relevancy between the SDGs and UNGPs by calling “. . . upon all businesses to apply their creativity and innovation to solving sustainable development challenges” while simultaneously upholding international standards, agreements, and initiatives (such as the UNGPs).<sup>77</sup> The above statement, paired with SDG Goal 17 (Strengthening Global Partnerships), solidifies businesses as a relevant actor for achieving the goals. To further explore the business contribution to the SDGs per the UNGPs, the emphasis must fall on Pillar II. Pillar II is the only pillar specifically addressed to businesses; therefore, it is the most relevant entry point for SDG integration.

The second point relates to necessity. The achievement of the SDGs will not be possible without business action. From a purely financial standpoint, the case for business involvement in the advancement of the SDGs is strong. According to the Boston Consulting Group, in 2016, governments and NGOs donated approximately US\$20 billion to developing nations, compared to US\$3.7 trillion invested by businesses. The amount needed yearly to achieve the SDGs (US\$2.4 trillion) is less than one percent of the total financial assets produced yearly (US\$290 trillion).<sup>78</sup> Therefore, the international community should identify alternative ways to engage businesses in the pursuit of the Global Goals. By integrating the SDGs into the Pillar II responsibilities, more businesses are enlisted in the cause, and the global need for business engagement is met.

The final point concerns scalability. Given the size and power of multinational businesses, small changes can yield tremendous results. Businesses outpace many states in terms of yearly revenue and global influence—with some corporations boasting workforces larger than the populations of some countries. The American giant Walmart, “employs 2.2 million associates

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<sup>77</sup> United Nations. "Transforming Our World: The 2030 Agenda for Sustainable Development." *Resolution Adopted by the General Assembly*, 2015. Accessed March 9, 2018. <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

<sup>78</sup> Malloch-Brown and Paul Polman. *Better Business, Better World*. London: Business and Sustainable Development Commission, Jan 2017. Accessed February 28, 2019, 68. <http://report.businesscommission.org/report>

around the world.”<sup>79</sup> Compared to world population data, Walmart would rank as the 146th largest population, situated between Lesotho and Gambia.<sup>80</sup> Walmart’s given number of employment does not include those working for subsidiary companies or situated deeper in the supply chain. If Walmart’s annual revenue is compared with the national GDPs of countries, the revenue would surpass the GDP of Belgium (2017) and it would be ranked as “24th in the world by its GDP.”<sup>81</sup> This example illustrates the enormous ripple effect small changes could have at the executive level. If Walmart fully commits to its Pillar II responsibilities, over 2.2 million workers would be raised up in the process. Businesses act as conglomerates within society; concentrating wealth, resources, and labor. The actions of one business yield results for every step of the supply chain, the workers, the consumers, and so forth. Responsible business decisions have a multiplying effect.

Pillar II as relevant as it is significant and its compatibility with the SDGs must be further examined. The following chapter will provide further information concerning sustainable development, the SDGs, and the case for business engagement.

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<sup>79</sup> "Company Facts." Walmart Corporate. Accessed May 17, 2019.

<https://corporate.walmart.com/newsroom/company-facts>.

<sup>80</sup> "Total Population by Country 2019." World Population Review. Accessed May 07, 2019.

<http://worldpopulationreview.com/countries/>.

<sup>81</sup> Moynihan, Ruqayyah, and Fernando Belinchón. "25 Giant Companies That Are Bigger Than Entire Countries." Business Insider. July 25, 2018. Accessed April 07, 2019.

<https://www.businessinsider.com/25-giant-companies-that-earn-more-than-entire-countries-2018-7?r=US&IR=T>.

# 2

## CHAPTER TWO: THE EVOLUTION OF SUSTAINABLE DEVELOPMENT AND THE CASE FOR SDG ENGAGEMENT

*“The promoters of the global economy...see nothing odd or difficult about unlimited economic growth or unlimited consumption in a limited world.”*

*Wendell Berry*

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The past century experienced simultaneous growth and decay. 2018 marked the first year since the beginning of the agricultural revolution that the majority of humankind is “no longer poor or vulnerable of falling into poverty.”<sup>82</sup> Literacy rates and primary school enrollment have reached historic highs, with over 86% of the world population boasting literacy.<sup>83</sup> Innovation has soared with the advent of customized cancer vaccines,<sup>84</sup> floating seasteams,<sup>85</sup> and machines that draw carbon out of the atmosphere.<sup>86</sup> Overall, people are less poor, more interconnected, and more educated than ever. These reasons for celebration, however, are met with equal cause for concern.

Substantial inequality has accompanied exponential economic growth. According to Oxfam, twenty-six billionaires own as much wealth as the bottom half of humanity (3.8 billion).

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<sup>82</sup> Homi Kharas, Kristofer Hamel, and Martin Hofer, "Rethinking Global Poverty Reduction in 2019," Brookings, December 13, 2018, accessed June 24, 2019.

<sup>83</sup> According to the latest data from 2016. Max Roser and Esteban Ortiz-Ospina, "Global Rise of Education," Our World in Data, August 31, 2016, accessed May 24, 2019. <https://ourworldindata.org/global-rise-of-education>.

<sup>84</sup> Bill Gates, "10 Breakthrough Technologies 2019, Curated by Bill Gates," MIT Technology Review, February 28, 2019, accessed May 4, 2019, <https://www.technologyreview.com/lists/technologies/2019/>.

<sup>85</sup> "Home Page." The Seasteading Institute. Accessed June 10, 2019. <https://www.seasteading.org/>.

<sup>86</sup> Bill Gates, "10 Breakthrough Technologies 2019"

As the fortunes of the wealthy raised \$2.5 billion a day, the wealth of the poorest shrunk by 11%.<sup>87</sup> Inequality is exacerbated along gender, racial, and geographic lines and further complicates access to education, healthcare, and other social services. While the rate of extreme poverty has reduced significantly, one-tenth of the world's population continues to live in extreme poverty.<sup>88</sup> These rates are disproportionately concentrated in Sub-Saharan Africa and likely to increase due to environmental strains and climate change.<sup>89</sup> Our environment is fast approaching planetary boundaries, and much of the growth in past decades threatens to be erased. We are facing natural resource depletion, biodiversity loss, and alarming rates of atmospheric nitrogen.<sup>90</sup> These economic and environmental problems are met with political instability.

Freedom House reports thirteen consecutive years of decline for civil rights and political liberties.<sup>91</sup> There is a rise in populist rhetoric, declining trust in liberal institutions, and millions displaced due to civil wars and ethnic cleansing. Threats to economic, environmental, and political stability will increase with global population growth as the world's population is expected to reach 9.7 billion by 2050.<sup>92</sup> The rising population will lead to increased demand for food and water resources along with rising levels of waste and pollution. The statistics and facts are not intended to produce despair, rather to illustrate the need for multidimensional development and collaborative action.

Our world is aching—we face economic, social, environmental, and political ills. We are in need of a holistic solution. Previous approaches to development have focused on each dimension development in isolation—either by prioritizing the economic over the environmental,

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<sup>87</sup> Max Lawson, et.al. *Public Good or Private Wealth? Oxfam Briefing Paper*. Oxfam International, January 2019. Accessed May, 2019.  
<https://oxfamlibrary.openrepository.com/bitstream/handle/10546/620599/bp-public-good-or-private-wealth-210119-en.pdf>

<sup>88</sup> World Bank. *Piecing Together the Poverty Puzzle: Poverty and Shared Prosperity 2018*. Washington DC: World Bank Group, 2018. Accessed May 15, 2019, 5.  
<https://openknowledge.worldbank.org/bitstream/handle/10986/30418/211330ov.pdf>

<sup>89</sup> *Ibid*, 6.

<sup>90</sup> Rockström, J., Steffen, et. al. *Planetary Boundaries: Exploring the Safe Operating Space for Humanity*. *Ecology and Society*: 2009. Accessed June 10, 2019.

<sup>91</sup> Freedom House. *Freedom in the World 2019*. Washington DC: Freedom House, 2019. Accessed June 10, 2019.

[https://freedomhouse.org/sites/default/files/Feb2019\\_FH\\_FITW\\_2019\\_Report\\_ForWeb-compressed.pdf](https://freedomhouse.org/sites/default/files/Feb2019_FH_FITW_2019_Report_ForWeb-compressed.pdf)

<sup>92</sup> United Nations Department of Economic and Social Affairs. *World Population Prospects 2019*. New York: United Nations, 2019. Accessed June 10, 2019.  
[https://population.un.org/wpp/Publications/Files/WPP2019\\_Highlights.pdf](https://population.un.org/wpp/Publications/Files/WPP2019_Highlights.pdf)

or by excluding entire groups of people. However, it is now understood, “that human capital development is crucial for economic development – [and] growth without sustainability is a false promise of advancement.”<sup>93</sup> This understanding sits at the core of the current sustainable development agenda.

Agenda 2030 paints a different picture of our world and illustrates the possible. It envisions a “. . . world free of poverty, hunger, disease, and want, where all life can thrive.”<sup>94</sup> The attainment of this world requires innovative solutions and all hands on deck. In order to accomplish the Global Goals, businesses need to examine how their everyday business operations affect people, the planet, and the prosperity of humankind. In the decades to come, businesses must choose to either be advocates or adversaries to the pursuit of sustainable development.

This chapter will examine the evolution of sustainable development within the international policy space, assess the business opportunities and risks of engaging with the SDGs, and propose a new framework for integrating the SDGs into the corporate responsibility to respect.

## **The Pathway to Sustainable Development**

Long before international summits and formalized definitions, sustainability began with fish. Managers of fisheries calculated the “maximum sustainable yield,” to determine the highest number of fish that could be responsibly caught given a stable rate of repopulation.<sup>95</sup> While notably different from the understanding today, it captured the notion of growth within a finite system. Sustainability did not enter the global vernacular until 1972 at the UN Conference on the Human Environment in Stockholm. At the conference, attendees discussed the inherent tension

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<sup>93</sup> Nick Kilick and Margaret Wachenfeld. *State of Play: Business and the Sustainable Development Goals*. Institute for Human Rights and Business. London, September 2015. Accessed March 20, 2019, 12. <https://www.ihrb.org/pdf/state-of-play/Business-and-the-SDGs.pdf>

<sup>94</sup> United Nations. "Transforming Our World: The 2030 Agenda for Sustainable Development." *Resolution Adopted by the General Assembly*, 2015. Accessed March 9, 2018. <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

<sup>95</sup> Jeffery D. Sachs. *The Age of Sustainable Development*. (New York: Columbia University Press, 2015), 40.

between furthering development and economic growth in a sustainable fashion.<sup>96</sup> The same year, similar concerns were articulated in *Limits to Growth*, a book published by the Club of Rome.<sup>97</sup> The publication warned of the environmental limitations to economic expansion and population growth. It cautioned that if humanity did not change course, the Earth would face vast environmental degradation and limited carrying capacity by 2100.<sup>98</sup> As a response to these warnings, the UN established the World Commission on Environment and Development (more commonly referred to as the Brundtland Commission) to formulate a “global agenda for sustainable change.”<sup>99</sup>

The 1984 Brundtland Commission produced two important outcomes. First and foremost, it defined sustainable development as “. . . development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>100</sup> This definition was transformative in that it 1) established an inter-generational understanding of development, 2) addressed *needs*, particularly alluding to the needs of the vulnerable; and 3) confronted the notion of limitation. The idea that compromise exists between the present and future, the economic and environmental, and the social and political.<sup>101</sup> Secondly, it marked the first time a “Commission had considered environmental concerns arising through development processes from an economic, social and political perspective rather than solely from a science base as in previous studies.”<sup>102</sup> The Brundtland Commission set the tone for international dialogue concerning sustainable development and influenced the agenda for the Rio Earth Summit in 1992.

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<sup>96</sup> Jennifer A Elliot. *An Introduction to Sustainable Development*, edited by Tony Binns. (New York: Routledge, 2012), 9.

<sup>97</sup> The Club of Rome was founded in 1968 by 30 people of various backgrounds and disciplines to discuss “the present and future predicament of man.” Thereafter, the club functioned as a multidisciplinary “invisible college.” “Club of Rome.” *Environmental Encyclopedia*. *Encyclopedia.com*. (July 13, 2019).

<https://www.encyclopedia.com/environment/encyclopedias-almanacs-transcripts-and-maps/club-rome>

<sup>98</sup> Donella H. Meadows, et. al. *The Limits to Growth: A Report for the Club of Rome’s Project on the Predicament of Mankind*. (New York: Universe Books, 1972).

<sup>99</sup> WCED (ed.). *Our Common Future: The World Commission on Environment and Development*. (Oxford: Oxford University Press, 1987),5.

<sup>100</sup> *Ibid*, 41.

<sup>101</sup> Ralf Barkemeyer, et al. “What Happened to the ‘Development’ in Sustainable Development? Business Guidelines Two Decades after Brundtland.” *Sustainable Development* 22.1 (2014): 20.

<sup>102</sup> Elliot. *An Introduction to Sustainable Development*, 8.

With 116 Heads of State, over 8,000 delegates, and nearly 3,000 non-governmental organizations in attendance, the Rio Earth Summit was the largest international conference to date.<sup>103</sup> The meeting produced Agenda 21, a non-binding action plan that outlined the actors, issues, and means for achieving sustainable development by the turn of the millennium. Agenda 21 placed heavy emphasis on intergenerational and intragenerational aspects of sustainable development, and it encouraged participation for a wide range of actors (i.e. governments, church groups, community organizations, etc.).<sup>104</sup> It was not until the 2002 UN World Summit on Sustainable Development (WSSD) in Johannesburg that the modern understanding of sustainable development began to take shape.

In between the Rio Summit and the Summit in Johannesburg, Heads of State and Government gathered in New York to cast a vision of development for the new millennium. In September 2000, the UN General Assembly endorsed the United Nations Millennium Declaration and produced a list of eight global goals to be accomplished by 2015. Non-binding, and widely endorsed, the goals aimed to eradicate extreme hunger and poverty, achieve universal primary education, promote gender equality, reduce child mortality, improve maternal health, combat HIV/AIDs (and other infectious diseases), prioritize environmental sustainability, and create meaningful partnerships for change.<sup>105</sup>

This marked the first time the UN pursued goal-based development. As noted by Jeffery Sachs, Columbia Professor and UN Special Advisor for the SDGs, goal-based development is crucial as it drives social mobilization, generates peer pressure, stimulates action within epistemic communities, and emboldens stakeholders. The goals provided the international community with shared ambitions and a shared language for progress in the world. While the goals were lofty, they generated tangible and quantifiable improvements in our world. From 2000-2005, there was a 45% reduction in infant mortality, malaria-related deaths dropped 58%,

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<sup>103</sup> "Earth Summit." United Nations. May 23, 1997. Accessed June 13, 2019. <https://www.un.org/geninfo/bp/envirp2.html>.

<sup>104</sup> Elliot. *An Introduction to Sustainable Development*, 9.

<sup>105</sup> "Millennium Development Goals." UNDP. Accessed June 14, 2019. [https://www.undp.org/content/undp/en/home/sdgoverview/mdg\\_goals.html](https://www.undp.org/content/undp/en/home/sdgoverview/mdg_goals.html).



and primary school enrollment in Sub-Saharan Africa rose 20%.<sup>106</sup> Additionally, “ninety-five countries reached their sanitation target and 147 met the target for clean drinking water, and official development aid increased 66%.”<sup>107</sup> While these advancements cannot be directly and causally attributed to the MDGs, there is a strong correlation between the developments and the emergence of the MDGs onto the international scene.

The MDG Declaration also ushered in a new era of UN development initiatives. Prior to the MDGs, UN development work remained disparate and isolated in specialized agencies or funds. Sustainability was discussed at one summit, extreme poverty at another; the dimensions of poverty were not dealt with in conjunction. The MDGs converged the “. . . development agenda of the United Nations Development Programme (UNDP); United Nations Environment Programme (UNEP); World Health Organization (WHO); United Nations Children's Fund (UNICEF); United Nations Educational, Scientific and Cultural Organization (UNESCO); and other development agencies.”<sup>108</sup> This concerted effort set a new standard for development work at the international level and laid the groundwork for the SDGs.

At the WSSD in Johannesburg, the focus changed from an inter-generational understanding and widened to encompass a multi-dimensional definition of sustainable development focused on social inclusion, economic development, and environmental sustainability.<sup>109</sup> The Summit’s Plan of Implementation articulated the new three-pronged understanding and advocated for “the integration of the three components of sustainable development—economic development, social development, and environmental protection—as interdependent and mutually reinforcing pillars.”<sup>110</sup>

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<sup>106</sup> Kramer, Mark R., Rishi Agarwal, and Aditi Srinivas. "Business as Usual Will Not Save the Planet." *Harvard Business Review*. June 12, 2019. Accessed June 13, 2019. <https://hbr.org/2019/06/business-as-usual-will-not-save-the-planet>.

<sup>107</sup> Ibid

<sup>108</sup> Kumar, Sanjiv, Neeta Kumar, and Saxena Vivekadhis. *Millennium Development Goals (MDGS) to Sustainable Development Goals (SDGS): Addressing Unfinished Agenda and Strengthening Sustainable Development and Partnership*. *Indian Journal of Community Medicine: Official Publication of Indian Association of Preventive & Social Medicine* 41.1 (2016): 1.

<sup>109</sup> Sachs, *Sustainable Development*, 43.

