Nora Götzmann (ed.), *Handbook on Human Rights Impact Assessment* (Cheltenham: Edward Elgar Publishing, 2019), 483 pp.

Setting the tone for what is to date one of the most comprehensive publications on Human Rights Impact Assessment (HRIA), Götzmann provides not only the focus of the *Handbook on Human Rights Impact Assessment* (*Handbook*) but also the primary lens through which the book should be read and appraised. The *Handbook*, in her words, 'addresses the topic of … [HRIA] in the context of business and human rights [BHR]' (p. 2). While she recognizes that HRIA transcends the BHR context, Götzmann makes it clear that the contributions in the book are focused on the three pillars of the United Nations Guiding Principles on Business and Human Rights (UNGPs): state duty to protect, corporate responsibility to respect and access to remedy. This review looks closely at this 27-chapter treatise on HRIA written by an eclectic blend of 35 scholars and professionals in fields ranging from law to sociology.

The *Handbook* is divided into six parts with the substantive part covering methods and approaches, rights-holders, industry case studies, and current challenges and future possibilities. The *Handbook*, however, makes for an easier read when divided into three parts – conceptual frameworks (chapters 1, 18, 20, 21, 22, 23 and 25), approaches (chapters 2–5, 17, 19 and 26) and contexts (chapters 6–17 and 24). The conceptual frameworks are perhaps some of the most distinguishing features of the *Handbook*. While Götzmann lays out the key criteria of HRIA in chapter 1, contributors like Cathrine Veiberg et al, Deniz Utlu, and Carlos Lopez consider more specific issues like indicators for measuring businesses' human rights impacts, how to define HRIA effectiveness, and what a right to effective remedy entails in chapters 20, 21 and 23, respectively. Götzmann also engages specifically with the concept of accountability in HRIA in chapter 22. These chapters, while diverse, attempt to answer similar questions on how HRIA's purpose can be achieved and shown to have been achieved. Veiberg et al pointedly ask 'if HRIA is unable to show how it contributes to actual outcomes, then does it actually serve its purpose?' (p. 337). While one could have hoped for a robust theorization on the purpose of HRIA, Götzmann's four-liner describing HRIA as a 'tool' that takes into account different perspectives to provide detailed and evidence-based analysis for decision making about business activities that may impact people's enjoyment of human rights would suffice for now (p. 4).

Carlos Lopez and James Harrison depart from the primarily soft law focused arguments of their peers (although Götzmann argues that there is a coercive dimension to the enforceability component of accountability; p. 380) to show the possibilities of operationalizing HRIA using hard law instruments. Harrison's case is that despite the promises of HRIA, it has at best had very limited success in enhancing knowledge and ensuring accountability. Alternatively, he suggests the creation of mandatory elements in relation to HRIA and human rights due diligence (HRDD) to strengthen human rights reporting processes and drive better performance. However, there are few examples of due diligence legislation and while it might be too early to give a final verdict, account of

how due diligence reporting requirements are nothing more than box-ticking exercises for some companies is already in – a point Harrison noted (p. 435). A brief reflection on what some might argue should be at best a 'D' grade for the largely statute-based environmental impact assessment forebear of HRIA would again undermine Harrison's argument. Nevertheless, Harrison shows that HRIA, in practice, is presently not performing as advertised and there remain foundational questions of what HRIA should be assessing, who the assessors should be, and how the dynamics of power are managed. Lopez introduces an important dimension to the discourse on accountability by showing how current legal regimes – domestic and international – can be deployed in compelling HRIA.

While company-commissioned HRIA has been represented as an 'approach' in the *Handbook*, such a description is questionable if 'approach' were to mean methodology. There is no company-commissioned HRIA approach in the same sense that there is community-based HRIA (COBHRA). In chapter 2, Kendyl Salcito draws our attention to the dearth of methodological transparency, abundance of opacity, low participation of rights-holders and other stakeholders, and the optics-laden motive underpinning most company-commissioned HRIAs. COBHRA does not have similar weaknesses. Overtime, as Caroline Brodeur et al and Alejandro Cavazos demonstrate in chapters 3 and 11, COBHRA has developed as a defined human rights assessment tool, with the predominant usage of the *Getting It Right* tool developed by Rights and Democracy in 2011. COBHRA's distinguishing feature is the ownership of the assessment process by the 'community' – rights-holders and stakeholders. Brodeur et al, however, further show that COBHRA is enfeebled by the high level of resources needed and the possibility of findings not being embraced by governments and/or companies.

The hybridization of company-commissioned and community-based HRIA is one of the solutions proffered by Brodeur et al to the challenges of community-based HRIAs. This subject is more extensively dealt with by Kaitlyn Cordes et al in chapter 4. The picture of collaboration advanced in the *Handbook* is one conducted jointly by 'project-affected' people, the company, government and/or other stakeholders. The use of the descriptor 'project-affected people' instead of 'rights-holders' raises the questions of whether both have the same meaning and what scope or mode of effects is relevant in determining persons who are 'project-affected'. There is no extensive consideration of these subjects in the *Handbook*. Other approaches considered in the *Handbook* include multidisciplinary HRIA, which Cordes et al note as useful in conducting collaborative HRIA, and the emergent sector-wide impact assessment approach (SWIA) – a high-level sectoral assessment tool. Arguably, SWIA is to HRIA what strategic impact assessment is to environmental impact assessment.

