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Meaningful Stakeholder Engagement: Bottom-up initiatives within global governance frameworks

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Abstract

Global sustainable governance frameworks such as the Sustainable Development Goals, United Nations Guiding Principles on Business and Human Rights and OECD guidelines for multinational enterprises are already being implemented by multiple actors. These frameworks emphasize the significance of meaningful stakeholder engagement for their effective implementation. Whilst acknowledging the shortcomings and inherent tensions of these frameworks within a neoliberal world order, we also feel it is appropriate to offer guidance in the hope of ensuring a more socially equitable implementation. We call for institutional investors and businesses to engage more with bottom-up approaches to stakeholder engagement where affected groups lead such initiatives. By doing so it would allow private sector actors to have 'meaningfully' engaged with stakeholders as opposed to merely listening. Ultimately, we contend, stakeholder engagement can lead to investment agendas to be included in people's agendas to improve their livelihoods.

1. Introduction

Over recent decades, a multitude of diverse actors have collaborated to produce normative frameworks and standards for more responsible and sustainable global governance to address grand challenges, such as poverty, climate and human rights. Increasingly, these instruments have acknowledged the importance of involving the private sector if there is to be any significant impact. Some key global governance frameworks for these challenges include two United Nations (UN) instruments: the Sustainable Development Goals (SDGs) (UN, 2015) and the UN Guiding Principles (UNGP) for Business and Human Rights (UN, 2011). The latter has inspired a 2011 revision of the OECD Guidelines for Multinational Enterprises. Dating from 1976 this was one of the first instruments to address global governance gaps.

Based on reports of persisting problems, such as an increase in conflicts around environmental justice and reports of business-related human rights abuses (Ejatlas, 2019, Business and Human Rights Resource Centre, 2019), critiques have been levelled against global governance frameworks. They are alleged to encourage an apolitical and technocratic interventions (Prentice et al., 2018), in turn supporting a ‘de-coupling’ of economic growth from ecological impact (Fletcher and Ramelt, 2017). Yet, global governance frameworks for a better world are here to stay, at least in the immediate future. Some, like the SDGs and the UNGPs have received substantial attention from diverse actors, including states, businesses and civil society sectors. Therefore, from a pragmatic perspective the instruments hold potential to address the grand global challenges, but their weaknesses must be addressed. This paper aims to contribute towards this. Our focus is a more socially just implementation of the SDGs in the context of other instruments, including the UNGP and the OECD Guidelines for Multinational Enterprises. Both emphasize the significance of stakeholder engagement as part of their foundational principles. Drawing insights from published empirical research we argue that the implementation of the standards of conduct provided by these instruments must be re-oriented to explicitly prioritize and incorporate bottom-up participation with stakeholders. More empowered stakeholder participation, we assert would counter the current de-politicized approach to implementation.

In order to make our argument we use the example of institutional investors and draw specifically from the agriculture sector. The sector is undergoing industrialization with increased large-scale plantations. While the agri-industry may create benefits for local stakeholders, such as new employment opportunities, it often causes affected small-scale farmers and communities to experience infringements of their land rights, including the loss of land, cultural traditions, or rights to participate in decision-making pertaining to their land. Flows of capital into the sector from institutional investors is currently on the rise. A recent report (Business and Human Rights Clinic, 2018) underscores the need for investors to have access to detailed and relevant information on the perceptions of local communities in order to avoid infringing on their rights. The report argues that a shift must take place from a reliance on what we refer to as top-down processes of information-gathering. Along similar lines, Zoomers and Otsuki (2017:168) argue a need to reverse perspectives on inclusive development and study it "as the process by which investment agendas come to be included in people's agendas to improve their livelihoods, rather than the current process by which people are included in business plans or consulted to facilitate the business operating on their land".

