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**Putting human rights into regional growth agendas:
Where we stand and where we ought to go**
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Abstract

This article discusses the need for more systematic consideration of business-related human rights infringements in regional economic growth policies. It discusses why human rights have been neglected in accounts of regional economic growth and proposes a three-step policy agenda to address this gap. The first step envisages the institution of regional contact points mandated to deal with business-related human rights infringements via non-judicial grievance mechanisms. The second step proposes that regions should seek to build new regional identities as ‘safe harbours’ for investors, by working towards the avoidance of harm in their territories and linking attraction and development policies (subsidies, competitive bidding schemes and other industrial policy tools) to companies’ human rights track records in order to avoid attracting and supporting ‘bad’ firms. The third step refers to the establishment of regional negotiating fora to discuss remedies for those victims of harmful conduct. In order to counter potential claims of companies’ financial incapacity to remedy human rights harms, it is suggested that local communities and their representatives openly discuss the distributive policies of the relevant companies, related to shareholder dividends, executive compensation and tax planning.

Key-words: Business-related human rights infringements; regional economic growth; economic inequality.

1 Introduction

Economic geographers, in general, consider regions, industry clusters and similar geographically concentrated production spaces as potential loci for cooperation, innovation and economic growth. The accumulated expertise in this scholarly community, related to what makes growth-boosting processes more likely, has led to recommendations about the ways that policy could overcome obstacles to growth faced by firms and regions. More recently, an awareness has emerged that economic growth is not the only dimension that needs to be considered and policy makers have shifted the focus to “inclusive” and “green” growth as a way to solve some of the new and pressing sustainability challenges such as inequality and climate change (OECD, 2013; OECD, 2014; Lee, 2019; Capasso et al., 2019; Cooke, 2012). Policy recommendations have proliferated in relation to these priorities. For instance, in order to promote greater regional inclusiveness, vulnerable groups should be integrated into the labour market, there should be closer coordination between social services and employment schemes, and between rural and urban economies, and green growth policies should focus, among other things, on supporting green innovation, accumulation of new eco-skills, low carbon industry processes (OECD, 2012; 2019).

However, in the rush to address these sustainability challenges with new initiatives and policies, we seem to have forgotten that many of the problems these policies seek to solve are not exogenous to the current organisation of production systems and distribution of economic gains. Rather, they are endogenous and are engendered by legitimate business models led by legitimate firms. Hence, the turning point is related to a shift from the current emphasis on what we *need* to do *most*, to a focus on what we need *less*. This does not mean a turn to “happy de-growth” type policies (Kallis, 2018), but rather a greater focus on avoiding the harm caused by the business sector. Unless this problem is tackled, the new pro-good policies

will have little effect. Avoiding the harm caused by the business sector refers explicitly to avoiding or minimising the noxious impacts, caused by companies, to the whole spectrum of universal human rights, which, in the field of economic geography, are not often associated to business and seldom linked to regional economic growth.

Business-related human rights infringements refer to companies' violations of universal human rights, as defined in the 1948 UN Declaration of Human Rights (UDHR), caused either directly through their own operations or indirectly via the operations of third-party actors working under their sphere of influence. In the field of international law and in the 'business and human rights' camp more specifically, business-related human rights violations are well codified and documented. They include a range of offences and victims. The most frequent of these are child labour or slavery, and a diverse set of infringements concerning workers (e.g., lack of safety at work, gender or ethnic discrimination, failure to ensure minimum wages and so on); violation of the right to health and life due to toxic emissions or waste dumping by companies; and deprivation of indigenous communities' rights to land and subsistence – related, most often, to the extractive industries, among others (see Giuliani and Macchi, 2014 for a discussion). Avoidance of such harms would contribute to several of the United Nations (UN) Sustainable Development Goals (SDGs), such as Goals 5 and 8 on gender discrimination and decent work and Goals 3 and 10 on wellbeing and reduction of inequalities, and several of the environmental goals (7, 13,14, 15). In addition, ensuring the responsible organisation of productive activities is fundamental to the achievement of Goal 12.

Since research shows that business-related human rights infringements are neither completely accidental nor rare, they must be a matter of policy concern. Steps have been taken at the

supra-national and national levels to address and avoid such harms (De Schutter, 2016; Buhmann, 2018; Ruggie, 2010). However, these new regulatory initiatives have tended to remain at the level of legal scholars and practitioners. In the contexts where they are most needed, that is, the groups that develop and make decisions about country and regional economic growth strategies, they are almost entirely neglected.