A cursory scan of the *Handbook*'s table of content introduces the reader to the ubiquitous nature of HRIA and the diverse contexts in which it applies. The relationship between rights-holders and duty bearers is one of the central features of HRIA. The contributors consider a range of these entities in the *Handbook* including children, women and girls, and Indigenous people as rights-holders. The food and beverage, mining, information and communication technologies, and travel and tourism sectors are some of the duty bearers considered. HRIAs in international trade, public–private partnerships, and the activities of the international financial institutions are

also dealt with. The importance of 'vulnerability' to the identification and prioritization of rights-holders, although not elaborately considered in the *Handbook*, is evident in the groups of rights-holders focused on by the contributors. One would be remiss if the seeming consensus of contributors on the centrality of the meaningful participation of rights-holders in HRIA is not re-echoed here. While this theme is captured throughout the *Handbook*, Susan Joyce turns more specifically to the subject in chapter 17, albeit in the specific context of company-commissioned HRIA. Her proposed strategies in respect of negotiating the scope and scale of participation, human rights scoping, trust relationship between rights-holders and assessors, joint design (with rights holders) of assessment process, and capacity building are, however, relevant to the various modes of HRIA.

At the core of the BHR movement is businesses' duty to respect human rights in all their activities. The UNGPs' explication of this responsibility sets a minimum standard that businesses should attain. In other words, while the UNGPs have a pole position in BHR discourse, they are not all BHR is about and in gauging the consistency of the *Handbook* with BHR, it is necessary to take a beyond-UNGPs approach. Premised solely on the UNGPs, the *Handbook* is largely BHR compliant with most contributors deliberately making connections between the subject of discourse and one, some or all of the UNGPs' tri-pillars. HRIA, which has no explicit mention in the UNGPs, is generally portrayed as a tool or component of the HRDD process in the *Handbook*. The extent to which HRIA satisfies this function is, however, not explored in any considerable detail. What an HRDD-moored HRIA shows, however, is that HRIA is not an end in itself. It is not merely an analytical tool to identify risks. It is only successful to the degree to which it facilitates the prevention, mitigation and accountability for actual and potential human rights impacts. While there is no shortage of very useful case studies in the *Handbook* particularly on HRIA as a post-mortem process and a risk identification tool, there are limited examples of where and how HRIA has served as an instrument for human rights impact prevention or mitigation.

The UNGPs envision HRDD, and by extension HRIA, as a mechanism for addressing actual and potential 'adverse human rights impacts'. Again, contributions in the *Handbook* take this threshold as a given, leaving out the important subject of how HRIA could be deployed as an instrument for fulfilling businesses' positive human rights obligations. While the focus on adverse effects has been a dominant feature of mainstream impact assessment processes over time, there is now a shift to assessing for positive effects and mutually enhancing gains with the introduction and gradual uptake of sustainability assessment. One could even argue that there is a contradiction between anchoring HRIA in internationally recognized human rights and the fixation on adverse effects as there are cognizable positive international human rights obligations. To adequately facilitate the enjoyment of human rights and even more so play a role in the broader sustainability agenda as Birgitte Feiring argues in chapter 26, HRIA must transcend the identification, prevention and mitigation of adverse human rights effects.

In alignment with the UNGPs, copious references are made to 'internationally recognized human rights' as the touchstone of HRIA in the *Handbook*. But what exactly are 'internationally recognized human rights'? Do such rights only include rights in binding international instruments or also those contained in soft instruments? Even if such instruments are 'hard' and only binding on signatories to the instruments, is

recognizability a question of whether a right has attained a customary international law status? Is it enough that a majority of countries have recognized a right such as the right to a healthy environment? Or does a right contained in a popular albeit regional instrument like the Aarhus Convention on the right to access to information qualify? Principle 12 of the UNGPs states that, at the minimum, internationally recognized human rights refer to the International Bill of Human Rights and the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. While these minimum instruments suggest that HRIA-relevant rights include soft law rights, they are not so helpful in discerning the contours of the relevant rights HRIA should cater to. This is a most fundamental issue to HRIA which has not been covered in the *Handbook* but which in many ways impact every phase of an HRIA process, particularly the scoping phase.

Like every good book, the *Handbook* has left us with more questions than answers. What do Götzmann's HRIA criteria and, particularly, meaningful participation look like in borderless regimes like information and communication technology and climate change? How does HRIA apply to relational individuals whose identities criss-cross multiple categories which human rights instruments (and the *Handbook*) have generally dealt with in siloes? To what extent should HRIA be coupled with the UNGPs-premised HRDD process? What are the points of departure, and can other BHR tools be promoted and applied to strengthen HRIA? Harrison ends his chapter with even more path-defining questions for the emergent practice of HRIA. Those questions and other reflections in this review provide a sketch of a future HRIA–BHR research agenda which, borrowing Götzmann's words, are 'necessary to identify and address flaws, and drive HRIA theory and practice forward' (p. 472).

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