Nov 3 2015

UN FORUM SERIES – Implementing the Guiding Principles: The Challenge of Measurement

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They called it 'the plane that became a convertible'. In 1988, on a routine flight from Hilo to Honolulu, Aloha Airlines flight 243 depressurized mid-flight, ripping the top off the plane. A flight attendant, the only one who wasn't strapped in, was sucked out of the plane with it.

The accident was a wake-up call for the aviation industry. For years, deregulation had pushed more companies into the sector, increasing pressure on airlines to keep planes in service longer and skip maintenance to maintain flight schedules.

After the accident, airlines and regulators decided to solve the safety problem head-on. The U.S. Federal Aviation Authority required every airline to report its maintenance, testing and accident data, and set statutory limits for how many times each piece of equipment could be used before it had to be retired.

The airlines took the mission of reducing accidents as seriously as the regulators. They installed sensors in each plane to record flight conditions, equipment status and pilot reactions. They coordinated their inspection protocols to focus on genuine quality rather than rote box-ticking. Fail-safes ensured that any equipment malfunction was isolated and offset before it escalated to disaster. Even in cases where no accident occurred, regulators and companies investigated near-misses with the urgency of crashes.

Little by little, all of these systems— starting with identifying and assessing risks, reporting them, collaborating within the industry and with regulators—added up to huge improvements in safety. Today, in most of the world, flying in an airplane is safer than taking a city bus.

Our field, human rights and business, had its Aloha Airlines moment in 2013, when, an eight-story factory, Rana Plaza, collapsed in the suburbs of Dhaka, Bangladesh, killing more than 1,000 garment workers inside. The incident revealed that we stand at a similar crossroads as the one faced by the aviation industry in the 1980s.

Globalization has pushed companies farther and farther from their home states, weakening their ability to safeguard, and in some cases even to know, the conditions in which their products are made. Companies often lack adequate tools and processes to manage and track their global operations. And the institutions charged with regulating and monitoring them – states and civil society – lack the capacity to do so.

In 2011, the international community adopted the UN Guiding Principles on Business and Human Rights. For the first time, the responsibilities of governments and companies to prevent and address business-related harm were defined in clear, uncompromising terms.

The next step is to measure whether states and companies are implementing those responsibilities. Reliable information on progress and challenges is essential to ensure that commitments are followed by action.

And yet, this next step eludes us. Four years after the Guiding Principles were adopted, we lack comprehensive information on the steps governments and companies have taken to incorporate them into their laws and policies. And, even more importantly, we lack data, systems and definitions for measuring whether these steps are preventing business-related human rights abuses in reality. The picture we're getting exists, but it's blurred, with patches missing.

So why is it so hard to measure Guiding Principles implementation? The UN Working Group on Business and Human Rights details some of the reasons in its recent report to the General Assembly.

1. **Existing Initiatives Measure Commitments, Not Impacts**

As noted in Damiano de Felice's overview of the field here at Measuring Business and Human Rights, most initiatives that aim to measure Guiding Principles implementation focus on what States and corporations *say*, rather than what they *do*. Has company X referred to the Universal Declaration of Human Rights in its sustainability policies? Does State Y's labour law adhere to International Labour Organization standards?

There's nothing wrong with these initiatives. Holding institutions accountable to their promises requires, first, that we know what those promises are. But measuring Guiding Principles implementation by commitments alone is like measuring airline safety by looking at pilot instruction manuals. For this information to be meaningful, we need to know more than which promises are being made. We need to know which promises are being kept.

We recommend that measurement of State and business performance, not just commitment, be at the core of future measurement initiatives.

2. **Lack of a Common Framework for Measurement**

As described in our report to the UN General Assembly, a wealth of data on State and company performance is available. Investors, civil society organisations and regulators track companies' revenue, operations and impacts. State regulations and economic performance is gathered and researched by international institutions and domestic statistical agencies. Since 2011, a number of initiatives have aimed to transform this data into meaningful measures of Guiding Principles implementation.

What we need now is a common framework for measuring progress on the Guiding Principles. When the airlines wanted to reduce plane crashes, they unified inspection protocols and maintenance schedules and shared information between companies, suppliers and regulators.

In our field, we need to come together to decide what it means for a company to meaningfully carry out human rights due diligence, or that a state has achieved policy coherence. It won't be as simple as making a list of check-boxes or numbers on a spreadsheet, nor should it. But success in implementing the Guiding Principles will require international coordination and collaboration, including on how we should measure such implementation.

3. **Lack of Information on Critical Issues**

Though existing measurement initiatives cover a wide range of business-related human rights impacts, many remain outside their scope.

Access to remedy for business-related harm, for example, is almost impossible to measure with the information currently available, with critical indicators – court fees, wait times, case backlogs, investigations and prosecutions based on community complaints – not systematically gathered or reported. Other human rights issues, such as impacts on communities' access to land, livelihoods or health, are similarly difficult to ascertain.

The reasons for this are understandable. Many States lack the capacity and expertise to measure company emissions or inspect workplaces in remote areas. Some issues, such as corruption, human trafficking and informal work, are by their very nature hidden from official State or company data-gathering infrastructure. And the complex web of supply chains and subsidiaries allows for loopholes and gaps in compliance and tracking.

But, as the old business adage goes, what gets measured gets managed. We encourage future initiatives to focus on overlooked issues, and the development of new methods to measure them.

Conclusion

The most amazing thing about Aloha Airlines flight 243 might be that, after the top was ripped off, the pilot managed to land the plane safely. Seat belts, oxygen masks, emergency runways—airlines and regulators had built an entire infrastructure that not only aimed to keep accidents from happening, but was able to contain them if they did. As we continue to develop our own fail-safes, our own systems for information-sharing, it is critical that we have the information to identify our successes and contain our failures.

This may sound like an impossible task, but imagine the challenge faced by the aviation industry in the 1980s. Complicated technology, misaligned economic incentives, and huge risks of getting it wrong. There was a time when plane crashes seemed as inevitable as multinational corporations abusing human rights.

The challenges we face in our own field are big, but they are not insurmountable. The first step toward preventing accidents, after all, is knowing where, how and why they happen.

Margaret Jungk

Read the UN Working Group on Business and Human Rights' report to the General Assembly here.

Read the Executive Summary to the Report here.

Watch Margaret Jungk's presentation at the General Assembly and States' responses on UNwebTV.

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