In this article, I discuss the reasons for the lack of consideration of business-related human rights infringements in economic circles and, more importantly, seek to debunk these arguments in order to set the ground for a new policy agenda related to the planning of territories and their economies. In several cases, it has been accepted that companies cannot afford to engage in more responsible human rights conduct because this would undermine their economic performance and, subsequently, wreck regional and national economies. In addition, we have ascribed to the unitary truth that governments should ‘fix’ the harmful effects of business activities occurring in their own jurisdictions, through better regulation and, most importantly, the imposition of taxes on profitable businesses (Friedman, 1970). These principles have persisted despite the world changing quite dramatically. There is emerging evidence that is showing, first, that companies’ lack of respect for human rights is not due to shortage of financial resources, which is creating doubt about whether more responsible business conduct is really the enemy of economic performance. These doubts are amplified by evidence that companies with a history of human rights infringements are disbursing extraordinary compensation and bonuses to executives and large dividends to shareholders, which, in turn, are increasing within-country inequality (Piketty, 2014). Second, it is becoming clear that sole reliance on governments to fix these harms is problematic, in part, because many harms are irreversible (i.e., a dead worker cannot be brought back to life and a highly contaminated biological environment cannot easily be decontaminated) and,

also, because many governments lack the resources to fix those harms, due, not least, to imperfect fiscal capacity, and widespread tax avoidance and tax evasion practices (Zucman and Saez, 2019).

Against this background, I argue that companies should be asked to play a more central role in avoiding or minimising their harmful impacts. However, this will require a cognitive frame shift (Reinecke and Ansari 2016) among economic decision makers. It will require an abandonment of the old established unitary truths and comfort zones and embrace of a more paradoxical terrain which subscribes to the notion that companies can be asked to avoid infringements of human rights even if this is not prescribed by law and is perceived as anti-economic. A frame shift will be needed, also, in local politics and policy making. There must be an acceptance that it is legitimate to request companies to take responsibility for respecting human rights, and that firms' human rights track records should be considered in negotiations and evaluations related to award of subsidies or other kinds of industry support and incentives. Finally, I am suggesting that negotiations over compensations and remedies for human rights harm should take account of companies' distributive strategies in terms of dividends, bonuses awarded to executives and tax planning. This information, which is available for most public companies, would provide a strong basis to counter potential claims of financial incapacity to deal pre-emptively with human rights issues or to remedy them.

The article is organised as follows. Section 2 builds the case for why consideration of business-related human rights in economic geography is timely and Section 3 provides an interpretation of the neglect of this aspect so far. Section 4 explains why we need to debunk old unitary truths to allow more creative policy-making and Section 5 concludes by offering a concrete policy agenda that anchors human rights to regional growth policies.

2 What has economic geography to do with human rights?

Universal human rights are defined as inalienable fundamental rights, to which a person is inherently entitled, simply by virtue of being a human being. The philosophical foundations of human rights date back to 17th century natural rights thinking and, further, to the writings of ancient philosophers such as Aristotle, Cicero and Seneca (Fagan, 2013), and gained political authority with the 1948 UDHR. The UDHR sets out the fundamental rights that must be universally protected and its 30 articles cover the wide range of civil and political rights, and economic, social and cultural rights. The UDHR, formally a soft law instrument, set the basis for the development of international human rights law in the form of binding treaties (Bernaz, 2017). Human rights, often, are associated with criminal governors, warlords, genocide and similar atrocities, but are less frequently associated with legitimate business. However, there is growing evidence that firms – large and small – can be involved in a wide range of human rights violations (Giuliani and Macchi, 2014; Schrempf-Stirling and Wettstein, 2017). For instance, Fiaschi and colleagues (2020), document over 2,700 firm-year human rights infringements, committed either directly or indirectly, over the period 1990-2012, by a sample of 380 big public companies worldwide. They provide evidence of persistent abusive behaviour and support to the idea that such violations are not unavoidable accidents due to bad luck or unforeseeable events, but rather are the outcome of deliberate decisions.

Eradication of such violations is high on the agendas of international organisations and, also, central to the UN 2030 SDGs. This emerging agenda is exemplified by the UN Global Compact (2000) and, more importantly, the development of the 2011 UN Guiding Principles

on Business and Human Rights (UNGPs), which is the first universally accepted global business and human rights policy framework, affirming the responsibility of companies to respect human rights in their domestic and international operations (Buhmann, 2016). The European Union has been proactive in implementing the UNGPs and, in 2011, the European Commission announced a promotion of responsible business strategy, which anticipated acceptance of corporate responsibility to respect human rights by all European enterprises (European Commission, 2011). In 2011, the OECD Guidelines on Multinational Enterprises incorporated the UNGPs (Chapter IV) and stated that:

in all cases and irrespective of the country or specific context of enterprises' operations, reference should be made *at a minimum to the internationally recognized human rights expressed in the International Bill of Human Rights*, consisting of the Universal Declaration of Human Rights and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and to the principles concerning fundamental rights set out in the 1998 International Labor Organization Declaration on Fundamental Principles and Rights at Work. (OECD, 2011, p. 32, emphasis added)

The implementation of internationally agreed guidelines and principles for responsible business conduct, such as the UNGPs, are one of the objectives in the 2019 European Commission Reflection paper 'Towards a Sustainable Europe by 2030' (European Commission, 2019). In 2014, the Human Rights Council adopted Resolution 26/9, which initiated discussion, via an Intergovernmental Working Group, of a legally binding international treaty on business and human rights.