<sup>110</sup> United Nations. *World Summit on Sustainable Development: Plan of Implementation*. Johannesburg, September 2002. <https://www.susana.org/resources/documents/default/2-261-world-summit-sustainable-dev-2005-johannesburg-implementation-mdgs-en.pdf>

Like Rio, the World Summit elicited the help of a wide range of stakeholders. However, it placed more emphasis on business involvement than prior summits. The Annex to the Johannesburg Declaration called on both large and small companies to “contribute to the evolution of equitable and sustainable communities and societies” and emphasized the need for stronger corporate accountability.<sup>111</sup> The newfound focus on businesses as a vital player reflected a larger decentralization of the development agenda. Development could not be achieved by the UN alone, it required input by all members of the global community.

On the twentieth anniversary of the 1992 Rio Summit, the world met at the UN Conference on Sustainable Development in Brazil to discuss past actions and future ambitions. Leading up to Rio+20, scholars criticized the sustainable development agenda. Rightfully so, they claimed the term was vague, lacked inclusivity, and necessitated a stronger institutional framework.<sup>112</sup> Every criticism spurred a reactionary response. The outcome document, “The Future We Want,” reaffirmed former political commitments and strengthened the three dimensions of sustainable development for present and future generations.<sup>113</sup> The document acknowledged uneven progress and set out to clarify the international understanding of sustainable development. The document affirmed the need

“ . . . to achieve sustainable development by: promoting sustained, inclusive and equitable economic growth, creating greater opportunities for all, reducing inequalities, raising basic standards of living; fostering equitable social development and inclusion; and promoting integrated and sustainable management of natural resources and ecosystems that supports inter alia economic, social and human development while facilitating ecosystem conservation, regeneration and restoration and resilience in the face of new and emerging challenges.”<sup>114</sup>

It reiterated the linkages between economic growth and environmental protection and emphasized the social aspect more so than previous global conferences of its kind. It promoted

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<sup>111</sup> United Nations. “Johannesburg Declaration on Sustainable Development.” *World Summit on Sustainable Development*. 4 September 2002. A/CONF.199/20. Accessed June 11, 2019. [https://unhabitat.org/wp-content/uploads/2014/07/A\\_CONF.199\\_20-Johannesburg-Declaration-on-Sustainable-Development-2002.pdf](https://unhabitat.org/wp-content/uploads/2014/07/A_CONF.199_20-Johannesburg-Declaration-on-Sustainable-Development-2002.pdf)

<sup>112</sup> United Nations. “The Future We Want: Outcome Document for the United Nations Conference on Sustainable Development.” *Rio+20 Conference on Sustainable Development*. 20-22 June 2012. A/RES/66/288/ Accessed June 15, 2019. [https://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/66/288&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/66/288&Lang=E)

<sup>113</sup> Robinson, John. *Squaring the circle? Some Thoughts on the Idea of Sustainable Development*. *Ecological Economics* 48.4 (2004): 369-384.

<sup>114</sup> United Nations. “The Future We Want,” 2.

inclusivity by placing people at the center of sustainable development and acknowledging the needs of vulnerable groups: including women, children, those living in extreme poverty, people groups directly dependent on ecosystems for survival, as well as, vulnerable communities residing in Sub-Saharan Africa, landlocked states, small island developing countries, and landlocked developing countries.<sup>115</sup> In order to achieve the inclusive and multi-dimensional vision the document laid out, it proposed a renewed commitment and a new institutional framework.

When world leaders and a wide range of stakeholders gathered in Rio, they were laden with unmet goals of the past. Attendees reaffirmed past international action and sought to imagine a new framework. They proposed: 1) “green economic system” capable of providing economic growth while protecting ecosystems and alleviating poverty, and 2) a stronger institutional framework for sustainable development. The proposed institutional framework integrated/balanced the three dimensions and enhanced implementation by “strengthening coherence and coordination, avoiding duplication of efforts and reviewing progress in implementing sustainable development.”<sup>116</sup> In addition, it emphasized the shortcomings of the UN system and called upon governments, private/public sector, and the full array of stakeholders to work together for the common good.<sup>117</sup> Most importantly, the outcome document proposed the creation of the Sustainable Development Goals and founded the Open Working Group of the General Assembly on Sustainable Development Goals.<sup>118</sup> For over two years, the UN engaged in multi-stakeholder consultations with civil society and placed particular emphasis on vulnerable voices.<sup>119</sup> These efforts, paired with interagency support and the work of academics, led to the birth of the 17 SDGs and the 169 corresponding targets.

Agenda 2030 stands as the pinnacle of multilateral dialogue and sustainable development action at the UN level. On September 25th, 2015, 193 UN Member States endorsed Agenda 2030, seventeen SDGs, and 169 associated targets.<sup>120</sup> The document is a “broad and universal

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<sup>115</sup> United Nations. “The Future We Want,” 9.

<sup>116</sup> Ibid, 14.

<sup>117</sup> Ibid, 11.

<sup>118</sup> Elliot. *An Introduction to Sustainable Development*, 11.

<sup>119</sup> United Nations. “The Future We Want.”

<sup>120</sup> United Nations. “Transforming Our World: The 2030 Agenda.”

policy agenda” of unprecedented ambition. It maintains global applicability whilst affirming state sovereignty and the importance of national implementation.<sup>121</sup>

## SUSTAINABLE DEVELOPMENT GOALS



Figure 2.1: United Nations Sustainable Development Goals

Collectively, the countries advocated for sustainable development characterized by five dimensions: people, prosperity, planet, partnership, and peace.<sup>122</sup> The new vision encompassed the traditional economic, social, and environmental pillars, while also underscoring the need for inclusive partnerships and further emphasizing peace. The Goals, accompanied by the Plan of Implementation, are the means for achieving an end.

Agenda 2030 and the SDGs are a continuation and an extension of the MDGs. Being said, the successes and shortcomings of the MDGs laid a strong foundation for the development of the SDGs. Like the Millennium Development Goals, the SDGs are a “global report card” for transformative development. Noted by Jeffery Sachs, “As with most report cards, they generate incentives to improve performance, even if not quite enough incentives for both rich and poor countries to produce a class of straight-A students.”<sup>123</sup> The SDGs build upon the MDGs while promoting greater inclusively, articulating the means for implementation, and encompassing a

<sup>121</sup> United Nations. "Transforming Our World: The 2030 Agenda," 3.

<sup>122</sup> Ibid, 2.

<sup>123</sup> Jeffery D. Sachs. *Sustainable Development*, 1.

more ambitious set of goals. The first seven goals carry on the legacy of the MDGs, and the

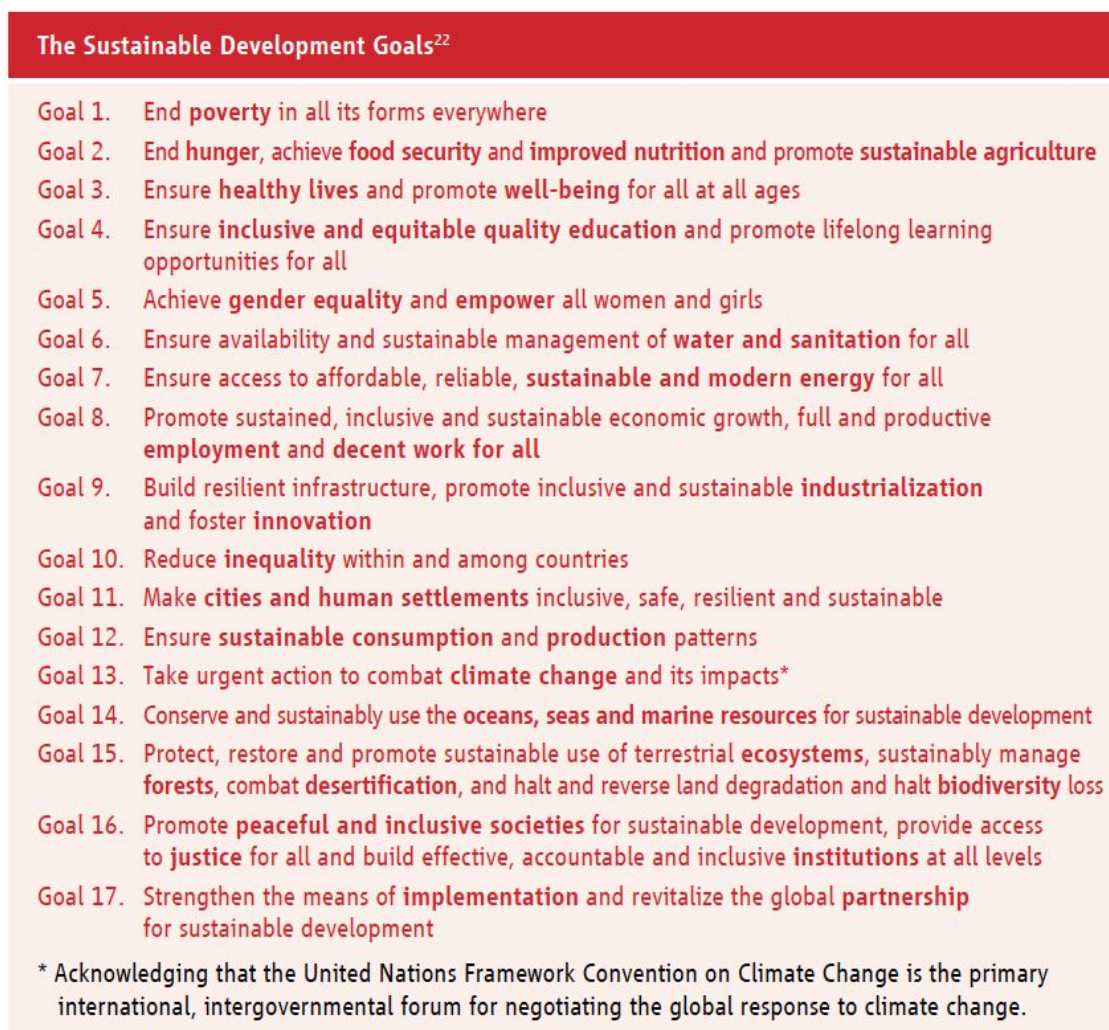


Figure 2.2: Sourced from *State of Play* published by the Institute for Human Rights and Business

remaining ten goals capture the innovative spirit of the agenda. While the MDGs called upon rich nations to assist poor nations in achieving goals, the SDGs called upon every nation, every stakeholder. It alludes to the whole planet and poses “goals and challenges for all countries—not what the rich should do for the poor, but what all countries together should do for the global well-being of this generation and those to come.”<sup>124</sup> It taps into the idea that all will benefit from a better world.

<sup>124</sup> Jeffery D. Sachs *From the Millennium Development Goals to the Sustainable Development Goals*. The Lancet 379.9832 (2012), 2206

There are a number of ways of categorizing and understanding the SDGs. The goals fall into two broad categories of people and planet.<sup>125</sup> With good governance as an important precondition, and prosperity and peace as the primary outputs. Similarly and alternatively, the goals can be subdivided into the five core categories: people, planet, prosperity, peace, and partnership. Regardless of how the goals are divided, the goals come together to encompass the most ambitious understanding of sustainable development yet.

### **Disclaimer:**

The intent is not to provide a detail-heavy account of all relevant international events; rather it is to highlight key developments central to modern understanding of sustainable development and the creation of the SDGs.

It is important to note, the summits and conventions discussed are not an exhaustive representation of the relevant international actions related to sustainable development. However, they are the most significant in terms of precedent and participation. Other summits, such as the Programme of Action for the Sustainable Development of Small Island Developing States (Barbados Programme of Action), the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, the Addis Ababa Action Plan, etc. were informative precursors as well.

However, the Rio+20 outcome document clearly demarcates the Rio Principles, the Johannesburg Declaration, Agenda 21, and the Millennium Development Goals as the basis for the SDGs.<sup>126</sup> For this reason, the account provided narrowly focused on the aforementioned summits and their corresponding documents.

### **Defining Sustainable Development:**

The SDGs were not born in a vacuum. They are a reaction to and a reflection of the larger sustainable development debate. Each time the international community came together, the term

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<sup>125</sup> Kumar, Sanjiv, Neeta Kumar, and Saxena Vivekadhis. *Millennium Development Goals (MDGS) to Sustainable Development Goals (SDGS): Addressing Unfinished Agenda and Strengthening Sustainable Development and Partnership*. Indian Journal of Community Medicine: Official Publication of Indian Association of Preventive & Social Medicine 41.1 (2016): 1

<sup>126</sup> United Nations. "Transforming Our World: The 2030 Agenda,"

took on new life. Sustainability is a process, not an end. Therefore, contextualizing the SDGs within the larger development process is key.

Having covered an array of definitions at the international level, this report will present a unified definition rooted in the UN legacy and enhanced by the work of scholars and academics. This is intended to produce clarity and cohesivity. Accordingly, sustainable development is intergenerational/intragenerational, multi-dimensional, inclusive, and goal-based. The four components are defined as follows:

### *Intergenerational*

In lieu of the Brundtland and Rio definitions, sustainable development must meet both the needs of present and future generations. It should address both intergenerational and intragenerational equity. Intergenerational equity being essential to sustainability, and intragenerational equity being necessary for development.<sup>127</sup>

### *Multi-dimensional*

Drawing upon the outcome documents of Rio, Johannesburg, and Rio+20, as well as, the “three circles model” and “the triple bottom line,” sustainable development must rest on three pillars: economic prosperity, social development, and environmental sustainability.<sup>128</sup>

As opposed to older models of economic development, sustainable development is more concerned with increasing well being than raising the Gross Domestic Product (GDP) per capita. A country can have a high GDP and poor income distribution. Alternatively, tremendous economic growth with little social mobility. Therefore, economic development necessitates a more holistic measure. The United Nations Development Program’s Human Development Index (HDI) looks at GDP, in addition to literacy rates, and life expectancy.<sup>129</sup> The three-prong measure of development provides a stronger indicator of the economic well-being of nations, and assesses economic prosperity in conjunction with social stability.

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<sup>127</sup> Clive George. *Testing for Sustainable Development through Environmental Assessment*. Environmental Impact Assessment Review 19.2 (1999): 175-200.

<sup>128</sup> Ralf Barkemeyer, et al. "What Happened to the ‘Development’ in Sustainable Development? Business Guidelines Two Decades after Brundtland." *Sustainable Development* 22.1 (2014): 15-32.

<sup>129</sup> "Human Development Index." Human Development Index (HDI) | Human Development Reports. Accessed June 16, 2019. <http://hdr.undp.org/en/content/human-development-index-hdi>.

To define social development, the interpretation leans on Jeffery Sachs' five dimensions of social well-being. His interpretation assesses the absence/presence of extreme poverty, inequality, social mobility, discrimination, and social cohesion. Building on these dimensions, the social aspect of sustainable development aims to end extreme poverty, close the chasm between the rich and the poor, attain a high degree of social mobility (understood by the ability of individuals to raise themselves out of poverty), eliminate discrimination on the basis of gender, sex, ethnicity, or religion, and foster healthy levels of social trust, moral values, mutual support, and social cohesion.<sup>130</sup>

Last but not least, environmental sustainability takes into account the limited carrying capacity of the earth, the reality of finite resources, and the impending planetary boundaries. The three dimensions are not neatly delineated, rather fluid and mutually-reinforcing. Economic and social development are bound by environmental limitations, and further enhanced by good governance.

### *Inclusive*

Both the pursuit and the product of sustainable development must be inclusive. In both situations, no one should be left behind. From large national governments to small youth organizations, the pursuit of sustainable development enlists the full range of stakeholders. As articulated by the "Future We Want," sustainable development, "can only be achieved with a broad alliance of people, governments, civil society, and the private sector, all working together to secure the future we want for future generations."<sup>131</sup> While all are involved, the measure of responsibility is proportionate to the potential for impact. In terms of capital, resources, and concentrated power, States and business enterprises are better positioned than others to enact change. This aligns with the principle of partnership heralded by Agenda 2030 and reinforced by SDG 17.

The impacts of sustainable development should be felt by all. Special measures must be taken to ensure the protection of vulnerable and marginalized groups. This includes, but is not limited to: women, children, youth, persons with disabilities, people living with HIV/AIDs, older

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<sup>130</sup> Jeffery D. Sachs, *Sustainable Development*, 50.

<sup>131</sup> United Nations. "The Future We Want," 3.



persons, indigenous people, refugees and internally displaced peoples, migrants, and LGBTQ+. In addition, special attention should be directed to least developed nations, landlocked countries, small island developing states, and conflict and post-conflict countries.<sup>132</sup>

### *Goal-based*

As previously discussed, sustainable development must be goal-based. Goals are necessary for social mobilization, concentrated action, and a shared global effort. The goals should be clear and intelligible with accompanying indicators for measuring progress.

