



Business &
Human Rights
Initiative

Roundtable on Business and Human Rights

in an Era of
Anti-Globalization

UConn

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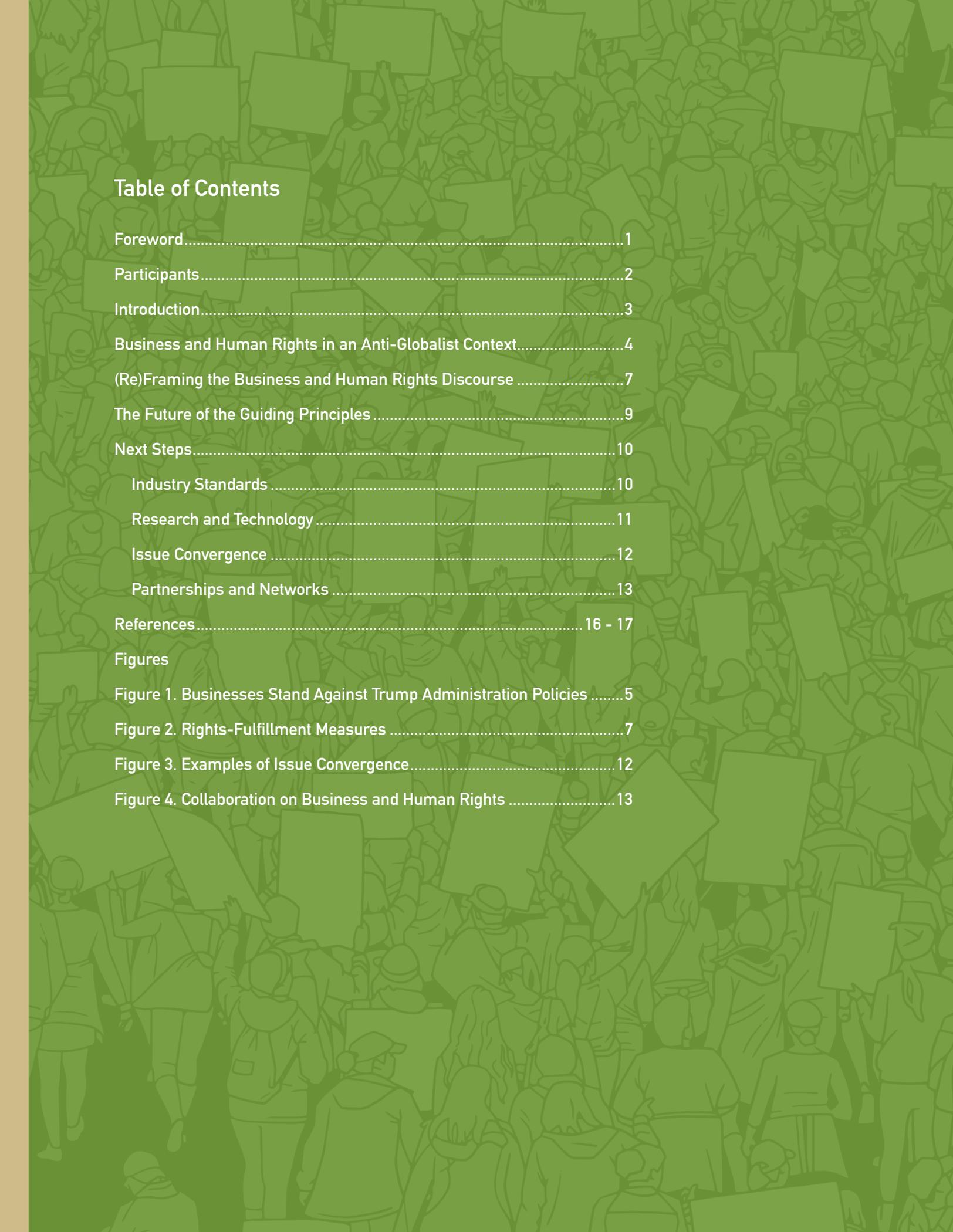


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Foreword

The Business and Human Rights Initiative at the University of Connecticut is a partnership of the Thomas J. Dodd Research Center, the School of Business, and the Human Rights Institute. It is dedicated to developing and supporting multidisciplinary and engaged research, education, and public outreach at the intersection of business and human rights.

On March 30, 2017, the UConn Business and Human Rights Initiative convened a *Roundtable on Business and Human Rights in an Era of Anti-Globalization*. This Roundtable brought together academic scholars, human right advocates, and business advisors and leaders to explore the implications of the politics of anti-globalism for the study and practice of business and human rights. Punctuated by the Brexit vote in the United Kingdom and the presidential election in the United States in 2016, opposition to global interconnection and global institutions presents challenges to corporate responsibility towards human rights, including the United Nations Guiding Principles on Business and Human Rights and the growing universe of laws, standards, norms, plans, and communities in the field of business and human rights.

The resulting discussions were wide-ranging, provocative, and thought-provoking, and this report constitutes a good faith attempt to summarize and contextualize them. We hope that it is of benefit to researchers and practitioners alike as they analyze, respond to, and act upon the grave challenges—as well as the potential opportunities—of the current age.