Policy instruments to minimise business-related human rights infringements have been adopted, also, at country-level. For instance, in 2017, France passed its Law on the Corporate Duty of Vigilance, which established the legal obligation for firms above a certain size to elaborate, disclose and implement a ‘plan of vigilance’, that is, a document identifying ways that the firm would prevent major human rights violations and serious harm to human health and safety and the environment (Cossart et al., 2017). In other countries, steps have been taken to regulate specific human rights offences, such as human trafficking and modern slavery in the case of the 2015 UK Modern Slavery Act, and child labour in the case of the 2019 Dutch Child Labour Due Diligence Law, both instruments that require companies to determine the risk of such abuses in their operations and/or their supply chains and to develop plans to address or avoid them (see ILO, 2019). The US has regulated the sourcing of ‘conflict minerals’, which are minerals that come from conflict zones, via the Dodd-Frank Wall Street Reform and Consumer Protection Act provisions, which came into force in 2014, and the European Union’s Regulation 2017/821, which will become operational in 2021, requires European Union companies to ensure that imported tin, tantalum, tungsten and gold is sourced only from responsible and conflict-free zones. In other cases, regulations have been adopted at the sub-national level, in potential anticipation of national laws. For instance, in California, retailers and manufacturers over a certain size are required to disclose information on combating modern slavery and to conduct unannounced and independent audits of their suppliers to verify that their activities do not involve slavery (for a full review of national and supra-national business and human rights regulatory developments see European Union, 2020).

Despite their salience, human rights are seldom discussed in regional economic analyses, with the result that economic growth policies are not designed to deal with business-related

human rights harms. This is remarkable given that business-related human rights violations are place-specific and engendered through spatial practices and relationships (Carmalt, 2018). Moreover, regions in the same country, although subject to the same country-level formal institutions and rules, can differ in their capacity or willingness to ensure that their business sectors respect human rights (Selya, 2012; Amengual, 2016; Crane, Lebaron, Allain, & Behbahani, 2017), which justifies the need for territorial policies to address these harms. Before I delve into the motivations for the neglect of human rights in regional growth policies, I want to discuss the most recurrent typologies of business-related human rights infringements (see Table 1).

2.1 Recurrent forms of business-related human rights infringements

Inevitably, workers are frequent victims of human rights abuses. There is great variation in victims and offences with some having harsher consequences on workers than others. For instance, bonded labour (modern slavery) and child labour are gross violations and are observed across multiple industries and country contexts. Extraction of the minerals, on which several high tech industries depend (e.g., coltan and cobalt), often occurs in conflict zones such as the Kivu and Katanga regions of the Democratic Republic of Congo (SOMO, 2015)- or is characterised by slave-like or very precarious working conditions (e.g., extraction of rare earth minerals in Baotou China).

Other violations of workers' rights concern failure to ensure safety at work and exposing workers to unnecessary dangers which can be life-threatening, as in the case of the garment workers who died after the Rana Plaza collapse in Bangladesh. Failure to pay the minimum wage is another recurrent issue as is evidence of union busting and various forms of

discrimination at work. The city of Phnom Penh in Cambodia witnessed an explosion in the number of garment factories following the 1999 US-Cambodia Textile Trade and Apparel agreement, which made the city an export platform for global buyers including H&M, Walmart and Adidas among others. In Phnom Penh, Human Rights Watch (2015) documented instances of ‘forced overtime and retaliation against those who sought exemption from overtime, lack of rest breaks, denial of sick leave, use of underage child labour, and the use of union-busting strategies to thwart independent unions. In addition, women workers faced pregnancy-based discrimination, sexual harassment, and denial of maternity benefits’. Additional evidence, based on research conducted by members of the Clean Clothes Campaign, revealed H&M’s failure to ensure fair or living wages for workers in Phnom Penh despite its declared intention to do so (Preston, 2016). In the Information and Communication Technology (ICT) sector, in 2011, Apple Inc. was involved in a major controversy, concerning one of its main commercial partners, the Taiwanese Foxconn Technologies. NGOs, activists, journalists and academic researchers repeatedly documented poor working conditions, overtime working, insufficient safety standards and high (although lower than the US and Chinese national averages) suicide rates among employees producing iPhones in the Shenzhen Hi-Tech Industrial Park in China (Lucas et al., 2013). Other cases also cover gender discrimination at work (see, Chang, 2018 on systemic gender discrimination in Silicon Valley) and sexual harassment, as in the well documented cases of Barrick Gold’s Porgera mine in Papua New Guinea (Manning, 2016) and a Malaysian forestry firm’s operations in Guyana (Whiteman and Cooper, 2016).

Another class of abuses, concerning the right to life and health, occurs when individuals or communities are exposed to toxic emissions or toxic products. This might occur in the production process, where workers’ exposure to contaminants can have long-lasting

consequences for their right to health (e.g., the sandblasting process employed widely in the production of jeans); in other cases, local residents are affected by noxious emissions into the soil, water and the air. China is home to over 450 ‘cancer villages’ (Liu, 2010), so called for the outstandingly high cancer rates among locals, resulting from their exposure to toxic emissions from factories. Other eminent cases, especially in the mining and extractive industries, have been well documented and their detrimental impacts on the livelihoods of local communities is well known; this applies, especially, to contexts where natural resources are the sole means of subsistence for the community (see the case of the Ogoni community in the Niger Delta and the environmental contamination connected to Shell Oil’s extractive activities). In Latin America, the Peruvian city, Cerro de Pasco, is famous for being one of the world’s most contaminated sites (Rodbell et al., 2014; Orecchio et al., 2016): it hosts an open pit mine, which, for decades, has been exploited by the private sector for the extraction of zinc and other minerals. Numerous studies have documented how exposure to heavy metals has caused severe brain damage and other fatal or permanent illnesses among the local people. There is another case of a steel plant located in Taranto in the Apulia Region of southern Italy, where violations of the local people’s right to health and life have been demonstrated and reflected in abundant law case evidence, including the pronouncement made in the European Court of Human Rights in 2019. The evidence showed that the company had exposed its employees and the local population to significant health risks due to emissions of toxic dusts (dioxins, PM 10, PM 2.5, asbestos, dibenzopyrenes, among others), which had resulted in higher than national average death rates in the area.