### **The Business Case for the SDGs:**

It is conventionally understood that the protection of people and the planet comes at the expense of profit. There are ever-present trade-offs within the achievement of economic, social, and environmental goals. This is exemplified in by belief that a poor country must choose between environmental protection and economic growth, or the notion that positive sales margins and social welfare of workers are contradictory goals for business enterprise. Every gain comes at a cost. To describe this phenomenon, economists apply the terms “efficiency” and “equity.”<sup>133</sup> Efficiency is understood as the absence of waste in the economy, whereas equity is defined as the fair distribution of resources. In the traditional view of understanding, the production of a social good incites a tradeoff between equity and equality.<sup>134</sup> By increasing taxes on the rich, economic fairness (equity) is gained at the expense of work ethic and ambition (efficiency). However, there are alternative scenarios and synergies to be found. If the tax on the rich was used for health and education programs rather than income redistribution, it could increase the productivity and the well-being of the poor. The action improves fairness (equity) while increasing the efficiency of society. Likewise, business investment in the social welfare of workers mitigates absenteeism, improves productivity, and brandishes public perception of the company. In place of tradeoffs, synergies are created between efficiency and equity. The business case for SDG achievement rests in this notion of synergies. The following section will

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<sup>132</sup> United Nations. "Transforming Our World: The 2030 Agenda,"

<sup>133</sup> Jeffery D. Sachs, *Sustainable Development*, 62.

<sup>134</sup> Jeffery D. Sachs, *Sustainable Development*, 62.

further explore the synergies between people, planet, and prosperity and assess the business benefits of SDG engagement.

## **Boon or Bust? The Business Benefits:**

### ***The Economic Case***

Immediately following the endorsement of the SDGs, international organizations, business councils, and NGOs mobilized to outline the business benefits of entering the Global Goals partnership. By engaging with the SDGs businesses catalyze innovation, unlock a wide array of market opportunities, and improve company reputation.<sup>135</sup> Numerical and anecdotal evidence supports this claim.

Research suggests a sizable economic prize for business engagement with the SDGs. The Business and Sustainable Development Commission predicts SDG achievement would open \$12 trillion in market opportunities within four economic systems (food and agriculture, energy and materials, health and well-being, and cities).<sup>136</sup> In the words of Peter Drucker, “every single social and global issue of our day is a business opportunity in disguise.”<sup>137</sup> By seeking synergetic sustainable development, companies unlock new opportunities and markets. Between the four economic systems, the Commission identified sixty market opportunities or “hot spots” for growth. These “hot spots” are inspired by the SDGs and include ventures such as reducing food waste the value chain, office sharing, green chemicals, and risk-pooling.<sup>138</sup> Developing business practices similar to those previously mentioned, “. . . could create 380 million new jobs by 2030, almost 90% of them in developing countries.”<sup>139</sup> The achievement of a single goal promises significant returns. Estimates suggest, “Achieving gender parity alone would add at least \$12 trillion to global growth by 2025, and up to US \$28 trillion.”

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<sup>135</sup> Malloch-Brown, Mark, and Paul Polman. *Better Business, Better World*. London: Business and Sustainable Development Commission, Jan 2017, 12.

<sup>136</sup> *Ibid*, 12.

<sup>137</sup> "Opportunity in Disguise." Drucker Institute. Accessed June 20, 2019. <https://www.drucker.institute/news-post/opportunity-in-disguise/>.

<sup>138</sup> AlphaBeta, 2017. *Valuing the SDG prize: Unlocking Business Opportunities to Accelerate Sustainable and Inclusive Growth*. Business and Sustainable Development Commission Contributing Paper. Available at: <http://report.businesscommission.org/>, 13.

<sup>139</sup> *Ibid* 6.

SDGs aside, better business makes for better margins. Studies from top consulting firms show a positive correlation between long-termism and profit margins, as well as, ESG performance and increased Total Shareholder Return. As opposed to short-termism, long-term business extends their business strategy beyond quarterly profit margins. Short-termism has long been attributed to the corporate “race to the bottom.”<sup>140</sup> Under such a model, companies have excused grotesque human rights abuses in the pursuit of high quarterly returns. By definition, sustainable development cannot happen in the absence of forethought. By expanding the time horizons and embracing a long term view, businesses are given the space and time to make responsible business decisions.

The long-term approach has proved more profitable. McKinsey Consulting conducted a fifteen year study to analyse the performance of companies taking a long-term approach compared to those taking a short-term approach. From 2001-2014, the findings show long-term firms experienced less volatility and their revenues grew 47% more than other firms. In addition, on average, their economic profit grew 81% more.<sup>141</sup> The case of Unilever supports the findings. In 2010, Unilever’s Paul Polman announced that the company would no longer release quarterly profit margins. Initially, the company experienced a fall in their share price. However, within two years, the share price was 35% higher than the pre-announcement level.<sup>142</sup> To attract more patient capital, Unilever reduced their short term hedge fund ownership from 15% (2010) to 5% (2012). This action freed the company from short-term demands and allowed them to pursue more sustainable and socially responsible actions. Polman views short-termism as the “bane of sustainability” and decries companies who claim their fiduciary duty is short term profits.<sup>143</sup> True to Polman’s opinion, meaningful SDG action cannot happen unless businesses extend the view of their horizon. The same can be said for ESG performance.

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<sup>140</sup> Pratina Bansal and Mark L. Desjardine. *Business Sustainability, It’s About Time*. Strategic Organization, Vol. 12.1 (2014), 70-78.

<sup>141</sup> Barton, Dominic, James Manyika, and Tim Koller. "Where Companies with a Long-Term View Outperform Their Peers." McKinsey & Company. February 2017. Accessed June 2019. <https://www.mckinsey.com/featured-insights/long-term-capitalism/where-companies-with-a-long-term-view-outperform-their-peers>.

<sup>142</sup> Pratina Bansal and Mark L. Desjardine. *Business Sustainability, It’s About Time*, 70.

<sup>143</sup> *Ibid*, 70.

At the corporate level, SDG performance correlates with Environmental Social Governance (ESG) data. ESG is a measure of a companies' ethical/responsible/sustainable business actions and investments.<sup>144</sup> High ESG performance has been linked to a higher Total Shareholder Return (TSR).<sup>145</sup> TSR, a measure of corporate performance, is a conglomerate of a company's return on an individual stock along with the dividend awarded. At the end of the day, as Milton Friedman would suggest, businesses must answer to their shareholders.<sup>146</sup> Traditionally, the corporate sphere has held to this notion, and associated short-term high-yield actions with high TSR. However, the research suggests otherwise. A 2017 study by the Boston Consulting Group (BCG) found, companies with statistically better ESG performed enjoyed higher TSR and profit margins. The cross-sectoral study found that across industries, companies with an integrated ESG commitment performed better. All else being equal, the trend held true. In consumer packaged goods, gross margins were 4.8% higher, in Oil and Gas, 3.8%, and in Biopharmaceuticals, 8.2%.<sup>147</sup> In essence, it is profitable to do good. Company experience suggests the same. As a response to natural disasters and refugee crises, Airbnb made a public pledge to arrange short-term housing for 100,000 people in need within the coming five years. Not only did these efforts improve public perception, they promoted amicable government relations and grew the number of hosts. According to Airbnb, half of the hosts who offered to host during the disasters were not previously registered.<sup>148</sup> SDG contribution surmounts to improved ESG performance. By paying mind to environmental and social considerations, businesses boost their sales margins and their returns for shareholders.

### ***The Heavy Cost of Inaction:***

Simply put, the cost of inaction may outweigh the price of conducting business as usual. While businesses are driven by short-term profit, they are reliant on long-term provisions. In

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<sup>144</sup> "What Is ESG?" ADEC ESG Solutions. Accessed June 20, 2019. <https://www.esg.adec-innovations.com/about-us/faqs/what-is-esg/>.

<sup>145</sup> Boston Consulting Group. "Total Societal Impact: A New Lens for Strategy." Boston: October 2017. Accessed October 5, 2018. [https://3blmedia.com/sites/www.3blmedia.com/files/other/BCG\\_Total\\_Societal\\_Impact.pDf](https://3blmedia.com/sites/www.3blmedia.com/files/other/BCG_Total_Societal_Impact.pDf)

<sup>146</sup> Friedman, Milton. "The Social Responsibility of Business is to Increase Its Profits The New York Times Magazine, September 13, 1970." *The New York Times Company* (1970).

<sup>147</sup> BCG. *Total Societal Impact*, 27.

<sup>148</sup> *Ibid*, 25.

order for the majority of businesses to maintain/increase revenue, a healthy ecosystem, raw materials, a viable workforce, consumer demand, and a relatively stable governance system is required. The farmer cannot farm without good soil and water; and fashion company will struggle to produce and sell clothing if cotton crops wither, workers cannot work, and disposable incomes dwindle. The vitality of business rests on the economic, social, environmental, and political state of our world.

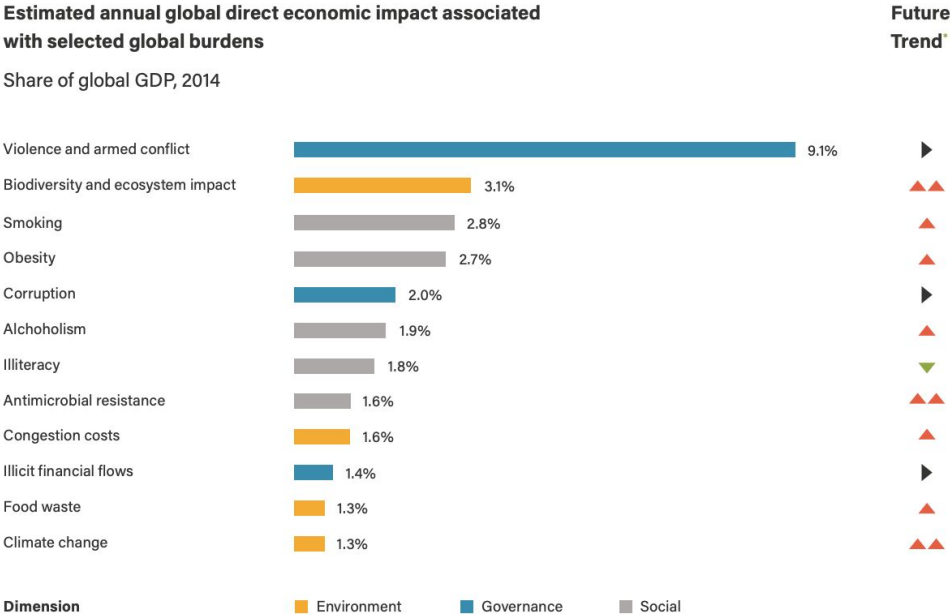


Figure 2.3: *Better Business, Better World*: Page 21

What stands to be gained from achieving the Global Goals must be framed in the affirmative and the negative. In 2017, according to the Global Peace Index, the global economic impact of violence surmounted to \$14.8 trillion.<sup>149</sup> “This is equivalent to 12.4% of the world’s economic activity, or \$1,988 for every person on the planet.”<sup>150</sup> While the root causes of violence extend beyond the political, these losses could be curtailed by working in partnership to support

<sup>149</sup> The Global Peace Index is comprised of 23 indicators that measure the negative peace and positive peace within 169 countries worldwide. The Index focuses on three domains: ongoing domestic and international conflict, societal safety and security, and militarisation. Institute for Economics & Peace. *Global Peace Index 2018: Measuring Peace in a Complex World*, Sydney, June 2018. Accessed May 30, 2019. Available from: <http://visionofhumanity.org/reports>

<sup>150</sup> McKenna, John. "This Is What Violence Does to a Nation's GDP." *World Economic Forum*. June 25, 2018. Accessed July 06, 2019. <https://www.weforum.org/agenda/2018/06/what-violence-does-to-a-nations-gdp/>.

strong governance systems. As political tension hinders economic gains, environmental losses translate to lower economic output. Economists predict that without comprehensive changes to our agricultural system, “the cost of biodiversity and ecosystem damage could reach up to 18% of global economic output by 2050, up from around \$2 trillion, or 3.1 percent, in 2008.”<sup>151</sup> Each global burden bears an economical price. The infographic above demonstrates the estimated direct economic impact of various global challenges. Ultimately, by raising the holistic well-being of the planet, these economic losses can be transformed into meaningful gains.

### ***Doing Good and Diminishing Risk***

As established, engaging with the SDGs and human rights expands economic potential and minimizes harms. It also lowers the risk profile of a company by securing the social license to operate and attracting and retaining talent.

### ***The Social License to Operate***

In order for a company to operate in an area, it must obtain both a legal and a social license to operate. In some cases, a company is quick to check a country’s legal boxes; however, it fails to gain approval from the community. This was evidenced in the case of Newmont Mining in Cajamarca, Peru. With little regard for the environment or social issues, a mining operation in Northwestern Peru generated a sizable amount of community distrust and resistance.<sup>152</sup> The operation polluted local water resources, killed large populations of fish in the local river, failed to provide jobs for locals (due to the skills required and a lack of training), and subjected the local community to dangerous environmental spills.<sup>153</sup> Meanwhile, Newmont sought to expand the operation to Cerro Quilish, a nearby mountain and sacred land for the indigenous people. After getting word of the plan, 10,000 locals laid siege to the mine in protest. Under crippling community pressure, Newmont was forced to withdraw its plans for the project.<sup>154</sup> In the Newmont case, poor community relations and business practices limited the company’s

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<sup>151</sup> AlphaBeta, 2017. Valuing the SDG prize: Unlocking Business Opportunities to Accelerate Sustainable and Inclusive Growth. Business and Sustainable Development Commission Contributing Paper. Available at: <http://report.businesscommission.org/>, 7.

<sup>152</sup> John Ruggie, *Just Business*, xxxvii

<sup>153</sup> John Ruggie, *Just Business*, xxxvii

<sup>154</sup> *Ibid*, xxxvii

propensity for growth within the region. On the flipside, companies that pay mind to the economic, social, and environmental well-being of the place of operation are more likely to be perceived favorably and prevent conflicts with local communities. Not only does this improve community relations and expand business opportunities, it bolsters company reputation and public perception.

### *Talent Retention and Acquisition*

Talent retention and acquisition varies by region, industry, and income level. However, around the world there is a growing desire to work for environmentally friendly and

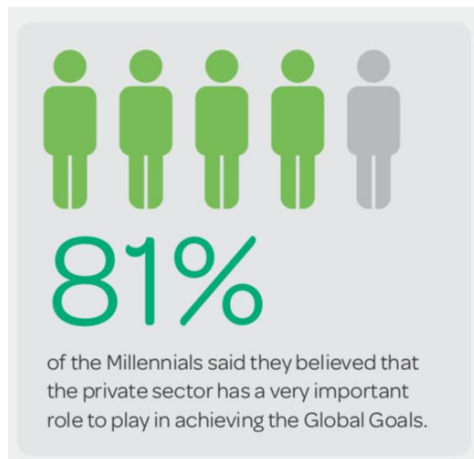


Figure 2.4: Sourced from Corporate Citizenship's Study on Business SDG Action and Millennials' View, Page 12.

socially-minded enterprises. This trend is especially prevalent amongst the millennial generation.<sup>155</sup> In 2015, millennials became the largest share of the workforce. In contrast to previous generations, millennials exhibit less company loyalty, more social awareness, and greater expectations for companies to contribute to sustainable development.<sup>156</sup> In a survey conducted by Corporate Citizenship, a specialized consulting firm, 72% of millennial respondents said that when choosing to work for an organization, a company's public commitment to positively impacting society was a "very important" factor. 23% said it was "moderately

important," 5% said it was of "little importance," and 0% of respondees said it "not important."

<sup>157</sup> The young workforce wants to work for good organizations, is aware of the SGDs and expects the private sector to act. To obtain and retain employees, companies need to respond to the call.

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<sup>155</sup> The Millennial Generation includes individuals born between the late 1980s and 2000.

<sup>156</sup> Nana H. Guar and Natalia Rajewska. *Advancing the Sustainable Development Goals: Business Through Millennials' View*. New York: Corporate Citizenship, 2016. Accessed June 20, 2019.

<https://corporate-citizenship.com/wp-content/uploads/Advancing-the-Sustainable-Development-Goals-Business-Action-and-Millennials-Views.pdf>

<sup>157</sup> Nana H Guar and Natalia Rajewska. *Advancing the Sustainable Development Goals: Business Through Millennials' View*, 12.

By doing so, companies will boost employee morale, retain top talent, and boost engagement and productivity.<sup>158</sup>

Individuals who fall outside of the millennial category or do not have the privilege of selecting work on the basis of morality stand to benefit as well. By paying living wages, providing health insurance, promoting education programs, and working to lessen pollution, companies improve the livelihood of their workforce. Even small changes can generate sizeable returns. In Jordan, an apparel manufacturing company opened an on-site daycare for its majority female workforce.<sup>159</sup> By eliminating outside childcare and transportation costs, the women regained a quarter of their monthly salary. It allowed women to spend more time with their children and enabled nursing mothers to nurse their children during their breaks. Not only was this good for the women, it likely aided in the development and the welfare of the children. The company benefited as well, with a 50% drop in employee absenteeism, increased individual productivity, and a decrease in staff turnover.<sup>160</sup> The case above illustrates the synergies that exist between efficiency and equity. Better business yields happier workers, aids in talent retention, and contributes to healthier communities.

## **A Business Bust: Limitations of SDG Engagement**

### ***Greenwashing, Bluewashing, SDG-washing, and Wish-washing***

Businesses and governments alike risk cosmetic sustainability. In other words, when sustainable language is used to promote unsustainable activities.<sup>161</sup> Over the years, the terms have been adopted in accordance with the international agenda. In the early days of sustainable development and corporate social responsibility, the term “greenwashing” was coined. Greenwashing refers to the act of marketing oneself as environmentally friendly whilst paying no mind to negative environmental impacts. The WSSD in Johannesburg defined the practice as the

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<sup>158</sup> *SDG Compass: The Guide for Business Action on the SDGs*, 8.