Referenced by the SDGs (para 67), the UNGP prescribe a process of risk-based due diligence to identify and manage adverse impacts, including those caused by business relations, e.g. invested companies. The UNGP elaborate implications of the theory-basis established by the 'UN Respect, Protect and Remedy Framework' (UN, 2008), a UN-requested report which underscores the importance of all types of business enterprises knowing their human rights impacts in order to prevent and manage them. The UNGP emphasize that identification of such impacts requires meaningful stakeholder engagement, in particularly targeting actual or potential victims. They also make clear that the responsibility extends beyond individual economic actors to business relations through which products, operations or services are linked. Hence, institutional investors must take actions to identify and prevent harm caused by invested companies. Today, risk-based due diligence is a core expectation of institutional investors. This calls for shifting the emphasis of an impact assessment process from the perspective of the investor to that of affected communities.

Among several CSR-instruments influenced by the UNGP, the OECD Guidelines for Multinational Enterprises is among the most relevant for investors. The Guidelines apply to companies operating in or out of the 48 adhering states, including investment companies. Cases involving major institutional investors have spurred attention to the practices of these organisations in understanding and addressing the impacts that they cause through their investments, even if they are minority investors (van Huijstee et al., 2016; Buhmann, 2018a).

Beyond the UN and OECD, parts of the private sector investment community have also pledged to contribute towards a more responsible global development via the impacts of its funds. The market for socially responsible investment is now worth €476 billion in Europe (Statista website). The UN-backed Principles for Responsible Investment (PRI) organization reports that its over 1600 signatories manage more than US$66 trillion dollars (PRI, 2017). Yet adverse impacts from certain investments translate into violent conflicts at the level of communities that object to planned or executed projects. The Environmental Justice Atlas reports over 2800 such ongoing conflicts around the world in 2019, many of which are violent. This begs the question of how to move forward towards a more socially just implementation of ambitious global governance in business and human rights and sustainable development?

We address that question by making the argument for bottom-up approaches to stakeholder engagement for the agroindustry within the realms of the SDG, UNGP and OECD guidelines. Section 1 highlights the limits of top-down approaches to stakeholder engagement. Section 2 offers insights on alternative approaches that take the bottom-up perspective whilst Section 3 considers the challenges for information encountered by institutional investors. This leads us to propose a research agenda, set out in section 4. To explain the pertinence for institutional investors having access to reliable and relevant information, we take point of departure in risk-based due diligence.

1. The need for bottom-up-based information for responsible investment

Studies of oil-palm plantations show that community resistance due to threats to livelihoods and ecology are largely attributed to issues around a lack of clarity and transparency regarding land rights, especially since land is becoming scarce as the number and size of plantations grow (McCarthy et al, 2012; Sayer et. Al, 2012; Escobar, 2006). Understanding the local context has been demonstrated to be crucial for addressing these problems in a manner that reduces rights abuse and conflict (Gillespie, 2012). Accounts of community-related conflicts involving natural resources and extractives industries have been well documented across different literatures, especially this journal (Haalboom, 2012; Kumar, 2014; Martinez-Alier, 2014; Rodríguez-Labajos and Özkaynak, 2017; Maher, 2018; 2019). These studies describe how rural, often indigenous communities resist projects because of socio-environmental and livelihood impacts. In order to assess and address these impacts for the sake of having a responsible business project, several practical guides have been developed, such as roundtable initiatives on responsible agriculture production, as well as guidance on stakeholder engagement for implementation of risk-based due diligence.

Roundtables that include diverse actors from the private sector and civil society and sometimes the state have potential as a governance approach common within the agriculture sector, but their community inclusion has been questioned through several field studies. García-López and Arizpe (2010) observe that a shadow bottom-up community-led process was more accepted locally than the business-led responsible soy roundtable in Paraguay. Yet questions on whether the Roundtable on Sustainable Palm Oil (RSPO) can realistically represent community voices, whose concerns clash with the palm oil business itself, have been raised (Marin-Burgos et al., 2015; Schouten et al., 2012). Gatti et al. (2019) claim that RSPO certified plantations have not actually made any difference to deforestation, and by implication also not to the lives of local forest-dependent communities. Zoomers and Otsuki (2017) assert that impact assessments of investment projects carry little currency when communities have lost their land as a result of the investment. Jointly, these studies confirm that fundamental issues, such as unequal land ownership cannot be addressed without a solid bottom-up approach.

