Article No.2

DO 'ASIAN VALUES' CONCUR WITH THE RUGGIE FRAMEWORK? A CASE STUDY OF THE INDIAN BANKING SECTOR

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Abstract: *Human rights discourses have enforced similarity of ethical guidelines that organisations follow throughout the world. Ruggie framework has furthered this by emphasising the responsibility of corporate houses to advance human rights. In the context of banking industry, the due diligence that a banker exercises is demonstrated to protect, promote and remedy human rights. However, these broad guidelines provide sufficient room for corporate houses to innovate ethical practices suitable for their sector. Banking institutions in India have shown abysmally poor record on the performance towards the benchmarks of human rights. We argue that 'Asian values' may not concur with 'due diligence' proposition of Ruggie framework. We derive our conclusions by examining ethical practices in three public sector banks and three private sector banks.*

Keywords: *Ruggie framework; Asian values; banking sector, India; human rights, business; ethics in banking; due diligence*

Introduction

Adverse circumstances, such as pandemics, provide an occasion to test the humanitarian and ethical grounds of institutions. When earnings of citizens go down substantially, creating limited pay back capacity, whether banks are going to aid the customers is an important question. In the aftermath of COVID-19, the Central bank of India – Reserve Bank – asked banks to extend moratorium on loan pay backs for duration of six months. A question that emerged immediately was raised by the Supreme Court of India: whether moratorium would mean that the banks would be allowed to charge interest penalties on the payments that were deferred. Following this, a legal conflict emerged between the Court and the banking association, where the latter argued that it was impossible to survive as an institution without charging interest. This episode is typical of moral questions that the banking industry faces. In this paper we ask whether human rights framework adopted for industry is capable of responding to such ethical challenges.

Note : "All views are solely based on research and personal opinion. They do not reflect the ideologies of the institutions the authors are affiliated with.

Ethical foundations of human rights were translated into industrial context through ‘Ruggie Framework’ (elaborated in the first section of the paper). However, it is likely that the criticism posed against human rights universality is also applicable to Ruggie framework. Frontal attack on the human rights framework has been from the vantage point of ‘Asian values’. Value frameworks with its cultural specificity is demanded to be included as part of ethical foundations of human rights. The paper aims to answer whether ‘Asian values’ are preventing the translation of ‘Ruggie framework’ to develop ethical foundations of banking institutions. The paper is organised in three sections. First section of the paper explains the Ruggie Framework. Then, in the second section, we provide a broad overview of Indian banking institutions and its regulatory architecture. In the third section of the paper we present data from six banks in India in terms of their compliance to business responsibility frameworks. We use this empirical evidence to argue whether ‘Asian values’ have had an impact on diverging from human rights norms in Indian banking industry.

What is Ruggie Framework?

Since the Universal Declaration of Human Rights in 1948, there have been tremendous attempts to advance moral and ethical aspirations of humanity through a complimentary framework of rights and duties. Foremost among these attempts is the role of the Office of the High Commissioner for Human Rights (OHCHR), which has the unique mandate of converting human rights enjoyment into lived realities for every individual. It safeguards the integrity of the three key pillars of the UN—peace and security, human rights and development. Under this office, of superior relevance is the branch on Thematic Engagement, Special Procedures and Right to Development Division (TESPRDD). This branch is essentially tasked with the development of tools and provision of guidance on themed human rights issues to break down the process of realising human rights for each sector. As of 2017, there are 44 thematic mandates for OHCHR Special Procedures.In order to ensure that a country does not outrightly oppose internationally accepted conventions, the UN OHCHR appoint Special Rapporteurs (SR) to further the cause of human rights in the world.[i]

The focus on financial institutions for advancing human rights came up after structural adjustments policies were adopted in several countries. Responsible finance management was seen as a critical function to achieve project objectives and thus, human welfare. Several structural adjustment policies had political character too. Very important case to drive this point was how the World Bank conceded to human rights in the bank’s mandate. Broding (2002) highlighted how respecting human rights came to be within the core mandate of the World Bank, given the established correlation between economic welfare and human rights.