<sup>159</sup> Luck, Taylor. "How One Nike Factory in Jordan Is Making It Work for Working Mums." *The National*. March 26, 2019. Accessed June 20, 2019. <https://www.thenational.ae/business/economy/how-one-nike-factory-in-jordan-is-making-it-work-for-working-mum-s-1.841163>.

<sup>160</sup> *Ibid*

<sup>161</sup> Robinson, John. *Squaring the Circle? Some Thoughts on the Idea of Sustainable Development*. *Ecological Economics* 48.4 (2004): 369-384.



“phenomenon of socially and environmentally destructive corporations attempting to preserve and expand their markets by posing as friends of the environment and leaders in the struggle to eradicate poverty.”<sup>162</sup> It is marketable morality in the absence of responsible business actions.<sup>163</sup>

Where greenwashing is used in reference to the misrepresentation of environmental action, bluewashing is associated with falsely advertised humanitarian action.<sup>164</sup> “Bluewashing,” refers to the blue UN logo and occurs when an entity superficially associates their actions with the auspices of the UN. The term was coined in the Global Compact era, when companies failed to uphold the Ten Principles, but used the UN logo in their marketing strategies to suggest compliance. Most famously, Shell and Nike were criticized for outwardly entering into corporate partnerships with the UN while inwardly committing egregious human rights abuses.<sup>165</sup> This was not met without criticism. Critics feared the faulty business associations would weaken and harm public perception of the United Nations.<sup>166</sup> Despite fears, the UN continued to partner with business entities and forge new visions for human development.

In the era of SDGs, SDG-washing is the most pressing concern. Given sensitivities to previous errs, corporate engagement with the SDGs is placed under greater scrutiny. Two levels of severity emerge. In its worst form, businesses use the SDG language and imagery in the absence of tangible action. Equally as damaging, is the widespread corporate quasi-engagement with the SDGs. Commonly referenced as “cherry-picking,” this occurs when companies choose the SDGs that best align with their corporate policy and profit goals without further assessment or integration.<sup>167</sup> This is harmful on multiple levels: it limits business opportunity, lessens

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<sup>162</sup> United Nations. “Johannesburg Declaration on Sustainable Development.” *World Summit on Sustainable Development*. 4 September 2002. A/CONF.199/20.

<sup>163</sup> Seele, Peter. *Is Blue the New Green? Colors of the Earth in Corporate PR and Advertisement to Communicate Ethical Commitment and Responsibility*. Institute for the Advanced Study in the Humanities and the Center for Responsibility Research. Germany, 2007. Accessed June 20, 2019.  
[http://www.responsibility-research.de/resources/WP\\_3\\_Is\\_blue\\_the\\_new\\_green.pdf](http://www.responsibility-research.de/resources/WP_3_Is_blue_the_new_green.pdf)

<sup>164</sup> *Ibid*, 7.

<sup>165</sup> Nader, Ralph. "Corporations and the UN: Nike and Others "Bluewash" Their Images." *Common Dreams*. September 18, 2000. Accessed June 26, 2019.  
<https://www.commondreams.org/views/2000/09/18/corporations-and-un-nike-and-others-bluewash-their-images>.

<sup>166</sup> Bruno, Kenny, and Joshua Karliner. *Tangled Up in Blue: Corporate Partnerships at the UN*. San Francisco: Transactional Action and Resource Center, September 2000. Accessed June 27, 2019.  
<http://www.corpwatch.org/sites/default/files/Tangled%20Up%20In%20Blue.pdf>

<sup>167</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business in the Sustainable Development Goals*. Oxfam International, February 2017. Accessed March 28, 2019.  
[https://www-cdn.oxfam.org/s3fs-public/dp-raising-the-bar-business-sdgs-130217-en\\_0.pdf](https://www-cdn.oxfam.org/s3fs-public/dp-raising-the-bar-business-sdgs-130217-en_0.pdf)

potential impact, and threatens the perceived integrity of the business. In order to avoid “cherry-picking” and SDG-washing, companies must assess the full range of impacts (both positive and negative) that their business practices have on the SDGs. Thereafter, the company should choose the relevant SDGs and integrate it into their core business strategy.<sup>168</sup>

At present, companies are talking the talk, but not walking the walk. Businesses are successfully identifying relevant SDGs, yet failing to achieve sufficient levels of integration. In an Oxfam analysis of seventy-six companies, forty-seven had an official company statement regarding the SDGs. Of the forty-seven, there were varying levels of integration, with only two companies using the SDGs as the “guiding framework for their sustainability strategy.”<sup>169</sup> In the same breath, explicit SDG engagement is not inherently synonymous with sustainability. A company can be a sustainable entity in both the presence and the absence of an official SDG statement. Nonetheless, the SDGs provide an important common foundation for action. In order to maximize progress, the SDGs should rest at the core of business functions. It should not be a superficial and constrained project on the side.

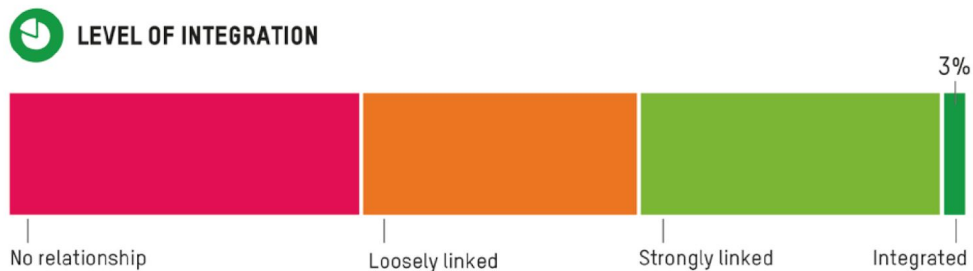


Figure 2.5: Oxfam’s *Walking the Talk*, Page 14.

### ***Lost in Translation***

While the notion of a global partnership underpins the whole of Agenda 2030, the agenda remains an international document written by States and for States. The language employed and the indicators used are intended to drive action and measure state performance. The SDGs call for business action and innovation, yet they fail to articulate a pathway forward. There is a

<sup>168</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Walking the Talk: Assessing Companies’ Progress from SDG Rhetoric to Practice*. Oxfam International, September 2018. Accessed March 29, 2019. <http://www.indiaenvironmentportal.org.in/files/file/Walking%20the%20Talk.pdf>, 5.

<sup>169</sup> Ibid, 14.

sizable gap between expectation and articulation. In the Agenda 2030 text, the UNGPs are only mentioned once, and only one of the 169 target indicators specifically mentions business. Business leaders are left unsure of how to engage at the corporate level.<sup>170</sup> Ultimately, businesses are not States and do not carry the same burdens or means of implementation. Recognizing this lapse in understanding, organizations have attempted to fill this gap. SDG Compass, WBCSD, Shift Foundation, the Danish Institute of Human Rights, and the Commission on Business and Sustainable Development have gone to great lengths to translate the SDGs into business vernacular.<sup>171</sup> As opposed to the early days of the SDGs, there is now an adequate number of resources to aid businesses in transcribing SDG ambitions into business strategy. Despite these recommendations, there is very little consistency for how businesses select and implement their goals.<sup>172</sup>

## **The Bottom Line**

It is important to reiterate that the corporate responsibility to respect human rights cannot be “offset” by engaging in efforts to promote and support human rights abuses.<sup>173</sup> No positive action can compensate or excuse abuses on behalf of business. The primary obligation is to “do no harm,” and the secondary is to “do good.” That being said, the SDGs are not a substitute for the UNGPs.<sup>174</sup> They are an extension of the existing framework.

## **The New Framework: Avoiding Harm and Doing Good**

### ***SDGs and Human Rights***

Prior to assessing the integration of the SDGs within the reigning business and human rights framework, it is important to establish the connection between the SDGs and human rights. Human rights are implicitly integrated throughout Agenda 2030, and further strengthened

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<sup>170</sup> This sentiment was consistently expressed at the 2018 UN Forum on Business and Human Rights in Geneva, Switzerland and the 2019 European Responsible Business Summit.

<sup>171</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business in the Sustainable Development Goals*. Oxfam International, February 2017, 16.

<sup>172</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Walking the Talk*, 16.

<sup>173</sup> *SDG Compass: The Guide for Business Action on the SDGs*, 10.

<sup>174</sup> Caroline Rees. "What Do the UN Sustainable Development Goals Have to Do With Corporate Respect for Human Rights?" Shift: September 2016. Accessed April 12, 2019.

<https://www.shiftproject.org/resources/viewpoints/sustainable-development-goals-corporate-respect-human-rights/>.

by the seventeen goals. The document takes a human rights-based approach to development, and does not devote a specific goal to human rights. Rather, it integrates human rights into each and every goal. SDG 2 (Zero Hunger) affirms the Right to Food, just as Goal 3 (Quality Education) defends the Right to Education. Further, Goal 5 (Gender Equality) exists in the context of the UN Convention on the Elimination of Discrimination Against Women (CEDAW), as Goal 16 (Peace, Justice, and Strong Institutions) must be understood as an extension of the UN International Covenant on Civil and Political Rights. Each goal connects to the larger international human rights regime. Recognizing this truth, the Danish Institute of Human Rights (DIHR) reports, “More than 90% of the Sustainable Development Goals (SDGs) targets are linked to international human rights and labour standards.”<sup>175</sup> To demonstrate the convergence of human rights and the SDGs, the institute developed an interactive tool to guide understanding.<sup>176</sup> Within the database, users may search by “goal to right” or “right to goal,” to explore the

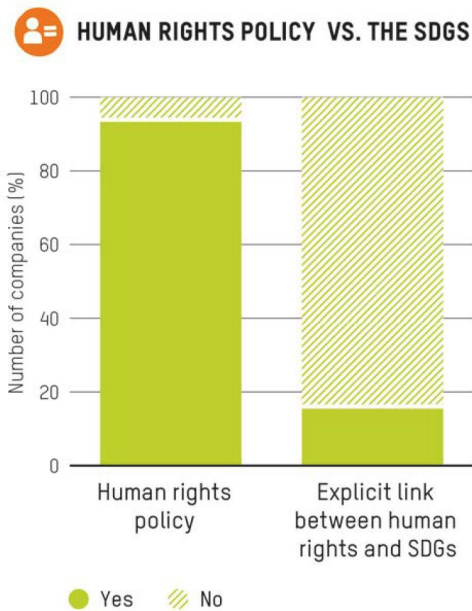


Figure 2.6: Sourced from Oxfam’s *Walking the Talk*, Page 16

connections between SDGs/indicators and relevant human rights documentation. The database illustrates the integrated nature of the SDGs and human rights. When businesses engage with SDGs, they are engaging with human rights at large. However, despite the established connection, a minority of companies view their SDG policies as attached to their human rights policy. A study conducted by Oxfam, revealed less than 20% of companies have articulated a specific link between the SDGs and human rights. Conceptualizing the link between the SDGs and human rights is the foundation for linking SDG engagement to the business and human rights regime.<sup>177</sup>

<sup>175</sup>“Human Rights Data Explorer.” Danish Institute for Human Rights. Accessed June 26, 2019. <https://sdgdata.humanrights.dk/>.

<sup>176</sup>“Human Rights Data Explorer.” Danish Institute for Human Rights. Accessed June 26, 2019. <https://sdgdata.humanrights.dk/>.

<sup>177</sup>Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Walking the Talk*, 16.

## ***Constructing the Framework***

Symbiosis exists between the UNGPs and the SDGs. In the words of John Ruggie, “Logically and in practice, the two should be inextricably linked, with the Guiding Principles setting the tone for the social components of the SDGs to which business is expected to contribute.”<sup>178</sup> To further develop this statement, the work will propose a new integrated understanding of the two frameworks. To build the framework, it will compare the established recommendations for fulfilling the corporate responsibility to respect human rights with existing recommendations for corporate engagement with the SDGs. Using these two points of reference as guideposts, it will explore places of alignment and offer recommendations for integration.

As established, Pillar II, or the corporate responsibility to respect is three-fold. It involves a credible human rights policy commitment, human rights due diligence, and remediation for human rights abuses. Opposed to the Business and Human Rights Framework, there is not a singular authoritative document outlining business engagement with the SDGs. From the UN Global Compact to PwC, countless sources have produced guidelines for businesses. Bearing in mind sectoral differences, cohesion exists within the various recommendations.

In the absence of a singular agreed-upon guide for business engagement with the SDGs, the following section will use the *SDG Compass* published by the UN Global Compact, WBCSD, and GRI accompanied by Oxfam’s three-phase approach.<sup>179</sup> The *SDG Compass*, known as the guide for business action on the SDGs, deconstructs engagement into five steps. The steps include understanding the SDGs, defining priorities, setting goals, integrating, and reporting.<sup>180</sup> More succinctly the Oxfam approach outlines three steps of action for businesses. To meaningfully engage with the SDGs, business should prioritize and assess their impact, align their core business strategies with the SDGs, and work towards generating systemic change.<sup>181</sup>

The two sources will be used for the following three reasons. First and foremost, the combined sources engage a variety of perspectives and expertise. Secondly, they offer invaluable

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<sup>178</sup> UN Forum on Business and Human Rights 2016

<sup>179</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business*, 2.

<sup>180</sup> *SDG Compass: The Guide for Business Action on the SDGs*. GRI, UN Global Compact, and World Business Council for Sustainable Development (WBCSD), 2016. Accessed February 18, 2019.

<sup>181</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business*, 2.

prospective and retrospective insights. The SDG compass was released in 2015 immediately following the announcement of the SDGs. While a rich and informative source, it lacks insights gained through hindsight. On the contrary, the Oxfam report (2017) responds to problem areas and offers corrective advice. By cross-referencing the two documents, a richer understanding is obtained. Lastly, both documents reference a connection between the UNGPs and the SDGs, but fail to develop it further. The following framework aims to further explore the symbiosis and outline its practical potential.

## **The Framework in Action**

### ***Human Rights Due Diligence***

Human rights due diligence is the heartbeat of the responsibility to respect and holds the greatest potential for strengthening SDG engagement. It enables the creation of a policy commitment and shapes the remediation process. As established in Chapter One, the due diligence process includes assessment, integration and action, monitoring and reporting, and the larger concept of leverage.

### ***Assessing Impact***

Before any other aspect of the responsibility to respect can be addressed, a company must understand its current state of affairs. To gain insight, companies are called to conduct a human rights impact assessment. Through the assessment, the business enterprise seeks to gain insight into the actual and potential human rights risks associated with their business activities and business relationships.<sup>182</sup> Similarly, Phase One of the Oxfam Framework recommends businesses to assess the positive and negative impact their business operations have on the SDGs. Bearing in mind, over 90% of the SDGs relate to human rights, an “SDG impact assessment” is essentially a human rights impact assessment by another name.<sup>183</sup> Additionally, Oxfam urges:

“ . . . before any considerations to ‘do good’ businesses should ensure that their current activities do not have a negative impact on sustainable development outcomes

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<sup>182</sup> UN Office for the Commissioner of Human Rights. “The Corporate Responsibility to Respect Human Rights: An Interpretive Guide,” 36

<sup>183</sup> “Human Rights Data Explorer.” Danish Institute for Human Rights. Accessed June 26, 2019. <https://sdgdata.humanrights.dk/>.

and do not hinder the ability of others (governments, other businesses, civil society organizations) to achieve the SDGs.”<sup>184</sup>

The language employed is highly reminiscent of Ruggie’s recommendations and establishes the case for an expanded due diligence process.<sup>185</sup> Rather than completing two assessments, a company should simultaneously assess the impact their business has on both human rights and the SDGs. By combining the two efforts, a company can identify human rights needs, as well as, places it can meaningfully contribute.<sup>186</sup>

### *Integration and Action*

The second aspect of due diligence: integration and action, is outlined by Guiding Principle 19.<sup>187</sup> The Guiding Principle calls on businesses to integrate the findings of the impact assessment into core business practices. “Effective integration,” involves: 1) assigning responsibility for addressing impact to the respective individuals, departments, subsidiaries, etc., and 2) responding through decision-making, oversight processes, and budget allocations.<sup>188</sup> As explained by the framework, this process is key to “embedding” human rights into core business practices. Much like the Guiding Principles recommendations, Phase Two of the Oxfam Framework encourages businesses to align their core business strategies with the SDGs. In doing so, businesses should avoid “cherry-picking” the most profitable opportunities and consider how to place sustainable development ambitions at the heart of business operations.<sup>189</sup> SDG integration is key to minimizing SDG-washing and maximizing meaningful engagement. Embedding human rights and integrating the SDGs should go hand in hand.

### *Monitoring and Reporting*

Both the UNGPs and the SDGs require monitoring and reporting. In both cases, monitoring should utilize quantitative/qualitative indicators and encourage stakeholder feedback.

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<sup>184</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business*, 5.

<sup>185</sup> Karin Buhmann, Jonas Jonsson, Mette Fisker, “Do No Harm” and “Do More Good” Too: *Connecting the SDGs with Business and Human Rights and Political CSR Theory*, *Corporate Governance: The International Journal of Business in Society*, 2017, 12.

<sup>186</sup> Ibid.