First and foremost, I wish to express my gratitude to the participants for generously providing their time, expertise, and support to the Roundtable. Glenn Mitoma served as co-chair, and his vision shaped the Roundtable from its conception. Alison Brysk, who was the 2017 Marsha Lilien Gladstein Visiting Professor of Human Rights, took time during her busy stay at UConn to join the Roundtable discussions.

The Roundtable would not have been possible without the multifaceted contributions of Shaznene Hussain, graduate research assistant, who was singularly instrumental in organizing the Roundtable and preparing this report. Special thanks to Nana Amos and Erica MacDonald for providing administrative support and to UConn undergraduate students Heather Coleman, Christopher Raymond, Tazmaya Reid, and Ariana Scurti for serving as rapporteurs.

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INTRODUCTION

The University of Connecticut convened the 2017 Business and Human Rights Roundtable (the Roundtable) at a critical juncture. In the aftermath of the recent turn towards nationalist, populist, and anti-globalist¹ politics in the United States and Europe², advocates of the Business and Human Rights (BHR) approach³ find they must contend with a substantial attack on post-World War II multilateral institutions and values, including those related to economic and cultural globalism and international human rights regimes. Over the past five years, advocates have made strides in implementing the United Nations Guiding Principles on Business and Human Rights (UNGPs)⁴, a core element of the BHR approach.⁵ More recently, however, national, international, corporate, and non-governmental (NGO) efforts to address human rights responsibilities of businesses appear to be at risk of stalling or being eliminated entirely. The purpose of the Roundtable, therefore, was to identify specific new challenges to the BHR approach, as well as to explore ways to continue the promotion and implementation of its core tenets. Notably, Roundtable participants recognized limitations of the BHR approach as it exists, and called for a transformation of this approach, such that it includes, but also moves beyond the UNGPs' framework.

The Roundtable was conducted under a modified Chatham House Rule. As such, it references participants' comments without attribution. This report is not intended to be a document adopted or endorsed by consensus of the group, nor necessarily reflecting the positions of the individual participants or their organizations. Rather, this report is designed to document the considered views of a prestigious group of experts on this emerging political context in order that those working in the BHR field are better able to navigate this new terrain.

This report is organized around three major topic areas that emerged during the morning plenary session and the discussion of next steps during the afternoon breakout sessions of the Roundtable:

- 1 Business and Human Rights in an Anti-Globalist Context**
- 2 (Re)Framing the Business and Human Rights Discourse**
- 3 Future of the United Nations Guiding Principles on Business and Human Rights**
- 4 Next Steps: Industry Standards, Research and Technology, Issue Convergence, Partnerships and Networks**

BUSINESS AND HUMAN RIGHTS IN AN ANTI-GLOBALIST CONTEXT



The 2016 electoral success of both the Brexit and Trump campaigns drew a bright line under the broader trend of right-wing populism now evident from Eastern Europe to the Philippines. Under the banner of anti-globalism, resurgent forms of nationalism and nativism have combined with hostility towards perceived global elites and institutions, including the United Nations, the World Trade Organization (WTO), and the European Union. Who counts as a ‘global elite’ is often unspecified, but at times includes government officials and bureaucrats, business and financial leaders, academic and scientific experts, social activists, the mass media, cultural figures and celebrities, and urban residents.⁶ Thus, the economic protectionism of anti-globalism is bound up with racist, homophobic, transphobic, misogynist, anti-Semitic, xenophobic and anti-intellectual sentiments that are at once more and less than anti-globalization, understood as a critique of the current governance and configuration of the global economic system. Anti-globalism as a movement cuts deeper, challenging the underlying values of human equality, non-discrimination, and multiculturalism.

Crucial to the BHR approach is the relationship between anti-globalism and the regulatory environment. Of course, economic nationalism could imply a more aggressive state role in the business sector, but Roundtable participants noted that

in the United States, the Trump Administration seems equally as hostile to international free trade agreements—such as, notably, the Trans-Pacific Partnership (TPP) and the North American Free Trade Agreement (NAFTA)—as it is to regulation of businesses generally. Such a potent mix underscores the Trump Administration’s rejection of the global institutionalist foundations of the BHR approach. Participants voiced concern that such an ideology may create incentives for businesses to ally with nationalist, populist, and authoritarian political movements in order to advance a deregulatory agenda that would allow business to operate unfettered, or at least without significant constraints regarding human rights. Even prior to these most recent political developments, only a small fraction of business enterprises were routinely incorporating comprehensive and explicit human rights approaches into their decisionmaking.⁷ Given its rhetoric and policies thus far, the Trump Administration may embolden corporations and business leaders who favor widespread deregulation with regard to labor practices, environmental concerns, stakeholder accountability, and other human rights-related issues to push their advantage.⁸ At a very minimum, the open hostility of the Trump Administration and its supporters to human rights approaches may also discourage companies and industries from voluntarily adopting such approaches for fear of political consequences.

Alternatively, business representatives at the Roundtable called attention to examples of enterprises that have already publicly opposed the rhetoric and policies of the Trump Administration in matters related to BHR (see Figure 1 below). These stances reflect a variety of impulses and interests on the part of companies, including a desire to access a global labor pool, concerns with the potential impacts of climate change, and, in some cases, concern for the rights of their workers, customers, and other stakeholders. Regardless, Roundtable participants recognized in these instances of opposition to the Trump Administration's agenda an opportunity to help businesses move from a race-to-the-bottom mentality to an approach that

reinforces core human rights values, by going beyond minimal legal obligations to respect human rights where necessary.