In other cases, it is the firm’s product that is hazardous to human health and can affect users. Such products include asbestos, glyphosate and automobiles, all of which were sold also when the firms had knowledge that they could be harmful to users. Finally, the most recent

forms of human rights abuses are related to access to and misuse of private data. For example, Facebook was heavily censured for selling consumer data to Cambridge Analytica without users' consent. The US Superior Court of the District of Columbia (District of Columbia vs Facebook, Civil Action No. 2018 CA 008715 B) considered it crucial that Facebook employees were aware of the data misuse and did not act to prevent it and, also, that allegedly, the data were used by political candidates during the 2016 US Presidential Elections, potentially altering the normal democratic election process and interfering with its results. In July 2019, the US Federal Trade Commission (FTC) voted in favour of a \$5 billion penalty to settle the charges that Facebook violated a 2012 FTC order by abusing consumers' privacy.

These examples are not exhaustive, but serve to show that no territory is immune to business-related human rights infringements: they can occur in the most institutionally advanced countries, where, in principle, the law and the judiciary should prevent their occurrence. Also, even if there is no harm generated locally, it might be produced along the value chain, by overseas subsidiaries or through use of the product.

*****Table 1 about here *****

3. Motivations for neglecting human rights

In accounts of regional economic growth, mention of human rights issues is rare. Sometimes, human rights are invoked in the form of labour rights in studies of labour standards and labour geographies (e.g., Coe & Jordhus-Lier, 2010; Lund-Thomsen & Coe, 2015; Ruwanpura & Wrigley, 2011; Stringer, Simmons, Coulston, & Hugh Whittaker, 2014; Smith et al., 2018), environmental standards (e.g. Havice, & Campling, 2017); ethical trade (e.g.,

Hughes, Buttle, & Wrigley, 2007; Ruwanpuray, 2016) and the geography of illegal activities (Chiodelli, Hall, & Hudson, 2017; Gutiérrez-Romero & Oviedo, 2018; Hudson, 2014).

Scholars have been calling recently for a better understanding of uneven economic development and the dark side of economic geographies (Phelps, Atienza, & Arias, 2018). Nevertheless, work in these areas remains the exception rather than the rule and, so far, human rights considerations are left out of economic growth agendas, in my view, for two main reasons.

First, business-related human rights infringements generally are dismissed as unintended side-effects or negative externalities and, therefore, are conceptualised as problems that governments should fix ex-post through their budget, and on the basis of the political principle that tax imposition and expenditure are governmental functions not to be left to private companies (Friedman, 1970). By treating human rights harms as market failures, existing policy approaches are oriented to solving the problems once manifested, rather than demanding that companies invest resources to avoid their occurrence in the first place. In this type of approach, also, human rights harms are often framed as a ‘necessary evil’ to achieve faster and easier growth processes. Likewise, the harmful impacts on human rights caused by business activities are considered explicit costs that must be borne to ensure the ‘greatest good for the greatest number’ - a consequentialist intellectual stance that has had some major repercussions for policy makers’ and technocrats’ thinking about regional development policies and has led them, often, to prioritise investment and employment opportunities over, for instance, the right to health and life of local constituents. However, policy-wise, this approach has proven problematic because countries are imperfect fixers and government responsiveness to business-related human rights harm can be slow and very diverse across and within geographies (Scherer & Palazzo, 2008; Hart & Zingales, 2017; Coad et al., 2019).

Second, by attributing to governments the duty to fix those harms, firms are seldom given absolute responsibility to avoid them. The dominant approach is generally pro-business and it *assumes* that asking companies to bear the costs of more responsible business conduct will automatically penalise their financial performance, which, in turn, is considered automatically to result in slow growth and job losses. However, the accuracy of this assumption is unknown because empirical research largely neglects such questions.

These one-sided economic views that have led to the neglect of human rights and growth agendas do not necessarily reflect solid and undisputable economic rules, but rather, highly consolidated cognitive frames. Cognitive frames are interpretation schemata that allow individuals to make sense of their surrounding complex world. In the management literature, cognitive frames are considered powerful determinants of strategic change (Fiss and Zajac 2006) and as playing a performative role (Cornelissen and Werner 2014) and shaping decision-making processes. Cognitive frames are particularly important in the context of sustainability decision making (Hahn et al., 2014), where managers, policy-makers and other influential actors must decide between complex trade-offs such as those involved in pleas for companies to be socially or environmentally sustainable and or to maximise their economic returns. Research on the cognitive framing of sustainability decision-making proposes that, along the spectrum of possible models, there may be a preference for frames that simplify the trade-offs and allow decision makers to eliminate tensions and find solutions that do not involve a drastic dislodging from existing comfort zones (e.g. Hahn et al., 2014). In this context, economic decision makers tend to orient themselves to ‘unitary truths’ (Smith and Tushman 2005, p. 525) and to steer clear of more ambiguous views, characterised by fewer fixed reference points and more paradoxes.