<sup>187</sup> UNOCHR. “The Corporate Responsibility to Respect.” *Human Rights: An Interpretive Guide*, 46.

<sup>188</sup> Ibid

<sup>189</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business*, 8.

Unlike the first two components, for the UNGPs and SDGs, it is not a matter of integration, rather prioritization. Integrating the two frameworks runs the risk of diluting and detracting from the primary responsibilities. The corporate responsibility to respect is the primary concern and the SDGs are secondary.<sup>190</sup> For the UNGPs, the stakes are much higher. Comprehensive monitoring should be undertaken to ensure human rights abuses are not being committed throughout the supply chain. The indicators should be customized and tailored to the specific needs and structure of the company.<sup>191</sup> In theory, it needs to be monitored more closely and more often than SDG performance. That is not to say there will not be overlap. As previously mentioned the prevention of human rights abuses inherently yields positive outcomes. When possible, it would be beneficial and identify and monitor these places of synergy. Companies should report with a dual-perspective, “of which one adheres to the original objective of preventing harm; the other builds upon that to deliver insights for SDG contributions.”<sup>192</sup>

For the SDGs, reporting is both internally and externally motivated. Internally, the collection of data stimulates change and manages performance.<sup>193</sup> Externally, it is a valuable tool to demonstrate best practices, drive better performance, attract investment, and engage stakeholders.<sup>194</sup> When monitoring and reporting, companies may choose to use existing formats and indicators, or they may develop their own practices.<sup>195</sup> Ultimately, the monitoring process differs between the two entities. Monitoring for human rights abuses takes precedence; however, both processes yield positive outcomes.

### *Leveraging Change*

Last but not least is the concept of leverage. Companies are called to use their leverage and expertise to drive change at all levels. The scope of responsibility extends throughout business relationships. It is not only about minimizing harm, but also advancing the respect for

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<sup>190</sup> Caroline Rees. "What Do the UN Sustainable Development Goals Have to Do With Corporate Respect for Human Rights?" Shift: September 2016.

<sup>191</sup> UNOCHR. "The Corporate Responsibility to Respect." Human Rights: An Interpretive Guide," 52.

<sup>192</sup> Karin Buhmann, Jonas Jonsson, Mette Fisker, "Do No Harm" and "Do More Good" Too: Connecting the SDGs with Business and Human Rights and Political CSR Theory, Corporate Governance: The International Journal of Business in Society, 2017. Accessed February 17, 2019. <https://doi.org/10.1108/CG-01-2018-0030>

<sup>193</sup> *SDG Compass: The Guide for Business Action on the SDGs*, 26.

<sup>194</sup> Ibid

<sup>195</sup> UNOCHR. "The Corporate Responsibility to Respect." Human Rights: An Interpretive Guide," 52.



human rights within global value chains.<sup>196</sup> This aligns with the final phase of the Oxfam Framework. Phase Three calls on business to address the flawed corporate structure and economic paradigms that have stood counter to sustainable development.<sup>197</sup> By preventing human rights abuses in everyday business relationships, businesses are reshaping traditional business practices and damaging economic paradigms. If companies are able to prove on a large scale that synergic and respectful business practices win customers and expand profit margins, a “race to the top” will be initiated.

### ***Credible Policy Commitment:***

Under Pillar II, once a company’s human rights impact is understood, business leadership should release an internal and external policy commitment. It should be communicated throughout all levels of the enterprise and include measures the company will take to improve the status quo.<sup>198</sup> The commitment serves to inform interested parties, mobilize staff, and act as an accountability mechanism. The SDGs are a powerful tool for fulfilling this responsibility.

The SDGs provide companies with a strong communication platform and a positive lens for approaching the otherwise negatively framed UNGPs. It is important to remember the product of the corporate responsibility to respect is inherently good. At its core, the prevention of human rights abuses saves and changes lives. Despite this positive outcome, the UNGPs are often associated with neutral words such as “compliance,” “prevention,” and the “avoidance of harm.”<sup>199</sup> Yet, by avoiding harm, a company is producing good. By reducing discrimination on the basis of sex, gender equality (SDG 5) is promoted. By taking measures to prevent catastrophic oil spills, life below water (SDG 14) is protected. In both cases, compliance is the input, and change is the output. Using the SDGs as a lens, companies should include both the

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<sup>196</sup> Caroline Rees. "What Do the UN Sustainable Development Goals Have to Do With Corporate Respect for Human Rights?" Shift: September 2016.

<sup>197</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Raising the Bar, Rethinking the Role of Business*, 14.

<sup>198</sup> UNOCHR. “The Corporate Responsibility to Respect.” Human Rights: An Interpretive Guide,” 26.

<sup>199</sup> Rees, Caroline. "Relationship Between the SDGs and the UN Guiding Principles." Vimeo. September 03, 2016. Accessed June 17, 2019. <https://vimeo.com/183845352>.

negatives avoided and the positives promoted in communication strategies. Not only does this energize employees, it increases the accessibility of the international human rights regime.

The international human rights regime is complex. There is an ever-growing mountain of treaties, agreements, outcome documents, and declarations. Hundreds of human rights have been identified, codified, and protected at the international level. While this progress warrants applause, its limitations must be recognized.

The SDGs simplify the legalese and complexity of formalized human rights. The call for “Zero Hunger” is much more effective than calling for widespread compliance with Article 12.1 and 12.2 of the UN International Covenant on Economic, Social, and Cultural Rights.<sup>200</sup> Across cultures, countries, and education levels, people understand the significance of no poverty, quality education, and a healthy environment. The SDGs are a powerful communication tool for executives to relay their human rights agenda in both external and internal communications. The seventeen brightly colored and graphically designed SDGs are as aesthetically pleasing as they are accessible. They provide a pre-packaged, universally approved, and simplified means of discussing human rights in our world. While caution should be taken to avoid paying lip service to the goals or using them as a marketing ploy, executives should consider reframing their human rights impact and incorporating the goals into their human rights policy commitment.

### ***Human Rights Remediation***

Despite preventative measures, human rights abuses will happen. Businesses are called to comply and cooperate with local justice systems to ensure the abuses are remedied or to address the problems through non-judicial mechanisms.<sup>201</sup> While it is difficult to link the act of remediation to the SDGs, the provision of remedies aligns with a number of the goals. Bearing in mind that the relevant SDGs will vary on a case by case basis, remediation likely contributes to SDG 8 and SDG 16.

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<sup>200</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993.

<sup>201</sup> Ruggie, *Just Business*, 117.

SDG 8 focuses on the promotion of sustained and inclusive economic growth, full and productive employment, and decent work for all.<sup>202</sup> When interpreted for businesses, this goal relates to fair employment practices, economic inclusion, and the prevention and remediation of forced and compulsory labor.<sup>203</sup> Under the responsibility to respect, if a company were to detect any human rights abuse within the supply chain, the company must provide justice for those affected and take measures to ensure the abuses do not occur again.<sup>204</sup> By monitoring and remedying human rights abuses in the corporate space, businesses are helping to secure decent work for all. Furthermore, by complying with local justice systems, companies are promoting justice and the rule of law.

SDG 16 centers on peace, justice, and strong institutions.<sup>205</sup> According to the SDG Compass, select key business actions and solutions for this goal include compliance with national and international laws and the creation of impact assessments to prevent contributing to violence and conflict, corruption, and the weakening of the rule of law.<sup>206</sup> The UNGPs due diligence process addresses the latter, whereas the remediation process addresses the former. Under Pillar II responsibilities, businesses must respect and adhere to the law of the land.<sup>207</sup> Despite this obligation, many businesses operate under the so-called “veil of impunity.” Under which businesses find ways to skirt legal liability and deny responsibility for abuses at the subsidiary level. The corporate pursuit of these loopholes weakens the provision of justice at the national level. Guiding Principle 22 states businesses must “cooperate in remediation through legitimate processes.”<sup>208</sup> If a company is being held accountable through a State-based mechanism, full cooperation is expected.<sup>209</sup> The business company should provide the necessary information, adhere to legal proceedings, and prioritize the welfare of the abused. A company should not attempt to bribe witnesses and local authorities, hide evidence, or abuse loopholes

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<sup>202</sup> "Sustainable Development Goal 8." Sustainable Development Goals Knowledge Platform. Accessed June 17, 2019. <https://sustainabledevelopment.un.org/sdg8>.

<sup>203</sup> "SDG 8." SDG Compass. Accessed June 17, 2019. <https://sdgcompass.org/sdgs/sdg-8/>.

<sup>204</sup> UNOCHR. “The Corporate Responsibility to Respect.” Human Rights: An Interpretive Guide,” 64.

<sup>205</sup> "Sustainable Development Goal 16." Sustainable Development Goals Knowledge Platform. Accessed June 17, 2019. <https://sustainabledevelopment.un.org/sdg16>.

<sup>206</sup> "SDG 16." SDG Compass. Accessed June 17, 2019. <https://sdgcompass.org/sdgs/sdg-16/>.

<sup>207</sup> Ruggie, *Just Business*, 102`

<sup>208</sup> UNOCHR. “The Corporate Responsibility to Respect.” Human Rights: An Interpretive Guide,” 64.

<sup>209</sup> Ruggie, *Just Business*, 117.

within the system. Furthermore, in the absence of strong national court systems, companies should take internal measures to ensure the administration of justice.<sup>210</sup> Ultimately, by enabling remedies in the face of human rights abuses, companies are contributing to the SDGs and working to strengthen the system at large.

## **The Takeaway**

When combined, the UNGPs and SDGs are mutually reinforcing. By taking an integrated approach, business enterprises can streamline activities, create a stronger impact on human rights, and boost the longevity of the SDGs.

Integrating the SDGs into the corporate responsibility to respect kills the proverbial two birds with one stone. The expectations and processes for engaging with the UNGPs and the SDGs are similar. Rather than completing the same process twice, companies should engage in an “expanded due diligence process.”<sup>211</sup> By streamlining the process, businesses maximize effort, concentrate funding, and produce a more robust final product.

Human rights are the bottom line. By employing both strategies simultaneously, businesses can mitigate some of the risks associated with superficial SDG engagement. It prevents companies from adverse human rights abuses disguised by a positive marketing strategy. Likewise, it allows companies to positivity frame compliance efforts and mobilize employees around a common goal.

Last but not least, by embedding the SDGs into the existing corporate responsibility to respect, the life expectancy of the SDGs is extended. Ultimately, the best manifestation of human rights is the one that is sustainable. In 2030, the SDGs will expire and be replaced with a new global agenda for change. On the contrary, the UNGPs and the corporate responsibility to respect is the reigning authority until an international treaty is signed.<sup>212</sup> By building the values of sustainable development into the core business strategies, they stand a greater chance of outlasting international deadlines. As previously mentioned, sustainability is intergenerational

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<sup>210</sup> UNOCHR. “The Corporate Responsibility to Respect.” *Human Rights: An Interpretive Guide*,” 65.

<sup>211</sup> Karin Buhmann, et. al, “*Do No Harm*” and “*Do More Good*” *Too*,” 13.

<sup>212</sup> At present, there is a “Zero Draft” of a binding treaty concerning the Corporate Responsibility to Respect Human Rights. There are ongoing negotiations in Geneva. ““Zero Draft” Summary.” *Business & Human Rights Resource Centre*. Accessed July 3, 2019. <https://www.business-humanrights.org/en/zero-draft-summary>.

and necessitates longevity. It cannot be sustained through a temporal process. To achieve a business model that meets the needs of the present generation without compromising future needs, human rights and sustainability must be ingrained and embedded in all business operations. In order to gain a practical understanding of this model of business, the subsequent chapter will examine the case of Marks and Spencer.

# 3

## CHAPTER THREE: THE CASE OF MARKS AND SPENCER FROM THEORY TO PRACTICE

*“We want to set a course to being a truly sustainable business—one that is low carbon, circular, restorative, committed to wellbeing, equality and fairness in all that it does.”*

*Steve Rowe*

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From humble beginnings, Marks and Spencer began as an eclectic market stall in 1884. First known as Marks’ Penny Bazaar, the stall was founded by Michael Marks, a Jewish refugee from Poland. In 1894, he enlisted the help of Thomas Spencer as a business partner. Thereafter, the small business became known as Marks and Spencer (M&S).<sup>213</sup> Twenty years later, the pair opened their first brick and mortar store (Leeds, United Kingdom) and from thereon the enterprise continued to grow. Over time, the company went public, expanded internationally, and grew into one of the largest multichannel retailers in the United Kingdom.<sup>214</sup> Today, the multinational retailer is headquartered in Westminster, London and now deals in food, clothing and home, banking, energy, property, and services.<sup>215</sup> It serves over 32 million customers in the UK alone and boasts £10.4 billion in group revenue.<sup>216</sup> Marks and Spencer has a strong CEO

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<sup>213</sup> "Marks & Spencer PLC." Encyclopædia Britannica. January 09, 2014. Accessed June 28, 2019. <https://www.britannica.com/topic/Marks-and-Spencer-PLC>.

<sup>214</sup> “A Short History of Marks and Spencer.” *Marks and Spencer Company Archive*. n.d. Accessed June 30, 2019. <https://marksintime.marksandspencer.com/download?id=996>

<sup>215</sup> "Marks and Spencer." Marks and Spencer. Accessed June 28, 2019. <https://corporate.marksandspencer.com/>.

<sup>216</sup> Marks and Spencer. *2019 Full Annual Report*. London: Marks and Spencer Group PLC, 2019. Accessed July 01, 2019. <https://corporate.marksandspencer.com/documents/msar-2019/full-annual-report.pdf>

commitment, and an ambitious vision for the future. In an annual letter, the CEO, Steve Rowe expressed that “. . . M&S product or service can ever be ‘special’ unless it embodies our unswerving commitment to have a positive impact on wellbeing, communities and the planet.”<sup>217</sup> To fulfill this vision, the company hopes to reshape business practices and reach 100 sustainability targets by 2025.<sup>218</sup> M&S has been recognized for its commitment to human rights and its integrated approach to SDG engagement. Given its unique approach to business and human rights, Marks and Spencer will serve as the subject for further investigation.

### **A Case for the Case Study:**

In order to gain a practical understanding of engaging with the SDGs through existing Pillar II responsibilities, the research will employ a single instrumental case study. In analyzing M&S, the work will seek to understand the overlap at the policy level, analyze best practices, and assess specific examples of integration. The justification for selecting M&S is four-fold. M&S is an established leader in the field of business and human rights, it is both representative and relevant, exhibits strong potential for peer-to-peer learning, and has been legitimized by third party experts.

### ***The Cream of the Crop***

The basis for selecting M&S is rooted in two large multi-sectoral studies, one concerning SDG engagement and the other concerning human rights. The Oxfam study entitled *Walking the Talk*, examined the SDG engagement of 76 of the world’s top-grossing companies. The aggregate study assessed the six largest companies, across eight industries (energy, banking, technology, agribusiness, garment, mining, food/beverage, pharmaceutical).<sup>219</sup> “Largeness” was determined by US dollar revenue, according to Forbes.<sup>220</sup> In order to account for the growing influence of Asia, the study assessed the 30 largest companies within the aforementioned

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<sup>217</sup> Marks and Spencer. *Plan A 2025 Commitments*. London: Marks and Spencer Group PLC, June 2017. Accessed June 25, 2019. <https://corporate.marksandspencer.com/documents/plan-a/plan-a-2025-commitments.pdf>

<sup>218</sup> Ibid

<sup>219</sup> For further information, please refer to the methodology note. Gneiting, Uwe, Ruth Mhlanga, and Namit Agarwal. *Oxfam Methodology Note: Walking the Talk*. Oxfam International: September 2018. [https://drive.google.com/file/d/168JVj-iNqSWB3EVpqpabWHdpYX\\_WyXF2/view](https://drive.google.com/file/d/168JVj-iNqSWB3EVpqpabWHdpYX_WyXF2/view)

<sup>220</sup> State-based companies were excluded from the calculations.

industries headquartered in Asia. With two companies overlapping, the final sample size included 76 companies.<sup>221</sup>

The assessment itself fell into six categories: SDG commitment, SDG prioritization, SDG integration, SDG ambition, congruence with human rights policies, and SDG reporting. Of the 76 companies assessed, only 48 companies demonstrated a credible SDG commitment. Of the 48, only 5 companies approached SDG engagement through a human rights lens.<sup>222</sup> The report highlighted M&S for its noteworthy SDG engagement in the context of the UNGPs.<sup>223</sup> Marks and Spencer's standing in the study as a world leader in SDG engagement warrants greater investigation.

The Corporate Human Rights Benchmark further validated the recognition by the Oxfam study.<sup>224</sup> Using 100 human rights indicators, the first Corporate Human Rights Benchmark (2017) assessed 98 of the world's largest publicly traded companies.<sup>225</sup> The indicators assessed six areas: governance and policy commitments, embedding respect and human rights due diligence, remedies and grievance mechanisms, company human rights practices, responses to serious allegations, and transparency.<sup>226</sup> In the inaugural study, M&S ranked first in the agricultural and textile industry and second overall.<sup>227</sup> In the 2018 benchmark, it performed almost as favorably, ranking first in the agricultural industry, second in textiles, and fourth overall.<sup>228</sup>

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<sup>221</sup> Gneiting, Uwe, Ruth Mhlanga, and Namit Agarwal. *Oxfam Methodology Note: Walking the Talk*.