In discussing varied business responses to recent political changes, however, several participants cautioned against seeing the Trump Administration as the only, or even most significant, threat to the BHR approach. One participant thought it was important to distinguish between short-term political issues, such as those presented by the Muslim travel ban or the U.S. withdrawal from the Paris Agreement, and long-term challenges with regard to BHR, such as embedding human rights approaches more deeply in corporate cultures and business models.

Figure 1. Businesses Stand Against Trump Administration Policies⁹

- ▶ More than 125 companies in the United States, including major technology companies, filed an amicus brief against President Trump's executive order banning many Muslim visitors, immigrants, and refugees from entering the U.S. In doing so, these companies cited values such as inclusion, diversity, and valuable contributions of their immigrant employees as reasons for their opposition to the executive order.
- ▶ Several prominent U.S. businesses, including GE, Walmart, Apple, Amazon, Microsoft, and Google's parent company, Alphabet, criticized President Trump's executive order on March 28, 2017, which dismantled a number of federal environmental regulations, citing the serious negative consequences of climate change to the planet. For instance, pledging to continue his company's environmentally sustainable business practices, then GE CEO Jeff Immelt called on other companies to fill the void left by regressive or volatile political leadership.
- ▶ Beginning soon after the presidential election in November 2016, hundreds of companies in the U.S. called on the President-elect and Congress to strongly support continued U.S. participation in the Paris Climate Accord, which had been signed in December 2015 by 195 countries, including the United States. Later, in May 2017, a group of major multinational companies published an open letter to President Trump, urging him to keep the U.S. in the Paris Agreement. The companies cited benefits, such as job creation, and harms, such as declining agricultural productivity and pollution of water supplies, as among the reasons for their support of the Paris Agreement. Many of these business leaders also declared that their companies would continue to address climate change regardless of deregulation by the Trump Administration. President Trump, nonetheless, announced on June 1, 2017 that the U.S. would withdraw from the Paris Agreement.

On the one hand, deregulation and neo-liberalism have been longtime goals of many political conservatives, businesses, and wealthy individuals. In many respects, this agenda has proved enormously successful over the past forty years and has been thus far little affected by the BHR approach. On the other hand, organized opposition to economic globalization and associated global regulatory regimes, such as the World Trade Organization (WTO), has existed since at least the late 1990s. Furthermore, only a small fraction of this opposition has been rooted in isolationist, nationalist, or nativist perspectives. Certainly then, not all criticism of the BHR approach can be attributed to the political forces now at work in the Trump Administration. Rather, many participants acknowledged that President Trump had simply given voice to and capitalized on existing sentiments against international institutions.

In that regard, participants from academia and human rights NGOs called on BHR proponents to more directly acknowledge and address the negative consequences of economic globalization. Many in the Global South and in marginalized communities of the Global North have, for years, experienced dislocations, deprivations, and other challenges as a result of increased global trade, capital flows, and technological change. As such, anti-globalist and populist sentiments in some instances can be viewed, they argued, as understandable reactions to socioeconomic inequality

and disruption resulting from certain practices and consequences of economic liberalization. For instance, even in relatively prosperous countries, structural shifts from manufacturing to service- and knowledge-based economies have resulted in persistent pockets of chronic underemployment and stagnant wage growth, which, when coupled with the fraying of the social safety net, has created economic insecurity and anxiety for millions. Whether or not it is a reasonable expectation, the fact remains that global regimes have frequently failed to fill the voids left by the eroding welfare state. Arguably, many who experience such economic dislocation have little reason to view global regimes—including those devoted to human rights—with anything but skepticism. One participant noted, therefore, that while anti-globalist views are politically ascendant, many people who tacitly or explicitly support these political movements are in fact more likely to want to renegotiate the terms of economic globalism rather than abolish it entirely.

Given these initial observations, participants delved into discussions about specific ways in which the BHR community can respond to contemporary critiques, while building upon the accomplishments of the last few years. Participants were keen to draw on existing knowledge and expertise as well as to build new mechanisms for advancing the BHR approach to corporate regulation.

(RE)FRAMING THE BUSINESS AND HUMAN RIGHTS DISCOURSE



The question of how the BHR approach can pivot and adapt to recent challenges was a salient question for Roundtable participants. They were also interested in developing ways to apply a BHR framework more effectively across sectors and industries. For many participants, this included finding improved ways to engage and communicate with businesses and a diverse set of stakeholders.

When working with businesses, participants concurred that it is beneficial to articulate human rights goals and assessments of business in positive terms rather than take a punitive approach. This is especially relevant in cases where corporations have an aversion to “rights” language. For instance, partici-

pants discussed the difference between adopting a rights-violation frame vs. a rights-fulfillment frame in monitoring and assessing corporate conduct. In many cases, a rights-fulfillment frame can act as an incentive for businesses to adhere to international human rights principles. Ideally, BHR advocates will be able to acknowledge and highlight achievements of companies that make progress with regard to human rights issues while maintaining pressure on violators to change abusive or corrupt practices. One participant cited Oxfam’s Poverty Footprint as a good example of this approach (see Figure 2 below). A clearly defined and persuasive set of incentives, participants agreed, will better prepare corporations to meet BHR goals.