Decision making around human rights issues demands that managers, entrepreneurs, policy-makers and other relevant actors operate in uncharted terrain and depart radically from their routines. Most managers and economic decision makers have no training in human rights issues and no familiarity with human rights jargon, both of which are recent additions to the business world,. This explains their general reluctance to address these problems (Obara, 2017) and their preference for simpler and more familiar models (Giuliani et al., 2020), making the trade-off between economic gain and respect for human rights solved, more easily, by protecting the former at the expense of the latter.

Even more relevant here is that cognitive frames are persistent lenses that are applied to a constantly changing world. Cognitive frame shifts may occur too slowly to address emerging new challenges. Also, individual cognitive frames that extend within and across societies can become ideologies that may be hard to debunk (Piketty, 2020).

4. Debunking unitary truths

Despite being difficult, the debunking of unitary truths is the key to challenging the conventional wisdom and rethinking economic growth policies. It involves contesting the very idea that firms cannot afford responsible business conduct and that diverting resources to non-core (human rights) strategic purposes will undermine firm performance and survival, with important negative consequences for the regional and national economy.

To contrast this idea, one question to ask is whether neglect of human rights is more likely in financially constrained, underperforming firms compared to well or overperforming firms. In work on organisational crime and illegality (e.g., Baucus & Near, 1991; Finney & Lesieur,

1982; Mckendall & Wagner, 1997; Staw & Szwajkowski, 1975), this is an old question that is grounded on a clear rationale: firms in financial distress may have an additional incentive to misbehave to reduce their performance gap. While there some evidence that seems to support this hypothesis (Staw & Szwajkowski, 1975; McKendall & Wagner, 1997; Harris and Bromiley, 2007; Jeong and Siegel, 2018), the field is far from a definite answer to this question (Greve et al. 2010) and, a growing number of recent studies, shows that high performing, top tier firms are more, not less, likely to misbehave and cause harm to human rights (e.g, Mishina et al., 2010), than their underperforming peers. This can be understood as due to willingness of companies at the top of the competition to take risks in order to maintain their leadership. Essentially, they are more fearful of loss of position than being revealed as involved in corporate illegality and business misconduct and less appreciative of the potential gains from good business conduct. There is a wealth of anecdotal evidence supporting this hypothesis; high calibre companies such as Volkswagen, Walmart and Apple have all been involved in egregious violations of human rights despite being industry frontrunners. In the policy context, whether it is poor performers or high performers that misbehave makes a huge difference. In the former case, this misbehaviour could be tackled by helping the firm to achieve increased performance through legitimate means, in order to reduce the performance gap with other firms and curb potential misbehaviour; in the latter case, policies are likely to be ineffective and far more innovative means will be required to reduce bad behaviour.

In this context, one area worthy of more consideration, lies within the sphere of corporate governance, that is, how firms choose to distribute their economic gains. This includes decisions about shareholder dividends, compensation and variable rewards for top executives and tax planning choices (European Commission, 2017). To my knowledge, the relationship

between corporate misconduct and these kinds of distributive decisions has not, so far, been investigated systematically, although some have pointed at the tension between them in the past (see Musto, 2020) and recently. Bivens and Mishel (2013, p. 71) for instance propose that ‘if a declining value of the minimum wage, or increased effectiveness in blocking union organisations, keeps wages in check at, say, Walmart, then...this could lead to higher pay for corporate managers and higher returns to Walmart shareholders’. Again, there is anecdotal evidence that supports the existence of such tension and suggests that the resources required to address human rights harms are available, but are allocated to rewarding investors and executives rather than mitigating harm. For instance, in 2019, the Clean Clothes Campaign, mounted against H&M, to demand fair wages for the Asian workers involved in its supply chain, proposed that the Board should not approve payment of an annual dividend to shareholders and, instead, should allocate the funds to ‘a special “living wage fund”’ to finance increase wages for those workers. However, H&M’s Board decided on payment of a dividend amounting to SEK16 bn (approximately €1.5 bn); it is notable that the chairman of H&M, who also owns 32% of H&M shares, is Sweden’s richest individual and was ranked 71 in the Forbes Billionaire List, with a net fortune of USD17.3 bn in 2019. One could cite several more similar examples. However, the point is that, in a policy context, it is crucial to take account of the possible tensions between companies’ investment in avoidance of harm and decisions to distribute economic gains to investors and executives.