While the human rights discourse had actively started developing frameworks for transnational corporations and human rights, the primary obligation to uphold human rights still laid with the state. The Special Rapporteur Reports like the one on Right to Food acknowledges the dilemma –“*A State’s obligation to protect human rights includes ensuring that non-State actors do not infringe them. In addition, there is an increasing debate about the extent to which other actors in society — individuals,* *intergovernmental and non-governmental organizations (NGOs), and business — have responsibilities with regard to the promotion and protection of human right*s"(OHCHR, 2010 p.29).Other scholarsreiterate that the Special Rapporteur Reports have focused on the State's actions to comply with human rights (Davy and Pellissery, 2013).

A turning point in the history of human rights was the introduction of the United Nations Guiding Principles (UNGPs), also known as the Ruggie Framework[ii]. For a long time, the inclusion of the 'market' or the 'private' in the discourse surrounding human rights was kept beyond legal obligations. It was John Ruggie who broke out of this mould of vesting all human rights obligations in state actors only and made other agents accountable as well. He defined three primary pillars on which his framework was to rest. The first pillar defined the state's duty to *protect* human rights, the second defined the obligation of businesses to *respect* human rights and the third elaborated on the *remedies* for victims of human rights abuse(OHCHR, 2011)[iii].In 2008, this framework was welcomed by the UN Human Rights Council and unanimously endorsed in June 2011. A range of international frameworks was updated to bring them into alignment with the UNGPs, including the OECD Guidelines on Multinational Enterprises, a global Reporting Initiative framework and the ILO Tripartite Declaration of Principles (Oxfam, 2013).

The UNGPs have since given a foundational base to business and human rights policies by defining the responsibilities of both the public and the private. Since 2011, the UNGPs have received ample support (UNGP, 2020). They set the stage for businesses to move from voluntary philanthropy to adopting due diligence procedures to respect human rights, and also enable a robust process of getting remedies for any adverse human rights violations. Mark Taylor places the Ruggie framework's human rights due diligence in core operations element as the changing point of the corporate responsibility trajectory. He says that "*the era of declaratory CSR is over*". Even though the UNGPs place no legally binding obligation on businesses to promote human rights, the paper expresses that it is not necessary that voluntary measures conflict with binding regulations, and that the two approaches may, in fact, be complementary (Taylor, 2011). The international human rights regime saw the increased importance on the link between business and human rights and the World witnessed the adoption of the principles of the Global Compact in 2000[iv].

Challenge of Ethical Orientation in the Banking Industry

There exist a number of efforts to realise human rights in the financial sector. The International Finance Corporation (IFC) has updated its framework on the basis of the UNGPs to reflect human rights concerns. In its expected performance standards, there stands an explicit call out for mandatory environmental and social requirements among others that are a prerequisite to be eligible for IFC's direct investments. The Equator Principles that are used to assess the environmental and socio-economic risk in project finance have been based on the IFC performance standards. More than seventy financial institutions have adopted the principles that showcase a risk management charter. It explicitly encourages clients to include due diligence in sync with human rights as per UNGPs in their assessment documentation (United Nations Environment Programme, 2012). The UN Global Compact has taken up an investor' evaluation of companies based on environmental, social and corporate governance (ESG) issues[v].

The Global Compact LEAD has also played a role in internalising ESG into their investment decisions through a close association with other international organizations. These include the UN supported Principles for Responsible Investment (PRI), UNEP Finance Initiative (UNEP FI)[vi], Equator Principles, and Principles for Sustainable Insurance have been developed to complement this initiative (UN Global Compact website, accessed 1st May 2017).The Wolfsberg Group[vii]aims at creating financial standards to counter money laundering related to terrorism. Know Your Customer norms and subsequent principles on Anti-money laundering, Counter Terrorist Financing are on the radar.

Despite these efforts, applying the Ruggie framework to the financial sector is a challenging process due to the convoluted nature of the array of financial products and services spread across actors at different levels[viii]. This can be illustrated taking the example of the 2007-08 subprime housing crisis, an event that provided a setting for Ruggie principles.