Figure 2. Rights-Fulfillment Measures

- ▶ The Oxfam Poverty Footprint is a framework designed to provide a “rights based business case” for sustainable development¹⁰. According to Takumo Yamada, a Senior Policy Advisor at Oxfam International, the Poverty Footprint is intended to serve as a “tool for companies to examine, in partnership with civil society, their impact on poverty through five lenses (livelihoods, health and wellbeing, diversity and gender equality, empowerment, and security and stability) across their value chains.” (Yamada, 2015) The framework uniquely allows companies to assess their impact on sustainable development efforts in partnership with civil society and community stakeholders. Details on these indicators and metrics are available at unglobalcompact.org/library/3131.
- ▶ The Index of Social and Economic Rights Fulfillment (SERF Index), while not developed in partnership with business, is an example of a rights-fulfillments framework to track the progressive realization of social and economic rights. The Index was developed as part of the Economic and Social Rights Empowerment Initiative founded by Sakiko Fukuda-Parr and Terra Lawson-Remer at the New School, and Susan Randolph at the University of Connecticut. Unlike other measurements of economic and social rights fulfillment, the SERF Index considers “the perspectives of both the rights-holding individual and the duty-bearing government” and creates a composite score for each core social and economic right. (Fukuda-Parr, Lawson-Remer, & Randolph, 2011-2017) The Index thus estimates state compliance with obligations for progressive realization of relevant human rights. Details on the indicators, data, and approach are available at serfindex.uconn.edu.

This led a number of participants to remark that careful consideration of language and framing in this way is also compatible with the business case for human rights. The business case calls on corporations to account for the ways in which human rights issues can impact cost-benefit analyses already familiar to them. These include costs to businesses resulting from reputational harm, management distraction, or divestment by socially responsible investment funds, as well as the benefits of respect for the rule of law and value added from adherence to international human rights standards. Participants were optimistic that combining a rights-fulfillment frame with the business case for human rights would facilitate conversations with business leaders, especially at early or difficult stages of engagement.

The discussion also addressed tension between the use of a human rights framework vs. less “confrontational” approaches¹¹, such as economic development, workforce development, social impact, corporate social responsibility, sustainability, and risk management to regulate corporate conduct¹². For many participants, a combination of a rights-fulfillment frame and some form of “social benefits” frame seemed ideal in appealing to businesses and stakeholders alike. Participants acknowledged, however, that at this stage of the discussion, it was unclear precisely how these different approaches might be combined in complementary ways. Ultimately, there may be no single template that functions as an ideal entry point for the BHR approach across sectors and industries. A somewhat flexible approach that responds to the specific regulatory and cultural conventions of relevant companies, industries, sectors, and societies is likely necessary.

The issues of discourse and framing were central to discussions of stakeholder engagement as well. Given the populist and anti-globalist rhetoric of recent political campaigns in the United States and Europe, participants expressed that the BHR approach must address issues of socioeconomic inequality created or maintained by market-based economies. Otherwise, according to several participants working in academia and NGOs, core BHR instruments such as the UNGPs risk being perceived as ineffective.

Acknowledging that experts in international human rights are, at times, portrayed as elitist in populist rhetoric, one participant urged BHR advocates to address the current normative conflict between expertise and values. In doing so, the participant advised that BHR discourses refrain from assuming or implying that people with anti-globalist or populist perspectives simply lack adequate knowledge about the way international law and global institutions function. As with corporate engagement, participants expressed a desire to engage with various stakeholder communities using language and ideas pertinent to their struggles. Calling attention to connections between a BHR framework and discourses on living wage, economic and workforce development, and sustainability, for example, can facilitate collaboration with labor and other stakeholders.

Participants suggested multiple ways in which the BHR approach can be framed so as to address problems of socioeconomic inequality and marginalization globally. One way in which the BHR approach can maintain an international focus, one participant contributed, is by paying attention to common struggles and solutions across national borders that will challenge the zero-sum view of economic globalization. Another participant stated that conversations and analysis of socioeconomic inequality can be framed in terms of gaps in human rights fulfillment. Two participants from human rights NGOs suggested that BHR advocates in the United States and Europe collaborate more with colleagues working directly with socioeconomically marginalized populations to address aspects of economic globalism that the BHR approach has yet to tackle. For instance, a large portion of the world engages in informal labor and questions exist as to how a BHR framework can address human rights abuses in this arena. Human rights discourses could also play a more prominent role in debates about the contribution of international trade mechanisms to socioeconomic inequality. Several participants noted that the WTO does not include social or environmental clauses in its trade rules.¹³ In response, a participant with expertise in international law proposed that BHR discourses encourage international trade agreements to take into account domestic socioeconomic inequalities, specifically as a means to improve human rights fulfillment.