As a counter-argument, some might fall back on the reasoning that rewarding investors and executives rather than addressing human rights harms, may be part of a strategy to achieve higher profits (Jensen and Murphy, 1990), which, in turn, would increase the amount of taxes and the contribution rate paid by of business to government. In principle, these additional resources could be used by governments to address or fix human rights harms. However, this

counterargument is problematic for two reasons. First, there is a substantial strand of scholarly research in management and economics that suggests that higher executive compensation does not imply higher firm performance or higher profits (for an extensive discussion on this see Edmans and Gabaix. 2016). This then means that, against predictions of standard agency theory, excessive rewards are more likely to be the outcome of rent-seeking than of market efficiency (Zingales, 2017). Second, and more important, the total tax rate, that is, the amounts of taxes and mandatory contributions payable by businesses has reduced over time (World Bank), reflecting a persistent regressivity in the tax structure worldwide, which, according to Hager and Baines (2020, p. 297), ‘is bound up with the increasing relative power of large corporations within the corporate universe and a shift of power within large corporations from workers to shareholders and managers’. Furthermore, growing evidence that aggressive tax planning (Desai et al., 2006; Killian, 2006) adds to doubts about the capacity of governments to garner the resources necessary to address human rights harms. For instance, according to Zucman and colleagues some 40% of the annual profits generated by multinational enterprises end up in tax havens (ca USD660 bn), estimated by some as representing some 10% of global GDP (of an order of magnitude of between USD6trn and USD32 trn) (Alstadsæter et al., 2018).

To sum up, there are two stylised facts that emerge from the recent literature. First, the firm’s decision to reward investors or executives rather than to prevent human rights harms is not dictated by solid economic rules; rather, it is the choice of one alternative among multiple others which might be equally viable. In other words, the decision is shaped by a cognitive frame that means that managers and entrepreneurs do not have to depart too radically from their comfort zones and are able to maintain their positions or power. Second, the principle that governments, on their own, should be responsible for fixing corporate harm using the

taxes and contributions gathered from the relevant companies, is not consistent with the growing evidence on tax evasion and tax avoidance. Hence, it would seem important to uphold the principle that companies, especially large ones, should take full responsibility for their human rights harms and invest resources in their prevention and remedy. This is not to say that the state does not have a role - the state has a duty to promote respect for human rights in the territory under its jurisdiction (UNGP, 2011), rather, it is to emphasise the need to overturn the idea that companies are unable to bear the costs of more responsible business conduct. All the evidence points to the fact that most big companies have the financial capacity to protect human rights, but new and better policies are needed to ensure that this happens.

5. A call for new regional growth policies

In a world of disaggregated production activities, where upstream production phases are often undertaken at great physical distance from the firm's headquarters and the locations where strategic and corporate governance functions are performed, it is important to implement appropriate local economic growth policies to ensure sustainable and equitable development processes.

I am proposing a three-step policy agenda: the first step involves "taking human rights seriously" which includes mandatory human rights due diligence and monitoring of business-related human rights conduct; the second step is "linking human rights to growth policies and building new regional identities", which implies inclusion of human rights performance indicators in the criteria related to competitive bidding schemes, subsidies and other economic incentives available to firms in the region; the third step is "negotiating

remediation and minimisation of harm” in the case that the firm fails to respect human rights in a given territory. I explain each policy step below.

Step 1 Institute regional contact points and grievance mechanisms for victims

This would involve mandatory human rights due diligence for the most salient firms in a given territory. Saliency would be defined on the basis of the firm’s economic significance – in terms of its size, revenue or local supply chain size, but, also, might cover smaller firms operating in highly strategic, relevant or even problematic industries. Human rights due diligence is a risk management tool, which is defined in the UNGPs, with the aim to “identify, prevent, mitigate and account for how [a company] addresses its adverse human rights impacts’ (UNGPs, 2011, p. 17). Human rights due diligence normally is considered to include careful assessment of the company’s actual or potential human rights harm. In addition, it would serve to demonstrate how the company intends to address actual or potential harms and would communicate to relevant stakeholders the actions the company has taken to avoid or minimise such harms. More importantly, human rights due diligence should include grievance mechanisms.

Governments in the OECD countries were asked to set up NCPs - National Contact Points for Responsible Business Conduct - to deal with cases of business-related human rights infringements via non-judicial grievance mechanisms. This allows potential victims to file a complaint against a company and obtain access to consensual and non-adversarial procedures (e.g., conciliation or mediation). Between 2000 and 2018, OECD-related NCPs have dealt with over 450 cases related to business operations in over 100 countries and territories.

Similar grievance mechanisms are in place for projects financed by the development banks or the World Bank (World Bank, 2014).

National governments could decide to use legally binding national law – as in the case of France, which imposes a duty of care and civil liability in the case of firms’ non-compliance. However, even in the absence of a national law, regional governments could take steps to establish regional contact points, based on their physical proximity to the businesses causing harm and to their victims. Such monitoring of firms and imposition of grievance mechanisms would constitute significant progress compared to current practice. Regional contact points would give a voice to the victims of abuses and allow them to access extra-judicial remedies. Proximity between the victims and the contact points is fundamental, especially in underdeveloped countries where travel and contact with the company may be difficult. Grievances mechanisms should not be considered as substituting for legal action in all cases, but would be useful to raise awareness about a given problem and, generally, are less costly than legal action which would facilitate access to justice for poorer communities.