Studies of large investment funds indicate that some respond to critique of human rights impacts by divesting (withdrawing their funds) from controversial projects (Business and Human Rights Clinic, 2018). Institutional investors showed their clout in 2017 when 120 institutions representing a total of $653 billion in assets demanded their banks to support the demands of the Standing Rock Sioux Tribe in North Dakota in rerouting the Access Pipeline project away from land and water upheld as sacred by the tribe (Business and Human Rights Clinic, 2018). Other well-documented examples include divestments by Dutch and Finnish development agencies from the Agua Zarca hydroelectric dam in Honduras where human rights defender and activist Berta Cáceres was murdered (Business and Human Rights Resource Centre, 2017). Because of the novelty of the stakeholder-oriented due diligence requirement, knowledge on what exactly is required and how investors may or should decide to invest, divest, or engage remains scarce. This may partly explain the absence of bottom-up methods for assessing impact but also highlights the pertinence of developing such methods.

While meaningful stakeholder engagement is highlighted by the UNGP and OECD Guidelines as a core element in identifying and addressing impact, theory and practice is dominated by top-down approaches (Vanclay and Esteves, 2011). As a result, impact assessment processes tend to be designed and implemented under the dominating approaches of the organisations that drive the process rather than the communities that are affected. Hence they operate under a more managerialistic and or potentially even depoliticized manner (Prentice et al., 2016).

Jointly, this diverse literature underscores the need for bottom-up driven approaches to providing knowledge for institutional investors to help them assess impacts and use their influence to exercise leverage with invested companies.

2. Existing steps towards bottom-up approaches to stakeholder engagement

Responding to concerns with top-down approaches to impact assessment, scholars and NGOs have proposed alternatives to deliver constructive engagement from the perspective of affected stakeholder. This aim is to involve more community participation in decision-making and implementation processes (Bowen et al., 2010; Calvano, 2008; O'Faircheallaigh, 2015) and counteracting the oversights of top-down corporate led human rights impact assessments on the grounds that companies fail to engage adequately with communities or ever gain sufficient levels of community trust (Tamir and Zoen, 2017). Canadian NGO Rights and Democracy has developed a community based human rights impact assessment tool, named ‘Getting it Right’. It consists of 25 steps in total for the community to follow, assessing the most relevant human rights identified by the community (Rights and Democracy online).

An agricultural case study supported by Oxfam using the ‘Getting it Right’ methodology on the islands of the Sirinhaém estuary in north eastern Brazil at the Usina Trapiche sugar mill confirms the advantages of a bottom-up led impact assessment. After 100 years of peaceful co-existence the company began to forcefully evict fisherfolk off public lands in the 1980s (Tamir and Zoen, 2017). Oxfam’s Behind the Brands campaign pressured Coca Cola and PepsiCo to conduct respective human rights impact assessments in Sirinhaém in order to enforce their zero tolerance policies around land grabs in their supply chains. The Oxfam and community-based assessment engaged extensively with local community members and authorities, whereas the assessments conducted by Coca Cola and PepsiCo were desktop based. The community led assessment recommended the guarantee of long-term tenure rights for the community, which was not addressed by the two corporate led HRIAs (Tamir and Zoen, 2017).

3. The need for risk-based due diligence

The risk-based due diligence approach as set out in the UNGP has been subject to critique for being vague or for conflating a process and a normative standard (Fasterling and Demuijnck, 2013; Fasterling, 2016; Bonnitcha and McCorquedale, 2018). Yet, it is recognized as state-of-the-art in regard to responsible business conduct and a core tool for obtaining the necessary data to reduce negative impacts (Wettstein 2012; Ruggie 2013). The emphasis on meaningful stakeholder engagement offers opportunities for shifting assessments of adverse impacts from being top-down to a bottom-up focus on communities’ perceptions.

For stakeholder engagement to be meaningful, the economic actor must engage in extensive consultations with affected stakeholders to understand about potential and actual impact or risks of impact, and the culturally appropriate ways to manage adverse impacts (Buhmann, 2018a, 2018b). Maher (2018) provides a test for ethical corporate-community engagement, that takes the perspective of affected communities and their contexts, which can serve as a starting point for conceptualizing 'meaningful engagement'.