THE FUTURE OF THE GUIDING PRINCIPLES



The role of the UNGPs going forward was the focus of much debate. Participants agreed that the UNGPs were preferable to weakly enforced international treaties that member states may seek to put in their place. However, the question of how best to communicate and implement these principles remained. On one hand, some participants expressed skepticism about the UNGPs and whether the principles can be as effective as previously thought in a climate of deregulation and nationalist fervor. On the other hand, given that the UNGPs were endorsed as recently as 2011, many participants cautioned that it is too early to discount their impact. At a minimum, participants agreed that BHR work at this time requires advocates to communicate the rationale and goals of the UNGPs in terms familiar and accessible to business leaders as well as stakeholders.

Much of the subsequent discussion pertaining to the UNGPs focused on the challenges and opportunities arising from the use of human rights language to engage with companies and other business actors. Participants both from business and academia agreed that a key strength of the UNGPs are their utilization of language familiar to the business world in discussions of human rights responsibilities. Use of terms such as “human rights due diligence” is a prominent example of this.¹⁴ Participants agreed that, in the short term, the use of the UNGPs as an advocacy tool with businesses will be effective only insofar as it does not provoke a broad reaction from companies, which enshrines the view that the human rights framework is a direct threat to their interests.

One business leader stated that, in their experience, the UNGPs have so far been a valuable tool in talking about human rights responsibilities with business executives, managers, and boards of

directors. However, the participant acknowledged that self-selection can skew perceptions about the extent to which corporations are willing to seek advice on how to better implement the provisions of the UNGPs. The participant’s comment thus underscored the need for novel approaches to engage those corporations that are more skeptical of the UNGPs specifically, and of a human rights approach more broadly.

In considering this challenge, one participant raised the question of whether, and to what extent, proponents of the BHR approach should de-emphasize human rights language, at the outset, in promoting the UNGPs. At times, they noted, reference to a broad set of human rights issues in initial conversations with corporations can be detrimental to further collaboration. Some participants thus believed it more prudent and productive, in certain cases, to frame initial conversations about the ethical and social responsibilities of businesses in ways that de-emphasize human rights language. For instance, initial conversations about due diligence can later incorporate assessment of human rights risks to stakeholders. Other participants pushed back against this notion, arguing that now more than ever there is a need to place emphasis on a human rights discourse central to the BHR approach.¹⁵ They contended that international human rights norms and instruments, such as the UNGPs, are an effective way to address gaps in state-led policies, which often do not incorporate human rights discourses, to regulate corporate conduct. Given their heterodox approach¹⁶, the UNGPs in particular are uniquely positioned to introduce human rights thinking to corporations. Moreover, these participants noted, the use of human rights language is linked to the mechanisms of remedy outlined in the UNGPs.

NEXT STEPS

Participants were in favor of employing a multiplicity of governance mechanisms and institutions to advance BHR goals. In keeping with the heterodox approach of the UNGPs, participants were enthusiastic about the potential of private-public co-regulation to ensure that businesses and stakeholders have the tools and incentives necessary to meet BHR goals. Importantly, this approach gives businesses and stakeholders the ability to implement the framework using governance mechanisms best suited to their respective sectors, industries, and impacted communities.

For the most part, participants discussed new strategies for deploying a BHR framework in the absence of adequate national laws. Yet, they acknowledged that the role of legislation continues to be crucial. As set out in the UNGPs, for example, enacting laws, including corporate law, at the national and local levels is an essential strategy of the BHR approach. It is also necessary, participants noted, for states to create more robust measurement and monitoring mechanisms to accompany such laws. Several participants asserted that BHR advocates should call on states to play a larger role in ensuring implementation of industry standards with emphasis on transparency rather than rely on tools such as disclosure.

Four broad themes emerged in discussion of next steps: Industry Standards, Research and Technology, Issue Convergence, and Partnerships and Networks. Within each topic, participants identified areas of need, issues to be tackled, and potentially winning strategies.

Industry Standards

The creation and enforcement of industry BHR standards emerged as a key strategy to pursue. Formation of industry associations and organizations that will seek to address human rights issues relevant to a specific industry has several advantages. For one, promoting change in industry standards and practices will assist small and medium-size enterprises (SMEs) to address problematic issues without taking risks as an early adopter. Consultants to SMEs expressed that executives in such corporations often feel that the UNGPs, for instance, are beyond their reach unless whole sectors or industries adopt their framework. Industry associations may also assist BHR advocates to better differentiate systemic human rights violations from those that occur as a result of the personnel or culture specific to a single firm.

Furthermore, inclusion of issues such as supply chain management in the creation of industry standards can be used as leverage to address human rights abuses even in contexts where national or regional regulatory mechanisms are ineffective or absent. Alliances between industry associations and international standard-setting bodies can potentially create valuable, industry-specific global standards or best practices for businesses operating transnationally. For instance, the involvement of international and national standard-setting bodies, such as the OECD, ISO, and the EU Human Rights Commission, has been key to expanding use of the UNGPs.¹⁷ In the potential absence of strong national support for enforcement of such standards, however, participants

stated that business- and NGO-led initiatives to create and implement industry standards is of particular importance. A next step in this regard, in the view of several participants, is to identify sectors or industries where such associations will act as allies in advancing BHR standards relevant to their work.

Research and Technology

On multiple occasions, several participants brought up the importance of new research and technology to the BHR approach. Use of new technology and data, participants noted, is vital to making the business case for human rights and to producing improved measurement and monitoring tools. Data from research can be used, for instance, to quantify the business case for human rights by showing costs to companies of problems such as community conflict, labor disruptions, or strikes.