Step 2 Link human rights to growth policies and build new regional identities

While there are multiple institutional developments oriented to the avoidance of harm or to its extra-judicial remedy, such developments are seldom anchored to regional growth policies. Although human rights might be mentioned in local policies, for example, in the case of grievance mechanisms related to development bank projects, they are a topic in their own right and are never well embedded in the core tenets of growth policies or anchored to growth-enhancing mechanisms. Also, the lack of coherent policy, that is, the fact that human rights and economic issues are dealt with by different government offices with no interaction

between them, is a major obstacle to serious consideration of human rights within economic policy (see Bernaz, 2017, p. 147).

To address this, I suggest that regional contact points should operate in tandem with economic development planning, to allow development or implementation of economic policies that consider companies' human rights conduct explicitly. For new entrants to the region, regional development offices (or otherwise defined institutional bodies with a mandate to promote economic growth) could require human rights due diligence to be conducted as a minimum criterion for settling in the region and accessing public subsidies, funds or fiscal benefits. For incumbents, their human rights track record – judged, based on, among other things, the complaints filed with the regional contact point and evidence of extra-judicial remedies resulting from these complaints - could be used to assess their human rights conduct and ranking. The decision to publish the results or retain them for internal use only, is on a case-by-case basis. The idea is that economic development planners can track misconduct resulting in human rights offences and use this evidence as additional criteria when evaluating bid applications, grants and other regional growth policy incentives. This information is used, also, when deciding about whether to grant permission to extend a company's operations in the region or expand its mining sites, for example, or for public procurement purposes. The rationale behind linking human rights to economic policies is that it encourages regional governments to invest in projects involving firms that are the least likely to do harm locally and to eschew companies that fail to provide sufficient evidence that they will avoid or minimise harm.

This approach provides the region with multiple advantages: first, by selecting and monitoring companies' human rights conduct, it minimises business-related harm in the

region and reduces the costs to regional government of fixing those harms and addressing conflicts related to human rights abuses. Second, by demanding more respect for the human rights of workers, children, women, migrants, regional residents etc. – regions improve their reputation. This identity and reputation can be leveraged to attract more investment and escape ‘low road’ development trajectories (Giuliani, 2016). This is particularly important at a time when - especially large - companies are having their investments heavily scrutinised and are being asked to take responsibility for their supply chains. Investing in ‘safe’ regions with a good record of promotion and protection of human rights, would help companies to reduce ‘governance gap’-related risks in the host region. This could be a powerful selling point to attract the best investors and keep the most exploitative companies at a distance.

Step 3 Hard bargaining over minimisation and remedying of harm

The third step concerns the negotiation phase, after a harm has occurred or when harm becomes unavoidable. Where possible, victims should opt for a judiciary solution. However, in some countries this may be a lengthy and unfeasible solution. Regional contact points’ grievance mechanisms might allow extra-judicial pursuit of a remedy; it implies negotiating solutions to the harm with the company (to prevent its recurrence or further damage) and/or remedies to the victims. Negotiations of this kind are fraught with difficulties related to the power imbalances that generally exist between abuse victims and the firm which is likely to be in a much stronger position based on its potential economic relevance in the region. It has been suggested that such negotiations should be multi-partite and involve both the relevant stakeholders (UNGP, 2011). This is certainly a delicate moment in the negotiation of a solution to human rights harms. However, it is in this context that it is necessary to legitimise evidence about corporate distributive decisions –dividend distributions, rewards to executives

and aggressive tax planning – to be used as a bargaining chip, because such evidence is likely to constitute a future Achilles heel for the biggest companies.

The firm's headquarters and heart of corporate governance decision making may be remote from where the abuses occur. However, if companies that are involved – even indirectly – in human rights abuses are traded on the stock market, their distributive decisions are public and ought to be part of the negotiations. For each of the steps in this policy agenda, local policy makers will need a cognitive frame shift, but this third step will involve the most discomfit and involvement in negotiating and making decisions for the good of their local constituents against the good of a few, often-distant individuals (shareholders, executives, etc.). The negotiations will require a knowledge of accountancy and ability to understand company balance sheet information in order to be able to counter potential claims of financial inadequacy to deal pre-emptively with human rights issues or to remedy them. Evidence of tax avoidance would be one strong negotiating tool when firms demonstrate unwillingness to remedy for their harms and claim that this would be financially unsustainable. Mobilizing capitals accumulated in tax havens is possibly one future strategy to address human rights harms caused by firms; policy-makers may want to think deeper about how and when to use this argument to ensure a more sustainable development path in their regions and territories.

To conclude, the three-step policy agenda I am proposing will anchor human rights to regional economic growth. It has some weak points which will call for more discussion and analysis in future research. The first limitation is that, in common with most policies, policy effectiveness will rely on the quality of the regional institutions: in highly corrupt environments, led by rent-seekers and kleptocrats, there will be minimal interest in introducing and implementing these kinds of policies. Local politicians may have more

interest in accruing private gain in the form of bribes or ad hoc rewards from exploitative companies than in pursuing the public good; they may explicitly oppose the introduction of policies with the result that in those regions where they are most needed, these policies will be ineffective. Second, the adoption of these policies by the most institutionally advanced regions and with stronger human rights identities, is likely to increase their ability to attract more ‘good’– firms, and risk location of the worst firms in the most needy regions, potentially exacerbating global inequality. However, these limitations do not justify lack of action on the issue. Ensuring that all regions and countries worldwide create the conditions for business to respect human rights requires international coordination, something that is already high on the agendas of international organisations, and, despite the problems involved, is being addressed by the appropriate supra-national institutions. The policy measures suggested in this article are aimed at sub-national decision-making and shifting the supra-national debate to regions and spaces where the avoidance of business-related human rights infringements should be paramount.