<sup>222</sup> Agarwal, Namit, Uwe Gneiting and Ruth Mhlanga. *Walking the Talk*, 16.

<sup>223</sup> *Ibid*, 25.

<sup>224</sup> "The Corporate Human Rights Benchmark was launched in 2013 as a multi-stakeholder initiative drawing on investor, business and human rights and benchmarking expertise from 8 organisations: APG Asset Management (APG), Aviva Investors, Business and Human Rights Resource Centre, Calvert Research and Management, The EIRIS Foundation, Institute for Human Rights and Business (IHRB), Nordea Wealth Management and VBDO." From: Corporate Human Rights Benchmark. *Key Findings 2017*. Corporate Human Rights Benchmark, March 2017.

<sup>225</sup> For further information regarding the methodology, please refer to: Corporate Human Rights Benchmark. *Key Findings 2017*. Corporate Human Rights Benchmark, March 2017.

<https://www.corporatebenchmark.org/sites/default/files/styles/thumbnail/public/2017-03/Key%20Findings%20Report/CHRB%20Key%20Findings%20report%20-%20May%202017.pdf>

<sup>226</sup> *Ibid*

<sup>227</sup> "Corporate Human Rights Benchmark 2017 Company Scoresheet." *Marks and Spencer Group*. Corporate Human Rights Benchmark, May 2017. Accessed June 30, 2019.

<https://www.corporatebenchmark.org/sites/default/files/2018-11/CHRB17%20Marks%20%26%20Spencer%20Group.xls>

<sup>228</sup> "Corporate Human Rights Benchmark 2018 Company Scoresheet." *Marks and Spencer Group*. Corporate Human Rights Benchmark, March 2019. Accessed June 30, 2019.



## ***Representation and Relevance***

As a retailer, the reach of Marks and Spencer extends far beyond its industrial category. The global multichannel retailer employs 85,000 in stores internationally, operates in 57 territories, and reaches over 32 million customers.<sup>229</sup> Through the company's business relationships, it reaches 2,100 product suppliers, 20,000 farms, 100,000 shareholders, and over 1,000 goods and services not for retail.<sup>230</sup> The company's reach is expansive; it spans continents and industries. Beyond retail, it envelopes the textile industry, the agricultural sector, consumer and packaged goods, technology, etc. M&S's high level of industrial interaction makes its business practices relevant across industries and countries. Further, there is an elevated propensity for a company to identify with M&S and glean wisdom from their business conduct.

## ***Potential for Peer-to-Peer Learning***

Visibility and reporting are necessary for one company to gain insight from the practices of another. M&S has a robust reporting framework with a published human rights policy commitment, an annual report dedicated to human rights, and a coherent SDG strategy. In 2017, the company set out to further integrate human rights into the core corporate strategy. As a result, the company initiated Plan A. Plan A is a company-wide plan to redefine business with a greater focus on "consumer-focused sustainability."<sup>231</sup> In doing so, the company fused their human rights policy with the larger business reporting framework. These practices model the ideal application called for by the UNGPs. This, combined with the vast library of company literature, optimizes the potential for peer-to-peer learning. The frequency and quality of the reporting 1) enables analysis for the purpose of this research, and 2) allows for companies to learn and replicate best practices.

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<https://www.corporatebenchmark.org/sites/default/files/2018-11/Marks%20%26%20Spencer%20Group%20CHRB%202018%20Results%20on%2020181106%20at%20155734.pdf>

<sup>229</sup> Marks and Spencer. *2019 Full Annual Report*. London: Marks and Spencer Group PLC, 2019. Accessed July 01, 2019. <https://corporate.marksandspencer.com/documents/msar-2019/full-annual-report.pdf>

<sup>230</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*. London: Marks and Spencer Group PLC, June 2017. Accessed June 25, 2019.

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-human-rights-report-june2017.pdf>

<sup>231</sup> Marks and Spencer. *Plan A 2025 Commitments*. London: Marks and Spencer Group PLC, June 2017. Accessed June 25, 2019. <https://corporate.marksandspencer.com/documents/plan-a/plan-a-2025-commitments.pdf>

## ***Transparency***

M&S's approach to human rights is monitored and evaluated by the Human Rights Stakeholder Advisory Group. The Group is composed of experts from Shift, Oxfam, BSR, Impactt, and the Institute for Business and Human Rights.<sup>232</sup> In order to maintain communication and linkages between human rights and sustainability efforts, the Group includes representation from the Sustainable Retail Advisory Board. Collectively, the experts advise M&S on their approach to human rights, critically reflect on policy implementation, effectiveness, and stakeholder interests.<sup>233</sup> Additionally, it aids in the development of internal grievance mechanisms and the calculation of human rights risks.<sup>234</sup> To ensure an added layer of transparency, as part of the reporting process, the Group publicly comments on company performance. The existence of the Group legitimizes the work of M&S, increases UNGP compliance, and lessens the likelihood of superficial human rights action. These factors combined with the aforementioned reasons listed above, constitute the rationale for selecting M&S as the primary subject of the case study.

## **Means of Analysis:**

For the case study, the research will rely solely on publicly available information. The main data sources include the M&S website, annual reports, company policies, third party commentaries, as well as, the findings from the Corporate Human Rights Benchmark, and information obtained through the UN Global Compact reporting platform and the UN Guiding Principles Reporting Framework. In order to narrowly tailor the research, it will only address activity occurring between 2016 and 2019.<sup>235</sup> 2016 marks the first year of explicit human rights activity within the company. Prior to, the company joined the Ethical Trading Initiative and wrote the Global Sourcing Principles to articulate expectations of suppliers. In 2016, M&S

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<sup>232</sup> "Human Rights." Marks and Spencer Group PLC. Accessed June 27, 2019. <https://corporate.marksandspencer.com/sustainability/business-wide/human-rights#5b9001553e664a66b51ca743220b93a1>.

<sup>233</sup> Ibid

<sup>234</sup> Ibid

<sup>235</sup> As of July 2019

released their first human rights policy, signed onto the UN Global Compact, and released an annual report on human rights. This is not to say human rights considerations were not made prior to this point in time, however, it is when actions became publicly codified and visible. Finally, the research will thematically assess the company's performance in regards to human rights, SDG engagement, and the integration of the two frameworks.

## **Human Rights Approach**

Although M&S is a leader in human rights globally, it is not a perfect enterprise. M&S Human Rights Advisory Stakeholder Group has encouraged M&S to redouble its human rights efforts, review its human rights commitments, identify targets, and report on impact by gender. In the same statement, it praised M&S for its high levels of customer trust and its performance in human rights benchmarks. Despite scoring in the top five percent of its peers, M&S scored 69.8/100 in the 2018 CHRB, and 64/100 in the 2017 CHRB. That being said, it is not the “best,” but it is better than the majority. Therefore, while there are indeed lessons to be learned from M&S's efforts, and it should not be considered as the pinnacle of progress. M&S, along with every other business enterprise, has lessons to be learned and countless more steps to be taken.

The following section will address M&S's approach to human rights using the structural framework of the UNGPs. It will assess the company's policy commitment, human rights due diligence, and remediation efforts. In doing so, it will provide readers with a practical understanding of the abstract theories discussed in previous chapters.

### ***Policy Commitment***

As outlined in Chapter One, a human rights policy commitment is a formal statement issued by a senior executive with a clear pledge to embed human rights. Accordingly, M&S's human rights policy was issued by CEO, Steve Row, in May 2016. To begin, the document first outlines M&S's general commitment to internationally recognized documents. The M&S 2016 Human Rights Policy Statement affirms the company's support of the UN Guiding Principles on Business and Human Rights, the International Bill of Human Rights,<sup>236</sup> the UNICEF Children's

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<sup>236</sup> This includes the UN Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

Rights and Business Principles, the ILO Declaration on the Fundamental Principles and Rights at Work, the UN Women’s Empowerment Principles, the UN Global Compact, and the UK Modern Slavery Act.<sup>237</sup> Using these documents as the foundation of their approach to human rights, M&S further outlines the company’s commitment to human rights.

M&S’s Human Rights Policy is not contained in one document; rather it is a series of documents published by the leadership of the company. A comprehensive discussion on the salient human rights risks is contained in the 2016 and 2017 Human Rights Reports. Per the UNGPs’ call to include the salient human rights risks in the policy statement, M&S has identified seven core human rights issues, and four “watching issues.” The seven salient human rights include discrimination, forced labor, freedom of association, health & safety, living wages, water and sanitation, and working hours.<sup>238</sup> Watching issues are issues that do not pose an immediate risk, but require diligence nonetheless. These issues include child labor, land rights, secure work, and customer security. Further information on the issues, along with how M&S works to address the salient human risks is published in their annual reports and on their website. While the external/publicly available reports appear robust, this analysis cannot speak to the company’s internal reporting process.

As the final piece of policy commitment puzzle, the statement should articulate the expectations of partners and business leaders. To be discussed at length in the *Remediation* section below, the Global Sourcing Principles outline the minimum social and environmental expectations of M&S suppliers. In addition, M&S has altered its internal leadership structure to ensure that the head of every department is informed and involved in human rights practices. Overall, from outside appearances, the M&S policy commitment appears compliant. It includes the core components outlined by Guiding Principle 16. From M&S publications, it is clear the business recognizes the corporate responsibility to respect human rights means first conducting due diligence, and secondly, addressing adverse human rights impacts.

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<sup>237</sup> Steve Rowe. *Human Rights Policy*. Marks and Spencer Group PLC. London: Marks and Spencer Executive Committee, 5 May 2016. Accessed June 26, 2019.

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-human-rights-policy.pdf>

<sup>238</sup> For detailed information on their approach to each salient human right. Please reference: Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2016*. London: Marks and Spencer Group PLC, June 2016. Accessed June 25, 2019.

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-human-rights-report-june2016.pdf>

## Human Rights Due Diligence

M&S understands the inherent value of respecting human rights for their workers, shareholders, and customers. M&S expressed: “We understand that when people are treated with respect, work in decent conditions and earn fair rates of pay, both they and their companies benefit from increased commitment and productivity. Ultimately, our customers benefit too, from better quality, better value products and peace of mind.”<sup>239</sup> In order to infuse their business with respect, the company first conducted a robust impact assessment.

## Impact Assessment

MOST SALIENT FOOD HUMAN RIGHTS RISK BY COUNTRY

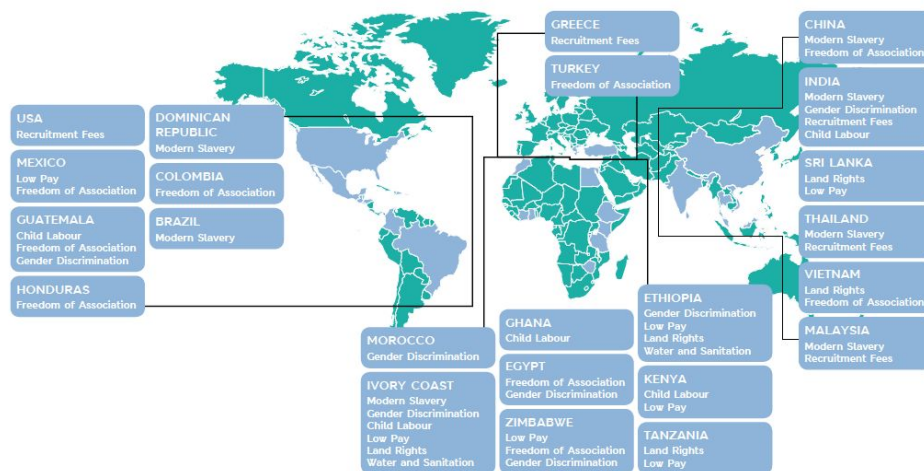


Figure 3.1: Sourced from M&S Annual Human Rights Report 2017, Page 11

To understand its human rights situation, M&S employed a number of techniques including surveys, external data sets, site visits, and audits to monitor the human rights management systems of their suppliers.<sup>240</sup> In 2017, with the help of human rights experts from Ergon, M&S used a new methodology to map human rights risks within their supply chains.<sup>241</sup> The process consisted of several steps. First, a product supply chain risk assessment was created

<sup>239</sup> “Global Sourcing Principles.” Marks and Spencer Group PLC. August 2018. <https://corporate.marksandspencer.com/documents/plan-a-our-approach/global-sourcing-principles.pdf>

<sup>240</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*, 8.

<sup>241</sup> "Broadening the Understanding of Human Rights Risks: Working with the M&S Property Team." Ergon. June 22, 2018. Accessed July 02, 2019. <https://ergonassociates.net/broadening-understanding-human-rights-risks-working-ms-property-team/>.

by combining human rights indices with supply chain mapping. Through this, M&S gave each sourcing country a risk ranking for salient human rights issues and prioritized the top 5-10 countries by issue. The findings were then reviewed by NGOs, stakeholders, and members of the Human Rights Advisory Stakeholder Group.<sup>242</sup> In the last step, M&S used a “human rights root cause analysis exercise to consider for the identified issues: the cause, problem and effects and existing or possible new interventions that M&S, suppliers, civil society and governments could take to deliver desired impact.”<sup>243</sup> This process aided M&S in shifting their attention to the root causes of the larger issues. Using the knowledge gleaned from the impact assessment, M&S embedded human rights into their business practices and governance system. The company has devised sets of goals related to each risk and it reports on the progress towards achieving the goals in the annual reports. In order to maximize effectiveness and accuracy, similar analyses should be conducted often to ensure is reflective of the current human rights situation and responsive to an ever-changing world.

### *Integration and Action*

The Stakeholder Human Rights Advisory Group and the CHRB has compelled M&S to improve their corporate governance structure for better HR integration. First and foremost, strong CEO support and leadership is a necessary precondition for effectively embedding human rights. Steve Rowe has articulated his determination to respect human rights and is leading the charge in the fight. The human rights agenda is disseminated throughout the organizational structure of the business enterprise. The accountability within the company is depicted in the figure below. Beginning from the bottom up, the human rights practitioner committee is composed of key staff from each of the M&S departments. These individuals work on the ground and have first hand experience with the day-to-day operations and human rights risks.<sup>244</sup> This Committee supports the Human Rights and Modern Slavery Steering Group. The Steering Group consists of the Directors of each department. The Directors are responsible for adapting business-wide human rights policies to the localized level, in addition to, identifying “geographical priorities for salient issues,” monitoring progress, and implementing corrective

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<sup>242</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*, 9.

<sup>243</sup> *Ibid*, 11.

<sup>244</sup> “Human Rights.” Marks and Spencer Group PLC.

plans when necessary.<sup>245</sup> Further, they are responsible for activities concerning their employees, suppliers, and customer relationships.<sup>246</sup> Moving up the ladder, the Steering Group answers to the Operating Committee (OP). The CEO, CFO, HR Director, and a handful of select departmental directors sit on the OP. Human rights is a standing line item on the OP’s monthly meetings. Overall, the Committee is “. . . responsible for ensuring that every part of our [the company’s] business is clear about the responsibility to respect human rights.”<sup>247</sup> Last but not least, the Board is responsible for monitoring salient human rights risks and overseeing the auditing process. Biannually, the Board assesses department-specific reports concerning salient risks. Having a consolidated view, Board Members consider the information in light of the business strategy at large. The Advisory Stakeholder Group monitors each rung of this ladder. The Group, composed of known experts in business and human rights assess the work of M&S and provides prescriptive advice for improvement. While, M&S should be commended for paying particular



Figure 3.2: Sourced from M&S Annual Human Rights Report 2017, Page 13

attention to the concerns of practitioners. Efforts should be taken to amplify the voices of those working in the supply chain. Members of the Board and Operating Committee should consider

<sup>245</sup> “Human Rights.” Marks and Spencer Group PLC.

<sup>246</sup> “Human Rights.” Marks and Spencer Group PLC.

<sup>247</sup> Ibid

partaking in site visits and “town-hall meetings” with individuals in the far corners of the supply chain.

Outside of the central leadership, M&S has developed programs for employee training and engagement across business geographies and areas. According to the M&S’s website, “. . . human rights training has been provided to all practitioners including key procurement and buying professionals and members of the Operating and Plan A Committees, and each business area leadership team.”<sup>248</sup> This is an area M&S has improved since the 2018 CHRB. The benchmark previously criticized M&S for the absence of an employee training program for human rights.<sup>249</sup> Now, all key employees in the Food and Household departments will undergo a training course on ethical trade and wider human rights.<sup>250</sup> While this training should be extended throughout all areas of the business and throughout the supply chain as well, it is a step in the right direction.

### *Monitoring and Tracking*

To monitor and track human rights progress and compliance, M&S uses the Supplier Ethical Data Exchange System (Sedex). This program is used to monitor its suppliers compliance with the Global Sourcing Principles and it accompanied by semi-announced ethical audits. If non-compliance or problems are identified, M&S works to correct the problem and increases the strength and frequency of due diligence practices.<sup>251</sup> At present, M&S is exploring ways to increase the sensitivity of the auditing process to human rights abuses. It is working with Clearview, Verité, Fast Forward, and the Gangmasters and Labour Abuse Authority (GLAA) to trial other methods of diagnosis and deep listening.<sup>252</sup>

While, M&S describes its monitoring process for suppliers, its publications fail to elaborate on how it monitors human rights policy implementation within its core business. The CHRB criticized M&S on these grounds, and further called on the company to disclose the percentage of its supply chain it audits on a yearly basis. As with M&S approach to human rights

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<sup>248</sup> “Human Rights.” Marks and Spencer Group PLC.