A participant whose work involves monitoring and assessing compliance with BHR standards outlined several potentially fruitful research topics for consideration, emphasizing that much work remains to be done in developing pragmatic yet nuanced BHR definitions, measurements, and indicators for industries operating transnationally. The work of the UN Sustainable Development Solutions Network (SDSN) to establish indicators and a monitoring framework to assess implementation of the Sustainable Development Goals (SDGs)¹⁸ might act as a model for research and development with regard to metrics in BHR. For instance, more work still needs to be done to improve measurements and indicators with regard

to supply chains, definitions and measurements of community consent, measures of adequate compensation for land redistribution, and measures of the correlations between human rights abuses and short turn-around times or low-price buyers.

Many participants also said that better integration of data analysis and research findings into public discourse on BHR would generate more compelling arguments in support of BHR objectives. To do this, participants spoke of the need for increased and improved collaboration among BHR experts. Platforms for sharing innovations and findings relevant to BHR work must be established across professions and institutions. Business leaders, practitioners, academics, and lawmakers must collaborate routinely to identify needs and create new frameworks for implementing BHR standards and practices. Several participants noted that events such as the Roundtable were vital to such collaboration and expressed interest in establishing networks for sharing new findings and strategies going forward.

On a related note, a participant advised that scholars and practitioners address challenges stemming from possible conflicts between commercial interests and human rights obligations in the use of proprietary information and data. Many participants agreed that questions pertaining to the access, use, and sharing of proprietary data between BHR scholars and practitioners is an important topic for further consideration, as it will be a key to improving BHR indicators and practices.

Issue Convergence

Participants repeatedly noted the productive capacity of using a BHR framework to address multiple, interconnected issues. Participants were optimistic that issue convergence would allow BHR proponents to maximize the impact of their work, an important consideration in a political climate where resources available to BHR campaigns may be limited (see Figure 3 below for examples discussed by the participants). Conversations on issue convergence frequently dovetailed with questions about which campaigns to prioritize at a time when political support for the BHR approach might be diminished. Participants asked how much factors such as media coverage, popular interest, political consensus, and potential for success should be considered in choosing the issues, industries, or practices to tackle. For instance, human trafficking has garnered substantial attention among policymakers and the public,

likely making it a “winnable” fight. However, does focus on high visibility issues, industries, and practices also have potential negative consequences or drawbacks? Alternatively, one participant contended, global supply chain impacts on environmental justice and related human rights issues will likely be more difficult to address. However, a BHR framework can potentially address multiple, interconnected issues. Taking a recent example, some fights such as #NoDAPL (protesting the Dakota Access Pipeline) may have minimal public consensus but can also be part of a broader BHR campaign for environmental justice.

Generally, participants agreed that alliances with social justice and political movements are essential. Combining the momentum of BHR achievements with energy from advocacy campaigns such as the Occupy movement or Fight for 15²¹ can potentially have a significant impact.

Figure 3. Examples of Issue Convergence

- ▶ **Supply chain management.** Organizations and initiatives, including the Business and Human Rights Resource Centre, Shift, Human Rights Watch, and the UN Global Compact, call attention to the impact of global supply chain management on the fulfillment of international human rights standards. BHR work to end corporate collusion with supply chains to lower production costs can, for instance, be connected to the enforcement of national anti-corruption legislation, such as the Foreign Corrupt Practices Act (FCPA) in the United States, as a means to regulate supply chains. Similarly, BHR advocates can connect their work on supply chain management and labor rights to national or regional living wage campaigns, highlighting the ways in which a living wage for supply chain workers is crucial to the fulfillment of international economic rights standards across the globe.¹⁹
- ▶ **Human trafficking.** The UN Office of the High Commissioner on Human Rights has highlighted the relationship between human rights and human trafficking, stating that “over the past decade a general agreement has emerged within the international community that trafficking itself is a serious violation of human rights” (UN OHCHR, 2014, 5). Individual governments, however, do not necessarily take a rights-based approach in dealing with this issue. Responses to trafficking are often framed as an immigration, economic, or national security issue. Experts also note that campaigns to end human trafficking are most effective when they involve international cooperation and public-private collaboration. BHR advocates can thus play a critical role here, connecting a BHR framework to existing national and international anti-trafficking efforts. For example, current bipartisan support in Congress, and among the general public, to detect and prevent human trafficking is a positive sign. Yet, laws and policies stemming from this support will not necessarily include human rights considerations or meaningful collaboration with the private sector, two crucial elements a BHR framework can provide.²⁰

Partnerships and Networks

At numerous points during the Roundtable, participants also raised the topic of network or alliance building. For many, new or increased collaboration between different institutions, professions, and social justice movements is necessary to fully accomplish BHR goals. For instance, greater engagement with company shareholders and unions may be necessary in addition to current collaboration with business leaders and community stakeholders. A number of participants expressed frustration that corporate social responsibility reports produced by companies and NGOs are seldom used in policy analysis and scholarship. Similarly, scholarship on BHR often does not significantly inform policy debates or business codes

of conduct. Datasets, measurements, and indicators developed at academic institutions, such as the SERF Index (see Figure 2 above), could be utilized more systematically outside of academia. Currently, participants noted again, there is more focus on violations indicators than on fulfillment indicators, which often dissuades companies from adopting a BHR framework in establishing corporate codes of conduct.