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Table 1 Recurrent forms of business-related human rights infringements

Human right offence	Typologies abuses	Selected exemplary cases	Type of victims
Workers right	Modern slavery (e.g. bonded labour)	<ul style="list-style-type: none"> • Slavery in the Thai fishing industry • Uzbekistan forced cotton picking • Slavery in the UK agricultural industry • Forced labour in Liberia’s rubber plantation (Firestone) • Migrant workers in construction industry in the Middle East 	<ul style="list-style-type: none"> • Workers • Children
	Child labour	<ul style="list-style-type: none"> • Child labour in the football stitching industry in Pakistan • Child labour in gold and salt mining in Africa (Burkina Fasu, Niger, Senegal) • Child labour in the cocoa value chain (multiple places like e.g. Nestlé and other chocolate producers in Cote d’Ivoire) 	
	Lack of safety at work	<ul style="list-style-type: none"> • Garment factories collapse in Rana Plaza, Bangladesh • (Artisanal) mining in Democratic Republic Congo 	
	Failure to ensure minimum wage/, poor working conditions, ethic or other discrimination at work	<ul style="list-style-type: none"> • Garment factories in Phnom Penh, Cambodia • H&M failure to ensure fair wages in Bangladesh • JBS Swift discrimination against Muslim employees in Colorado and Nebraska (US) • Apple-Foxconn controversy in China 	
	Gender discrimination, sexual harassment	<ul style="list-style-type: none"> • Google wage discrimination against women in Silicon Valley, US • Porgera mine Barrick Gold sexual assaults in Papua New Guinea • Rape of young women in connection with a Malaysian forestry firm’s operations in Guyana, South America 	
Right to life and health	Unhealthy working conditions	<ul style="list-style-type: none"> • Sandblasting in the fashion industry • Silicosis connected with mining activities by African Rainbow Minerals in South Africa 	<ul style="list-style-type: none"> • Communities (residents, indigenous groups)
	Toxic emissions and dumping/waste mismanagement	<ul style="list-style-type: none"> • Shell Petroleum Development Company of Nigeria Limited/Royal Dutch Shell environmental degradation in Nigeria 	<ul style="list-style-type: none"> • Workers and children • Consumers

		<ul style="list-style-type: none"> • Gazprom toxic emissions leading to local residents experiencing respiratory, nervous system and skin ailments caused by hydrogen sulphide emissions in Kazakhstan • China cancer villages • Italian steel plant (Ilva) contamination of air, soil and water • Cerro de Pasco (Peru) and Carrizalillo (Mexico) open pit mines contamination of air, soil and water • Tailings dam failures in Brazil 	
	Toxic/unsafe products	<ul style="list-style-type: none"> • Ford Pinto car accidents • Asbestos-related products • Mattel poisoned toy recall • Sanlu Group melamine milk scandal • Volkswagen diesel emission misconduct • Monsanto's glyphosate mass lawsuits 	
Indigenous right to land, traditional knowledge and cultural heritage	Use of land without due consultation	<ul style="list-style-type: none"> • Land grabbing in the Amazon and Africa for large development projects (e.g. dams) or mining sites • Land tenure-related conflicts in palm oil industry in Indonesia 	<ul style="list-style-type: none"> • Indigenous communities
	Appropriation of natural resources and traditional knowledge (biopiracy)	<ul style="list-style-type: none"> • Monsanto breeding of tomato resistant to botrytis • Asahi Food appropriation of the Amazon fruit cupuacu • Pfizer appropriation of Hoodia gordonii plant and Phytopharm • W R Grace appropriation of neem tree 	
Right to privacy; interference with right to free speech	Right to privacy: use of personal data without consent	<ul style="list-style-type: none"> • Apple-Cambridge Analytica harvesting of data used without consent • Wells Fargo use of clients' data to open credit lines without their consent 	<ul style="list-style-type: none"> • Consumers/users
	Interference with free speech and civil liberties	<ul style="list-style-type: none"> • Ethiopian government use of telecommunications products developed by ZTE and supplied to the state-owned telecom company, Ethio Telecom, to monitor civilians • Yahoo's sharing of information about the identity of dissident journalists with the Chinese Government leading to tortures and suppression of their right to speech 	

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- Killing of environmental activists and social groups protesting for the protection of their land and the natural world from industries like mining, logging and agribusiness

Note: Information on each case has been retrieved by multiple sources including: Business and Human Rights Resource Centre; ILO; UN (several agencies); SOMO; Human Rights Watch; Source International; Friends of the Earth; Earths Rights; EJAtlas; European Court on Human Rights; Convention on Biological Diversity. Identification and selection of these cases has been based on expert advice of key informants. Details are available upon request by the author.