<sup>249</sup> “Corporate Human Rights Benchmark 2018 Company Scoresheet.” *Marks and Spencer Group*. Corporate Human Rights Benchmark, March 2019, 23.

<sup>250</sup> “Human Rights.” Marks and Spencer Group PLC.

<sup>251</sup> “Human Rights.” Marks and Spencer Group PLC.

<sup>252</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*, 6.



approach in its entirety, these actions are reviewed by the Stakeholder Group and human rights experts. In 2018, third parties applauded M&S for its efforts and called for the company to disclose more information about its business actions.

### Communication and Transparency

As noted in Guiding Principles 17 and 21, effective due diligence requires open channels of communication for stakeholder and shareholder engagement.<sup>253</sup> Following these guidelines, M&S engages involved persons via stakeholder meetings, one-to-one worker interviews, meetings with civil society groups, and community engagement.<sup>254</sup> The full scale of the company’s stakeholder engagement efforts is illustrated in the table below. As evidenced, the

OUR STAKEHOLDERS	HOW WE LISTEN	WHAT THEY'VE TOLD US	WHAT WE DID	
CUSTOMERS	<ul style="list-style-type: none"> <li>- Monitoring sales of products</li> <li>- Participation in Plan A activities and campaigns</li> <li>- Contacts to our Retail Customer Services</li> </ul>	<ul style="list-style-type: none"> <li>- Feedback through our Plan A email</li> <li>- Customer research panels</li> <li>- Social media</li> <li>- Sparks Card charity donations</li> </ul>	<p>Our customers are still keen to support local and national charities.</p> <p>From the end of 2017, our customers reflected national and international concerns about the use and disposal of plastic.</p>	<p>6.1 million Sparks Card customers have donated over £4m to date to their chosen charity.</p> <p>We were one of the founding signatories of the UK Plastics Pact and in addition to existing Plan A commitments announced further plans to reduce our usage of single-use plastic items.</p>
EMPLOYEES	<ul style="list-style-type: none"> <li>- Plan A Champions</li> <li>- Business Involvement Groups</li> <li>- Feedback through our Plan A email and Yammer social media</li> </ul>	<ul style="list-style-type: none"> <li>- Annual Your Say survey</li> <li>- Participation in Plan A activities and campaigns</li> </ul>	<p>Our employees also reflected wider social concerns about the use and disposal of plastic items.</p>	
SHAREHOLDERS	<ul style="list-style-type: none"> <li>- Annual General Meeting</li> <li>- Meetings with institutional investors</li> <li>- Shareholder panels</li> </ul>	<ul style="list-style-type: none"> <li>- Survey of institutional investors</li> <li>- Ethical investment surveys</li> </ul>	<p>On sustainability, there is a growing interest in global indices for different sets of issues. Operating under the World Benchmarking Alliance the largest group is developing benchmarks based on the UN Sustainable Development Goals.</p>	<p>We've participated in many of these benchmarks and consultation groups where they are relevant to M&amp;S and don't duplicate existing activities.</p>
SUPPLIERS	<ul style="list-style-type: none"> <li>- Supplier conferences</li> <li>- Tendering processes</li> <li>- Supplier Exchange website and network</li> </ul>	<ul style="list-style-type: none"> <li>- Visits and meetings</li> <li>- Agricultural Shows</li> </ul>	<p>Our suppliers continue to work closely with us on Plan A, in particular our Global Community Programme and the development of sustainability scorecards.</p>	<p>All our milk pools became RSPCA certified for animal welfare.</p> <p>We've adopted the Higg Index for measuring and managing our supply chain water footprint.</p>
GOVERNMENT AND REGULATORS	<ul style="list-style-type: none"> <li>- Meetings</li> <li>- Dialogues with trade associations</li> </ul>	<ul style="list-style-type: none"> <li>- Responses to consultations</li> <li>- Plan A stakeholder conference</li> </ul>	<p>Proposals for a 25 Year Environment Plan for the UK and deposit-return schemes for plastic drinks containers across the UK have been announced.</p>	<p>We have supported high environmental standards and recycling schemes that best meet the needs of our customers.</p>
NON-GOVERNMENTAL ORGANISATIONS	<ul style="list-style-type: none"> <li>- Visits and meetings</li> <li>- Participation in benchmarking and surveys</li> </ul>	<ul style="list-style-type: none"> <li>- Joint projects</li> <li>- Plan A stakeholder conference</li> </ul>	<p>Environmental NGOs have also been largely focused on the issue of plastic usage and its disposal.</p> <p>Social NGOs continue to be focused on Human Rights such as poverty and gender equality.</p>	<p>We have supported high environmental standards and continued our work on human rights in the supply chain.</p>

Figure 3.3: Sourced from M&S’s 2018 Plan A 2025 Report, Page 38

M&S has a feedback process for stakeholders and shareholders alike. The company opens further channels of communication through internal grievance systems. These systems will be discussed at length in the *Remediation* section to follow.

<sup>253</sup> UNOCHR. “The Corporate Responsibility to Respect,” 58.

<sup>254</sup> “Human Rights.” Marks and Spencer Group PLC.

In regards to external communications, the company has been fairly transparent in their reports, policies, and the information published on the website. The CHRB gave M&S 3.4/4 for “company willingness to publish information.” Information was publicly available for 45/53 indicators assessed in sections A-D of the CHRB. On the same note, the CHRB has urged M&S to disclose more information about internal board discussions, as well as, the corrective actions taken to improve their approach to human rights.<sup>255</sup>

### ***Remediation***

Of the CHRB’s thematic scores, M&S scored the highest (17/20) for its performance in response to serious allegations. In the 2016 M&S Human Rights Policy Commitment, the CEO specifically addressed the company’s perspective on remediation. Steve Rowe assured, “We will not tolerate, nor will we condone, abuse of human rights within in any part of our business or supply chains, and we will take seriously any allegations that human rights are not properly respected.”<sup>256</sup> The words have been matched by action. The M&S Grievance Procedure for Clothing, Home and Food Supply Chains Effective Remedy of Human Rights Issues outlines the policies and procedures for internal complaints.<sup>257</sup> All M&S employees are protected by the internal grievance mechanisms, and all suppliers must adhere to the Global Sourcing Principles (GSP).<sup>258</sup> The GSPs outline the expectations for contracted suppliers, their facilities, the treatment of their workers, and the monitoring of their supply chains.<sup>259</sup> The Principles themselves cover a variety of themes including but not limited to, compliance with national law,

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<sup>255</sup> “Corporate Human Rights Benchmark 2018 Company Scoresheet.” *Marks and Spencer Group*. Corporate Human Rights Benchmark, March 2019, 23.

<sup>256</sup> Steve Rowe. *Human Rights Policy*. Marks and Spencer Group PLC. London: Marks and Spencer Executive Committee, 5 May 2016. Accessed June 26, 2019.

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-human-rights-policy.pdf>

<sup>257</sup> “M&S Grievance Procedure for Clothing, Home and Food Supply Chains Effective Remedy of Human Rights Issues” Marks and Spencer Group PLC, August 2018. Accessed July 1, 2019.

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/mns-grievance-procedure-for-clothing-home-and-food.pdf>

<sup>258</sup> “Suppliers” refers to those who have signed a direct contract for good or suppliers.

<sup>259</sup> According to the code, “workers’ means any individual working under (1) a contract of employment, or (2) any other contract with another party whereby the individual undertakes to personally do any work for, or provide services to, the other party (but excluding contracts where the other party is a client or customer of any profession or business undertaking carried on by the individual).” Please see, the Global Sourcing Principles for further information, Marks and Spencer. “Global Sourcing Principles.” Marks and Spencer Group PLC. August 2018.

<https://corporate.marksandspencer.com/documents/plan-a-our-approach/global-sourcing-principles.pdf>

human resource policies, temporary workers rights, forced labor, child labor, healthy and safe working conditions, non-discrimination, supply chain monitoring, etc.<sup>260</sup> If a supplier fails to uphold the expectations, M&S will work with the supplier to resolve the problems. If the supplier fails to comply, M&S will utilize its leverage by ceasing to trade, canceling contracts, or severing the business relationship.

Complaints (i.e. individual grievances) can be raised against M&S as a parent company for any violations against the Code of Ethics, Human Rights Policy, Global Sourcing Principles, or the Groceries Supply Code of Practice (GSCOP).<sup>261</sup> The violation must have had a direct adverse human rights impact, occurred in the Clothing, Home and Food supply chain, and be evidence-based. The claims can be brought after all local remedies have been exhausted.<sup>262</sup> Thereafter, the company initiates rounds of investigation and responds with the appropriate actions. To exemplify this process, in November 2016, the BBC aired a story uncovering the hardships experienced by Syrian refugees working illegally in garment factories in Turkey. Prior to the show, M&S had previously identified the lack of formalized work for Syrian refugees as a potential human rights risk. Within 24 hours of the BBC's exposé, M&S conducted an unannounced audit in their Turkish factories and found, "... one Syrian and three Turkish casual daily labourers paid in cash, without wage slips, and employed through an agent."<sup>263</sup> While the workers were of legal working age and earning equal wages to formalized workers, they did not have proper work permits. In response, the factory offered the Syrian formal employment with the necessary legal permits, however, the worker declined as he did not want to enter the formal Turkish workforce.<sup>264</sup> For the Turkish workers, the factory compensated any shortfall for Turkish social security payments and pledged to not utilize daily laborers in the future. The event triggered action and the development of more comprehensive measures in the company at large.

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<sup>260</sup> For a comprehensive critical analysis of each theme within the GSP, please reference the 2018 CHRB. "Corporate Human Rights Benchmark 2018 Company Scoresheet." *Marks and Spencer Group*. Corporate Human Rights Benchmark, March 2019.

<sup>261</sup> "M&S Grievance Procedure for Clothing, Home and Food Supply Chains Effective Remedy of Human Rights Issues" Marks and Spencer Group PLC, August 2018.

<sup>262</sup> *Ibid.*, 1.

<sup>263</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*. London: Marks and Spencer Group PLC, June 2017, 17.

<sup>264</sup> The laborer subsequently left the factory and M&S was not able to provide a remedy for this reason. The 2017 CHRB called out the company for failing to provide a remedy for the stakeholder.

<sup>265</sup> M&S reexamined their auditing system (and began to conduct semi-unannounced visits), enhanced their approach to modern slavery, and sought solutions for providing Syrians with legal and dignified work. The company's response to this event was recognized by CHRB and monitored by the Business and Human Rights Resource Center.<sup>266</sup> In this case of Turkey, M&S handled the situation swiftly and through internal mechanisms. Alternatively, if a situation cannot be dealt with through internal mechanisms, the M&S policy claims it will not impede access to state-based judicial mechanisms. The website refers the affected individuals and communities to the OECD National Contact Points if they are unable/uncomfortable to bring claims directly.

The provision of remediation is a learning process. M&S's system is strong, however, it has room for improvement. To ensure the system is culturally accessible and appropriate, internal grievance channels need to be made available in all appropriate languages and users need to be consulted in the development of the channels. Secondly, M&S needs to pledge further cooperation and compliance with state-based mechanisms. It should change the language from "it will not impede," to something that indicates more positive effort on behalf of M&S.<sup>267</sup> Ultimately, problems will occur, but they will present opportunities to improve and understand gaps in the system. With time and further accountability, M&S can strengthen the remediation process.

### **Transformation Underway: Plan A 2025**

In a stakeholder consultation with the human rights advisory group, M&S was encouraged to pursue human rights as a means to achieve sustainable development. The advisory group urged ". . . M&S to take the high road to human rights impacts, [because] its contribution to sustainable development depends on doing so."<sup>268</sup> M&S's *Plan A 2025* aims to answer this

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<sup>265</sup> Ibid

<sup>266</sup> "Marks & Spencer on Syrian Refugees in Turkey." Business & Human Rights Resource Centre. Accessed July 01, 2019. <https://www.business-humanrights.org/en/marks-spencer-on-syrian-refugees-in-turkey>.

<sup>267</sup> "Corporate Human Rights Benchmark 2018 Company Scoresheet." *Marks and Spencer Group*. Corporate Human Rights Benchmark, March 2019.

<sup>268</sup> Marks and Spencer. *Transformation Underway: Plan A Report 2018*. London: Marks and Spencer Group PLC, 7 June 2018. Accessed June 26, 2019, 45.

[https://corporate.marksandspencer.com/annual-report-2018/mands\\_plan\\_a\\_2018.pdf](https://corporate.marksandspencer.com/annual-report-2018/mands_plan_a_2018.pdf)

call to generate positive human rights impacts whilst building a more sustainable business. Plan A was launched in 2007 in an attempt to move beyond traditional CSR practices. In 2018, the company reimagined Plan A, and released Plan A 2025 as its most ambitious plan yet. The company wanted to holistically address the social and environmental issues affecting the business and supply chains.<sup>269</sup> As expressed on Marks and Spencer website:

“It is a business plan, designed to equip us for a future in which our success in staying relevant for customers will depend on our ability to deliver exceptional products and services in a world that is increasingly resource constrained and experiencing social change.”<sup>270</sup>

Among other things, the Plan aims to center business strategy around three pillars: *nourishing well being*, *transforming lives and communities*, and *caring for the shared planet*.<sup>271</sup> It recognizes human rights as an integral part of each pursuit. Each section of the annual report addresses one of the aforementioned pillars. In doing so, it highlights the relevant SDGs, as well as, human rights aims and progress.

The first section, *nourishing well being*, aligns with SDG 3 (Good Health & Wellbeing) and SDG 17 (Partnerships). With an end goal of helping 10 million people live happier and healthier lives, M&S considers itself responsible for shaping the health and well being of workers and customers. As a food retailer, the enterprise has the power to shape customer’s food choices by evaluating the products sold in stores. Recognizing this fact, M&S is working to increase the number of healthy products in stores, provide more vegetarian and meatless options, change the single-serving sizes of “indulgent” foods, and incentivizing people to make healthier food choices through in-store loyalty programs. For its employees, it hopes to promote wellbeing through mental health checks, colleague health assessments, and by urging its suppliers to develop in-house access to basic healthcare. Each of the targets mentioned above are accompanied by time-bound goals and a short summary of progress.

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<sup>269</sup> "Delivering Plan A." Marks and Spencer. Accessed July 09, 2019. <https://corporate.marksandspencer.com/sustainability/delivering-plan-a>.

<sup>270</sup> Ibid

<sup>271</sup> All of the information presented in this section was derived from the M&S Plan A 2025 Report. Marks and Spencer. *Transformation Underway: Plan A Report 2018*. London: Marks and Spencer Group PLC, 7 June 2018. Accessed June 26, 2019.

The second pillar, concerning *transforming lives and communities*, is equally ambitious. It hopes to transform 1,000 communities by 2025, whilst also supporting SDGs 1, 2, 4, 5, 8, 9, 10, 11, 16, and 17. In order to achieve this goal, M&S launched a pilot program in 10 locations to secure meaningful social, environmental, and economic change in the communities surrounding M&S stores. By 2025, it hopes to roll out the program in 1000 stores. To create transformational change, M&S has developed a comprehensive list of sub-goals. The goals range from creative developments, such as creative common spaces in their groceries stores for community activities, to more weighty goals, such as the eradication of modern slavery. Regardless of the differences in gravity, all of the targets are geared to improving society through everyday business operations.

Last but not least, the third pillar of Plan A 2025, contains mostly environmental objectives. In *caring for the shared planet*, M&S is contributing to SDG 6, 7, 12, 13, 14, 15, and 17. As the overarching goal, M&S aims to be a zero-waste company by 2025. This aspiration necessitates wide-scale change to everyday business operations. M&S is paying close attention to the products it sells, how they are packaged, transported, and sold. In regards to the products sold, M&S wants all of the products it sells to have a “Plan A attribute,” or somehow address a social, ethical, or environmental impact. For example, selling only shade-grown coffee, sustainably sourced fish, or ethically manufactured chocolate. By changing the products sold on shelves, the company ensures every good sold is profitable to both the company and society. To lessen the amount of waste produced, M&S is working to make it easier for customers to recycle products purchased by using single-material packaging. Additionally, for their clothing products, M&S plans to launch a campaign to encourage recycling and repair. By 2025, M&S hopes to produce a larger share of its clothing with recycled materials and introduce repair services for worn and damaged clothing. For the environment, M&S aims to reduce greenhouse gases, establish carbon-neutral operations, and move to 100% renewable energy for its stores, warehouses, and offices. Overall, the three pillars work together to create a comprehensive business strategy focused on all four components of sustainable development. M&S Plan A 2025 is an energizing example of the synergistic business opportunities created in the pursuit of social, economic, and environmental change.

M&S is not “cherry-picking” the select SDGs it feels it can achieve whilst maintaining the status quo. Instead, by changing its core business strategy it is engaging with the full spectrum of the Global Goals, and selecting the department best suited to realizing the Goals. In M&S most recent Communication on Progress to the Global Compact, the company reported that it is working to engage with all 17 SDGs and support the principles related to human rights, labor, environment and anti-corruption. This is further evident in its Plan A 2025 reporting on the SDGs. The table below demonstrates the actions the company is taking for each of the Global Goals.