Increased and regular collaboration between businesses, stakeholders, and BHR experts can better inform public discourse, as well as set research goals and facilitate the development of impact assessments and indicators that have greater relevance and utility. Figure 4 below provides several illustrative examples of ongoing efforts to foster multi-stakeholder collaboration in BHR.

Figure 4. Collaboration on Business and Human Rights²²

United Nations Forum on Business and Human Rights

Beginning in 2012, the annual UN Forum on Business and Human Rights has brought together participants from government, business, civil society, law firms, investor organizations, UN bodies, trade unions, and academia, among other places, to discuss topics related to the UNGPs. The forum allows participants to share knowledge and experience of business-related human rights issues, and to forge relationships and collaborative networks that can facilitate the progress of BHR goals.

International Corporate Accountability Roundtable (ICAR)

ICAR, a project of the San Francisco-based Tides Center, partners with global governance institutions, national governments, human rights and corporate governance NGOs, and labor coalitions to promote human rights and reduce inequality through implementation of corporate accountability processes. Initiatives include advocating for international human rights norms and standards, more just trade and investment regimes, labor rights, and responsible supply chains through work on numerous projects. Collaborative research and advocacy efforts seek to push governments to create and enforce corporate accountability policies that ensure respect for human rights. For instance, ICAR utilizes governance instruments developed at the international level, such as the UNGPs, to assist governments in creating national action plans on business and human rights.

Human Rights & Business Initiative, Haas School of Business, University of California Berkeley

The Berkeley-Haas Center for Responsible Business launched its Human Rights & Business Initiative in 2015. The Initiative seeks to better integrate human rights thinking into the Center's teaching, research, and outreach efforts. This includes hosting conferences, workshops, and lecture series that bring together academia, companies, governments, investors, and other stakeholders to develop strategies for addressing business-related human rights issues. Additionally, the Center partners with companies, including Patagonia, Microsoft, and Pepsi, among others, to develop research projects. Companies can use findings generated by these projects to address business-related human rights issues.

Participants also welcomed ideas on new ways to partner with lawyers and educators. One participant suggested that greater investment in trade litigation law would be worthwhile. It was also noted that few law firms in the U.S. engage in human rights work beyond pro bono cases. Yet business clients are increasingly interested in better understanding human rights compliance issues. Similarly, another participant noted the importance of human rights education at the K-12 levels in addition to research and teaching at institutions of higher education. Collaboration between faculty, instructors, and teachers at multiple levels of education can help foster a culture of human rights more broadly.

In closing, participants were hopeful that the Roundtable, and other such events, would lead to further opportunities for BHR advocates to partner with one another to ensure business respect for international human rights. As such, the UConn Business and Human Rights Initiative intends to build upon current efforts to facilitate both periodic and sustained collaborations among BHR advocates, integrating interdisciplinary academic research and teaching with the work of other organizations and institutions—including multinational corporations, SMEs, industry associations, international organizations, governments at all levels, NGOs, civil society groups, public-private partnerships, professional organizations, and philanthropic foundations—to help develop, improve, and implement human rights-based approaches to business.

¹ As originally organized, the Roundtable focused on “Business and Human Rights in the Era of Anti-Globalization.” Our deliberations during the Roundtable as well as subsequent discussions and events have highlighted the extent to which the ascendant political forces associated with the electoral success of Donald Trump and Brexit are best described as anti-*globalist* rather than anti-globalization. This report makes a distinction between the terms globalism and globalization. Globalism here refers to the movement of goods, services, capital, people, and ideas across national borders and the proliferation of global governance structures. Globalization refers to the degree to and mechanisms by which globalism occurs.

² In a referendum on June 23, 2016, 52% of voters in the United Kingdom opted to withdraw from the European Union (EU). On November 8, 2016, Donald J. Trump was elected President of the United States following a campaign based on promises to remove economic and environmental regulations as well as a radical anti-immigration/anti-immigrant platform. Outside of the United Kingdom and the United States, populist, nationalist, and far-right neo-fascist political parties have made noteworthy electoral gains in a number of European countries in recent years. (Aisch, Pearce, & Rousseau, 2017)

³ In 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights (UNGPs) developed by John G. Ruggie, the UN Secretary General’s Special Representative on the issue of human rights and transnational corporations and other business enterprises. Its tripartite framework is at the core of the BHR approach to regulating corporate conduct. It seeks to move beyond the “mandatory versus voluntary” debate that had dominated previous efforts to deal with governance gaps with regard to transnational corporations in particular. (Thomas J. Dodd Research Center, 2013)

⁴ Since 2011, a number of human rights organizations, academics, policymakers, and businesses have worked to implement the UNGPs. This has included advocacy initiatives to introduce the framework to states and businesses as well as the development of monitoring mechanisms and a reporting framework. (UN OHCHR Business and Human Rights, 1996-2017); (Business and Human Rights Resource Centre, 2017(a)); (Business and Human Rights Resource Centre, 2017(b)); (Thomas J. Dodd Research Center, 2013); (Shift Project and Mazars LLC, 2017)

⁵ (Secretary of State, U.S. Department of State, 2016); (O’Brien, Mehra, Blackwell, & Poulsen-Hansen, 2015)

⁶ Instructive is the case of billionaire investor and philanthropist George Soros, whose great wealth, support for democracy and human rights, and Jewish heritage have made him among the most vilified figures for anti-globalist forces worldwide. Soros’ Open Society Foundations, which have been a key funder of the human rights movement since the early 1990s, are presented as a primary disseminator of globalist ideology, which purportedly undermines authentic national identity and interests.