Studies of methods for handling and responding to adverse social impact in the mining sector indicate that adequate responses are highly culture sensitive and that the process must be informed by knowledge of local culture, gender, values, customs etc. (Aftab, 2016; Kemp et al., 2013).

Summing up, a strong theory basis for a comprehensive risk-based due diligence process where affected stakeholders are truly empowered throughout a complex value chain, with many different types of affected groups or individuals in diverse environments and contexts, such as the palm oil sector, is lacking.

4. Outlining a research agenda

To address these problems in detail, there is a need to develop methods that empower stakeholders and grassroots organizations to lead when participating in global governance framework related impact assessments. The process to develop such methods will require extensive empirical research often of an ethnographical nature that involves local communities as well as decision-makers in business along the value chain, including institutional investors. A significant challenge for the bottom-up oriented methods for impact assessment will be around balancing communicative and decision-making strategies that reflect voices and rights of affected stakeholders whilst being functional in the offices of institutional investors. The new bottom-up knowledge could then be used by institutional investors, when engaging with invested companies to discuss and design changes in practices along their value chains.

More specifically, developing such a method requires substantial empirical studies on community-based or led impact assessment methodologies and testing in various local contexts. The process can include localized pilot projects, and in this context may benefit from methods already deployed and tested by civil society organisations, like those noted above. Best practices can be distilled and gradually be expanded in more extensive tests. Methods developed may be expanded to apply to other sectors, such as extractives.

We propose that research be carried out to explore a common method for community-based impacts assessment of investments in agri-industry. The process would serve two major objectives: the interests of local communities; and the interest of investors in identifying and managing their societal impacts in line with their ethical/socially responsible commitments and societal expectations. We have demonstrated above that the two issues are inherently linked, even though they are at divergent ends of the investment process and value chain.

Community-based impact assessments hold the potential to offer a way for communities to assess the relevance and suitability of large investment in and around their territory and the extent to which it aligns with their own development priorities (Zoomers and Otsuki, 2017). It can provide institutional investors, other businesses and states with relevant and reliable information, thereby helping compliance or alignment with the globally agreed frameworks on business and human rights and sustainable development. In short, this practice could serve as the vital missing link between responsible investors and affected communities.

By identifying communities' perceptions of impacts, a bottom-up based process would contribute to providing the data necessary to steer responsible investment fund managers in deciding whether to invest in a certain project. Furthermore, fund managers could also take the decision to request further engagement with communities and local NGOs to see how, if at all their investment could benefit the community and their territory. This approach would help address the main shortcomings of current processes. Civil society efforts conducted so far draw attention to funding for these community assessments being an obvious practical conundrum.

For institutional investors who carry out a risk-based due diligence, it could be argued that the costs should be borne by the investor, just like they carry the costs of already existing due diligence processes.

5. Conclusion and outlook

This article took its point of departure in some of the limits with top-down stakeholder engagement as a problem that requires new approaches to be truly meaningful. Meaningful stakeholder engagement is a cornerstone of major global governance frameworks, in particular the SDGs, UNGP, OECD Guidelines. We propose that further research be carried out inspired by community-led impact assessment methodologies in to order provide guidance on how to implement meaningful stakeholder engagement, whereby the stakeholder is at the centre of the process, driving it, as opposed to being engaged from the top.

This article is timely due to a surge in investment in agri-industry, combined with an increase in governance frameworks for responsible business with a uniform approach to risk-based due diligence to identify and manage adverse impacts to society. Bottom-up impact assessments can inform the investors' decisions and help them avoid critique they have experienced during high-profile conflicts (e.g. Dakota pipeline) that can lead to divestment. Such an approach could allow for enhanced inclusive rights-based bottom-up driven development that would reduce the risks of institutional investments harming the lives and ecologies of communities. Moreover, it could help with investment agendas to become included in affected communities' ideas for improving their livelihoods, thereby responding to calls made by authors noted above. Finally, this could help address the critique around community engagement and impact assessments in global governance frameworks, and aid investors in contributing to comprehensive sustainable development.

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