FRAMEWORKS AND ASSURANCE

PLAN A AND THE UNITED NATIONS SUSTAINABLE DEVELOPMENT GOALS

		PAGES		PAGES		
<p>Launched in 2015, the 17 SDGs form a shared global agenda for environmental improvement, social empowerment and greater equality. The table here show how Plan A 2025 supports 15 of the SDGs. While goal number 17, on Partnerships, underpins all of these activities.</p> 	<b>WELLBEING</b>	 We aim to provide our customers with industry-leading Food and Clothing & Home products, services and support to help them live more healthily. We'll also work to improve the health and wellbeing of M&S colleagues and people working in our supply chains.	12-15	<b>COMMUNITY</b>	 We'll launch an M&S Inclusion Strategy and help one million people in our supply chains through our Global Community Programme.	19-22
	<b>COMMUNITY</b>	 We'll research the causes of in-work poverty and how we can make improvements. We're aiming to pay a living wage to all M&S colleagues worldwide and encouraging our key franchise partners and product suppliers to do the same.	21-22	<b>COMMUNITY CONTINUED</b>	 We'll help transform 1,000 communities and provide community space in 50% of our full line UK stores.	17
		 Our greatest contribution to eradicating hunger will be through championing human rights, inclusivity and fair pay across supply chains. In addition, any edible surplus food from our stores, key franchises and food suppliers will be consumed by people.	21,31	<b>PLANET</b>	 As a retailer, our most significant usage of water is in our supply chains. We'll use Sustainability Scorecards to improve water efficiency across our supply chains and water stewardship plans for the most at-risk watersheds.	34
		 We'll identify future skills gaps and training needs for M&S colleagues and launch major education programmes in UK schools and colleges.	17-18		 We'll continue to improve our own energy efficiency and that of our suppliers using Sustainability Scorecards. We'll also support the development of renewable energy markets by procurement and help at least 200 communities generate their own energy.	28-34
		 We want our workforce to reflect the diversity of the communities in which we trade. We'll launch programmes to combat gender discrimination, reduce the non-demographic pay gap in our UK business and work to promote gender equality at our suppliers.	20-21		 We'll develop and implement new product circular economy standards and services, ensure all packaging is easy to recycle and halve net food waste.	25-26
		 M&S employability programmes will continue to help disadvantaged parts of society into employment. We'll also launch further programmes to address the human rights impacts of our sourcing policies and eradicate modern slavery.	19-22		 We'll maintain our position of operational carbon neutrality while also achieving a Science-Based Target for reducing CHG emissions by 80% and by 13.3m Tonnes across our value chains by 2030.	27-30
		 As a retailer, our main contribution will be as a catalyst for product and supply chain management innovation by developing new standards of social and environmental sustainability.	19-34		 We'll ensure all marine-based raw materials respect ecosystem sustainability standards.	33
					 We'll ensure all land-based raw materials respect ecosystem sustainability standards.	32-33

Figure 3.4: Sourced from M&S's 2018 Plan A 2025 Report, Page 47

## An Integrated Approach

### Key Examples

#### From Compliance to Change

From the early days of M&S human rights policy, the company recognized the call beyond compliance. Accordingly, it created a three phase approach to human rights. In the first



phase (2012-2016), the company was primarily concerned with completing the tasks set out by the UNGPs. This entailed establishing a human rights policy, integrating respect, building strong governance systems, and assessing risk. Once this foundation was in place, the company moved into its next phase. From 2017 to 2018, M&S worked to address salient human rights risks, engage stakeholders, create strong internal grievance mechanisms, and to understand human rights performance as a reflection of human rights performance. 2018 was key for transformative change. In 2018, M&S incorporated the respect for human rights into the larger Plan A aspirations and set goals for creating positive human rights impact.<sup>272</sup> In the third and current



Figure 3.5: Sourced from M&S Annual Human Rights Report 2017, Page 5

phase, the company is working to promote and support human rights. However, this was only made possible by the strong foundation that was first established. Much like a house cannot be decorated until its been built, further human rights action cannot occur until the baseline responsibilities have been met. It should be noted that M&S's transformative agenda stands in addition to and not in place of the core human rights responsibilities.

In the case of M&S, the UNGPs were the foundation for compliance, and the SDGs are an instrument for change. From the beginning, companies should institute human rights compliance programs with the ambition of one day going beyond compliance to promotion.

<sup>272</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*. London: Marks and Spencer Group PLC, June 2017, 17.



### *Integrated Reporting*

As argued in Chapter 2, monitoring and reporting on human rights responsibilities and sustainability ambitions can happen simultaneously so long as prioritization is given to human rights. Contrary to the concerns expressed, in the case of M&S, integrated reporting did not dilute or detract from human rights compliance. The 2018 Plan A report maintains the importance of human rights alongside larger business objectives.

In 2016 and 2017, human rights and sustainability were addressed in subject-specific reports. For the first years of M&S engagement with human rights, the separation was necessary and effective. It allowed the company to build up its human rights program and offer in-depth explanations of its approach to the respect of human rights. In 2018, through Plan A 2025, the company streamlined human rights and sustainability reporting.<sup>273</sup> As discussed, the Plan A report is divided into sections, each one representing one of the three thematic business ambitions.<sup>274</sup> Each section identified the relevant SDGs and salient human rights risks and reported on their actions and progress. The report is detailed, easy to understand, effective, and it highlights M&S's short-comings as well as its progress. It is a prime example of integrated reporting and companies aiming to take a similar approach should consider it as a model of best practice.

### *Linking Salient Human Rights Issues to the SDGs*

The M&S approach illustrates a “dual-perspective.” Under which, it adheres to the primary pursuit of preventing harm, then transforms insights gained into a plan for SDG contribution.<sup>275</sup> Using the knowledge gained from human rights mapping, stakeholder engagement, and external consulting, M&S identified the enterprise's salient human rights risks. Taking it a step further, the human rights report linked human rights to the correlated SDGs. In

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<sup>273</sup> Marks and Spencer. *Transformation Underway: Plan A Report 2018*. London: Marks and Spencer Group PLC, 7 June 2018. Accessed June 26, 2019.

<sup>274</sup> 1) Nourishing Well Being, 2) Transforming Lives and Communities, and 3) Caring for the Shared Planet

<sup>275</sup> Karin Buhmann, Jonas Jonsson, Mette Fisker, “Do No Harm” and “Do More Good” Too: Connecting the SDGs with Business and Human Rights and Political CSR Theory, *Corporate Governance: The International Journal of Business in Society*, 2017. Accessed February 17, 2019. <https://doi.org/10.1108/CG-01-2018-0030>

doing so, the company acknowledged not only the inherent connection between the two entities, but even greater, the positive impacts correlated with human rights compliance. The following figure was published in their first human rights report in 2017.<sup>276</sup> It highlights M&S seven core salient human rights concerns, as well as, four human rights the company is “watching” for



Figure 3.6: Sourced from M&S Annual Human Rights Report 2017, Page 19

added caution. The respect of the seven core salient human rights yields decent work and economic growth (SDG 8). Which in turn, contributes to ending modern slavery (SDG 8), tackling in-work poverty (SDG 8), and fostering an inclusive society (SDG 5 & 10).

The connection between salient human rights and the SDGs strengthens M&S communication. As proposed in the second chapter of this work, the SDGs provide a pre-packaged, universally approved, and simplified means of discussing human rights in our world. By utilizing the SDGs in M&S communications and reporting, the company is communicating 1) the overlap between sustainability and human rights, and 2)

how their actions relate to the broader global agenda.

### *Collaborative Leadership*

In order to integrate human rights and sustainability from a leadership perspective. M&S encourages information sharing between the Plan A Committee and the Human Rights and Modern Slavery Steering Group. The Human Rights and Modern Slavery Group is composed of the various directors within the business structure (Director of Sustainable Business, Corporate Head of Human Rights, Head of Operations for International Retail, Head of Governance, etc.) and its actions and policies are monitored by advisory committee. All members of the Human

<sup>276</sup> Marks and Spencer. *Our Approach to Human Rights: Human Rights Report 2017*. London: Marks and Spencer Group PLC, June 2017, 19.

Rights Group also serve on the Plan A Committee. Similarly, Plan A Committee includes a long list of the departmental leaders within the business. It is monitored by the Sustainable Retail Advisory Board, composed of the M&S CEO and the CEOs of Oxfam GB, BSR, WFF, the Welcome Trust, and an independent expert on well-being, sustainability, and public health.<sup>277</sup> By inviting leaders of known NGOs to serve on the committee, the company is held accountable to third parties and informed by experts in human rights.

This separate-yet-joined approach is important. The separate group allows for specific human rights action and prevents the human rights agenda from getting swallowed up by larger

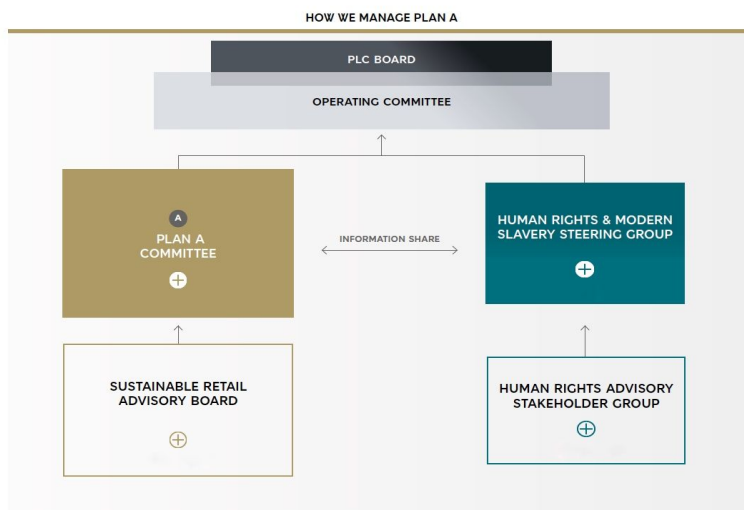


Figure 3.7: Sourced from M&S's 2018 Plan A 2025 Report, Page 40

company ambitions. Meanwhile, the collaboration between the two entities keeps human rights at the center of business actions and integrates it throughout the various sectors of the company. Because Department Directors serve both the human rights and the Plan A Committee, it encourages M&S to view human rights as integral to sustainable business and vice versa. Following

the lead of M&S, business should consider creating similar platforms for information sharing and collaboration.

## Lessons Learned

Given the examples provided in the previous section, five key lessons emerge. In order to take an integrated approach, companies should aim high from the beginning, connect salient human rights to the relevant SDGs, establish a joint leadership structure, integrate reporting, and most importantly, seek the counsel of human rights experts.

<sup>277</sup> For a more comprehensive list with individual names, please refer to the Plan A Report. Marks and Spencer. *Plan A 2025 Commitments*. London: Marks and Spencer Group PLC, June 2017. Accessed June 25, 2019. <https://corporate.marksandspencer.com/documents/plan-a/plan-a-2025-commitments.pdf>

First and foremost, companies should aim high from the beginning. When setting human rights ambitions, compliance should be seen as a launching pad for creating change. As discussed throughout the work, sustainable development and human rights are mutually reinforcing. When companies make efforts to respect and promote human rights, they are likely positively impacting a least one facet of sustainable development in the process. From the beginning, companies should seek to understand the negative alongside the positive, and the potential for risk, as well as, the propensity for meaningful change. When initially approaching human rights, companies should aim to build compliance structures that respect human rights at minimum and promote human rights at best. In the case of M&S, the three-phase approach did precisely that. By ensuring and embedding the respect of human rights, M&S then set their sights on higher ambitions. Plan A 2025 and M&S's holistic approach to sustainable change was made possible by the human rights scaffolding created in years prior.

Similarly, businesses should maximize the due diligence process. When mapping stakeholders and identifying risks, companies should simultaneously identify salient human rights and relevant SDGs. The dual-approach maximizes effectiveness, potentially lowers costs, and provides a holistic picture of a company's negative and positive human rights impacts. Not only can this understanding be used within business and communication strategies, it grants businesses an invaluable understanding of the broader economic, social, and environmental impact of their operations.

With growing demands and expectations of business, more and more enterprises will establish sustainability and human rights departments. When possible, institutionalized collaboration should occur between the two teams and the business as a whole. As demonstrated by the leadership structure of Plan A 2025, information sharing strengthens the overall ethical and environmental aims of the business. This practice ensures the leadership of the business is on the same page and pursuing goals in unison. It is essential to recognize the unique nature of M&S's Plan A 2025. Most companies will not have a comprehensive ethical and sustainable business strategy. Nonetheless, they should ensure the human rights leaders have a seat at the table wherever the conversation is happening.

As the old adage goes, no man is an island. Businesses cannot succeed in the fight for human rights and sustainable development alone. It requires collaboration, information sharing, and asking others for help. M&S understands this. Their level of collaboration with Oxfam, the Shift Project, BSR, Impactt, the Institute for Business and Human Rights, and the Ethical Trading Initiative (to name a few) provides accountability and expertise. Problems such as SDG-washing and cosmetic sustainability are mitigated through close monitoring. Third parties detect lapses in protection, hold businesses to their human rights commitments, and guide them through the process. However, this will not be possible for all business enterprises everywhere. Not all companies have access to such high-level expertise and NGOs. At present, the number of business enterprises outnumbers the number of specialized organizations for Business and Human Rights. As more businesses develop human rights programs and seek external advice, supply will rise to meet demand. Until then, companies unable to partner with sizeable NGOs and well-known human rights practitioners, should seek the counsel of human rights experts by hiring in-house, employing consultants, or requesting mentorships from leading companies in the industry.

Through both its shortcomings and its innovations, the case of M&S offers numerous lessons for academics and practitioners alike. It demonstrates that an integrated approach is both possible and practical. However, the UNGPs and SDGs will not be neatly transposed from paper to practice. It will require CEO dedication, integrated reporting, collaborative leadership, enhanced due diligence, stakeholder listening, and a few mistakes along the way. Like M&S, businesses should aim high from the beginning, seek mentorship and accountability, and reimagine the role of business in society.

## CONCLUSION

*“Purpose is better motivator than money. Money, while necessary, motivates neither the best people nor the best in people. Purpose does.”*

*- Nilofer Merchant*

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Businesses hold the power to create or destroy—to strengthen communities and spur sustainable change or to extract, exploit, and pollute. For far too long, businesses have profited at the expense of people and planet. However, this business model is neither responsible nor sustainable. When businesses fail to uphold human rights, they harm society alongside their business reputation. Allegations of abuse cause businesses to lose customers, business partners, and oftentimes, the social license to operate. Impending planetary boundaries and rising social ills also stand to threaten existing economic paradigms. Without raw materials, a healthy workforce, and steady customer demand, businesses will struggle to compete in the coming era. For the world to progress, businesses must reshape their business models, adopt long-term strategies, and rise to the global call for meaningful business action.

The international community has made two great asks of business. First and foremost to embed the respect of human rights into core business practices; and secondly, to enter into a global partnership for sustainable development. Outlined as the UNGPs and the SDGs, both documents are human rights inspired and internationally endorsed. Despite their synergetic aims, the documents are perceived as similar yet separate entities. Theoretically, few scholars have explored the integration of the frameworks; and practically, few businesses have integrated the SDGs into existing human rights policies.

This research aimed to bridge the gap by establishing a link between the two frameworks and exploring the practical integration of the UNGPs and SDGs. Via an analysis of the Pillar II

responsibilities and SDG engagement, the case for a new integrated framework emerged. The proposed framework holds the potential to maximize utility and further the respect of human rights. By engaging in an enhanced due diligence process, businesses gain a joint-understanding of potential risks alongside the propensity for positive change. This dual-perspective enables the businesses to embed the preventative measures required by Pillar II, and it inhibits superficial engagement with the SDGs. The UNGPs provide a framework for stronger SDG implementation, and SDGs provide a language for effective UNGP communication. By transposing these human rights impacts into SDG language, businesses gain a poignant communication tool for discussing the positive by-products of human rights compliance measures. Not only does it strengthen internal and external communications, but it also mobilizes employees around common goals. Likewise, the remediation process affirms human dignity, strengthens justice systems, and contributes to the Global Goals. By encompassing the SDGs into the existing business framework, the responsibility of businesses is simultaneously expanded and simplified, and the potential for longevity is established.

As the case of M&S demonstrates, the UNGPs and SDGs will not be neatly transposed from paper to practice. The process requires dynamic CEO dedication, comprehensive assessments, stakeholder engagement, constant improvement, and a business-wide commitment to positively impact society. M&S manifests these core components and goes beyond the call of corporate responsibility. By integrating their approach to human rights and sustainable development, the company has positioned itself a role-model and an agent for change. As M&S continues to progress, its shortcomings and its successes will provide valuable insight for the business community. Following the lead of M&S, businesses should embrace the M&S model, correct the errs, and join the global pursuit of a better world.

For businesses at all stages of UNGP and SDG implementation, there are lessons to be learned. For those already engaged, they must aim higher, integrate engagement, and promote collaboration at every level. For those yet to engage, they must maximize due diligence practices, seek to understand salient human rights alongside relevant SDGs and use compliance mechanisms as a launching pad for generating meaningful change. For all involved, the process will require trial and error. The road will be steep, but the journey will be prosperous. Ultimately,

a better world is not one sectors' fight or one business's victory. All businesses must work together until every product is ethically produced, every link of the supply chain is infused with human dignity, and until every profit equates to personal and planetary well-being.



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