⁷ (Corporate Human Rights Benchmark Limited, 2017)

⁸ For example, on February 24, 2017, President Trump issued an executive order requiring all federal agencies to form deregulation teams to enforce the “Regulatory Reform Agenda” promised during his election campaign. An investigation by *The New York Times* and *ProPublica* found that many of these deregulation teams are staffed by appointees with ties to corporations or industry lobbies that have opposed various national and international regulatory regimes in recent years.

In addition, within two months of taking office, the Trump Administration, along with Congress, suspended or eliminated almost 100 regulations, including those related to environmental sustainability, internet privacy, trade and finance, sale and use of firearms, trade in conflict minerals, coal mining, and oil and gas exploration. According to journalists Eric Lipton and Binyamin Appelbaum, “[i]n many cases, records show that the changes came after appeals by corporate lobbyists and trade association executives, who see a potentially historic opportunity to lower compliance costs and drive up profits. Slashing regulations, they argue, will unleash economic growth.” (Lipton & Appelbaum, 2017); (Trump, 2017); (Ivory & Fatorechi, 2017); (Editorial Board, *The New York Times*, 2017); (Lynch, 2017)

⁹ (State of Hawaii vs Donald J. Trump: Brief of Technology Companies as Amici Curiae in Support of Appellees, 2017); (Center for Climate and Energy Solutions and Ceres, 2017); (Low-Carbon USA, 2017); (Tabuchi & Cardwell, 2017); (Dovere, 2017)

¹⁰ (OXFAM and United Nations Global Compact, 2015(a)); (OXFAM and United Nations Global Compact, 2015(b)); (Oxfam International, 2009)

¹¹ Anti-establishment political candidates throughout Europe and in the United States have garnered popular support, at least in part, through the rhetoric of economic disenfranchisement, diminished employment opportunities, and lack of upward economic mobility, even if the causes and solutions differed. Economic and social rights discourse was not as prominent in this anti-globalist rhetoric.

¹² (Wettstein, 2015)

¹³ Although numerous governments participate in preferential trade agreements (PTAs) with human rights provisions, the World Trade Organization (WTO) does not currently include human rights provisions in its treaty-based rules. (World Trade Organization, 1994); (Aaronson & Chauffour, 2011)

¹⁴ The UNGPs adopt terms familiar to governance practices in the private realm, in order to facilitate the incorporation of human rights thinking into existing regulatory structures. For instance, Commentary in Part II, the Corporate Responsibility to Respect Human Rights, of the UNGPs explains: “Human rights due diligence can be included within broader enterprise risk-management systems, provided that it goes beyond simply identifying and managing material risks to the company itself, to include risks to rights-holders”. (United Nations Office of the High Commissioner on Human Rights, 2011, p. 18) Here the terms “due diligence” and “risk management” are adopted and expanded to include respect for international human rights standards.

¹⁵ A recent study completed by McCorquodale, Smit, Neely and Brooks supports the claim that the use of an explicitly human rights frame, such as human rights due diligence (HRDD), rather than a non-human rights specific process, is more effective in identifying adverse human rights impacts in business enterprises. For instance, they find “[c]ompanies that undertake dedicated HRDD are considerably more likely to report their findings internally, and externally, than companies who consider human rights only as part of other non-human rights processes.” (McCorquodale, Smit, Neely, & Brooks, 2017, p. 220)

¹⁶ The heterodox approach refers to the UNGPs’ call for the use of multiple, reinforcing governance mechanisms, including states, corporations, and civil society, rather than exclusive reliance on binding international law or on voluntary market-based regulatory efforts alone. (United Nations Office of the High Commissioner on Human Rights, 2011); (Thomas J. Dodd Research Center, 2013)

¹⁷ During the Sackler Distinguished Lecture at the University of Connecticut in 2013, John Ruggie noted that “even with official endorsement, the Guiding Principles would have remained in the realm of pure voluntarism had it not been for...international and national standard setting bodies...that have more direct leverage vis-à-vis business.” (Thomas J. Dodd Research Center, 2013, p. 8)

¹⁸ (Leadership Council of the Sustainable Development Solutions Network, 2015)

¹⁹ (Business and Human Rights Resource Centre, 2017); (United Nations Global Compact, 2017); (Michalski & Kippenberg, 2017); (Ansett, 2013)

²⁰ (United States of America 115th Congress, 2017); (United Nations Office of the High Commissioner on Human Rights, 2014, p. 5)

²¹ (OccupyWallStreet, 2011); (Fight for \$15, 2012)

²² (United Nations Office of the High Commissioner on Human Rights, 2012-2017); (International Corporate Accountability Roundtable, 2017); (Berkeley Haas Center for Responsible Business, 2016 (a)); (Berkeley Haas Center for Responsible Business, 2016 (b))

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