The crisis is a clear example of how an economic downturn is also an infringement on people's rights. Prior to the subprime process, customers who wanted credit had to build a persistent, long lasting relationship with their banks and struggle to strike up a considerable deposit even to be considered for a loan. This resulted in discriminatory lending practices, resulting in the exclusion of many from acquiring home loans and credit. Poorer, black and Hispanic neighbourhoods were the worst hit. The Community Reinvestment Act (CRA) of 1977 intended to reverse these discriminatory practices and broaden access to credit, eventually leading to poverty reduction. However, the manner in which this reform interacted with the complex financial system spelt disaster[ix]for the American mortgage industry and the unintended consequences lead to the deterioration of economic and social well-being of individuals. This is primarily because austerity measures lead to state bailouts of financial sector losses and savage budget cuts that can hinder human rights enjoyment (Kinley and Jones, 2012). The crisis proved that a failure in a single implementation arm of financial policies, be it monetary or corporate, can lead to a crash of the entire structure.Ruggie principles of 'protect', 'respect' and 'remedy' was concrete in this case to be applied. The norms of due diligence in the business was recognised as a measure to advance human rights.

Are these ethical principles in banking sector developed, keeping human rights benchmarks, translated into contexts of Global South, particularly that of India? That is the question we will be exploring in rest of this paper.

Overview of the Regulatory Framework in the Indian Banking Industry

India's banking system is true amalgamation of traditional and modern practices in the financial industry. Deprived of access to modern banking, vast majority of thepopulation still depends on traditional money lenders and trust-based transfers (Das, 1980). Modern banking in India originated in late 18th century[x].However, a regulatory framework emerged only by the middle of the 20th century. Establishment of theCentral Bank (in 1934), Banking Regulation Act (in 1949), and nationalisation of banks (in 1969) are some of the key mile stones in the modern banking system in India. The Reserve Bank of India Act, 1939, classifies all banks in India into scheduled banks[xi]and non-scheduled banks[xii]. Regional Rural Banks (RRB)[xiii], Commercial Banks (CB)[xiv]and State Cooperative Banks (SCB)[xv]are scheduled banks, whereas non-schedule banks are those that the RBI cannot directly control and those banks which has lower paid up capital.

Additionally, development financial institutions[xvi]or development banks were a result of an RBI working group's efforts at examining NBFCs regulatory mechanism. A distinct feature about such development banks is that they follow a project approach in their financing decisions, that is evaluate the viability of the project as against an examination of the securities or collaterals. More pertaining to this paper is the increasing trend of emerging private banks since 1990.

Though there may be unique features to Indian banking industry, regulatory features that govern Indian banks cannot be separated from that of banking industry across the world. In fact, Indian banking regulators have adopted global norms of BASEL – I, BASEL – II and BASEL III[xvii].Basel III norms aim at making banking activities more capital-intensive, and lowering risk of increased withdrawals by customers simultaneously for fear that the bank may go insolvent.

Though the banking industry is a comparatively well-regulated sector, it has its drawbacks where ethical practices are concerned. During 2013-16 alone, Public Sector Banks (PSBs) in India have lost a total of Rs. 22,743 crores, on account of various banking frauds. Though there are multiple causes for the rising Non-Performing Assets (NPAs), including the global downturn, but there is some empirical evidence of a relationship between frauds and NPAs. More than 95 percent of number of fraud cases, and amount involved in fraud comes from commercial banks. Eighteen percent of total number of fraud cases are reported from PSBs, but with regard to volume, this translates to upto 83 percent. This is in stark contrast with private sector banks. Private banks report fifty five percent of the number of fraud cases, but this translates to only thirteen percent of the total amount involved. Thus, the frequency of occurrence of fraud is actually higher in private banks (Singh et al. 2016). Growing NPAs and the absence of a robust credit mechanism system, callous monitoring after credit disbursal and incompetent recovery system are key barriers in addressing inefficiency (Gandhi, 2014). It is noticed that the PSBs employ maximum workers. Given that these banks have a greater number of branches, and also have more labour-intensive operations, they have employed large staff, as compared to private and foreign sector banks with sophisticated technology.

This overview of regulatory framework and issues of fraud that is rampantly noted points out that 'due diligence' in the industry as a principle observed in the global framework is applicable in India too for the advancement of human rights. In the next section we will examine whether banking practices in India bring this under the ethical guidelines.

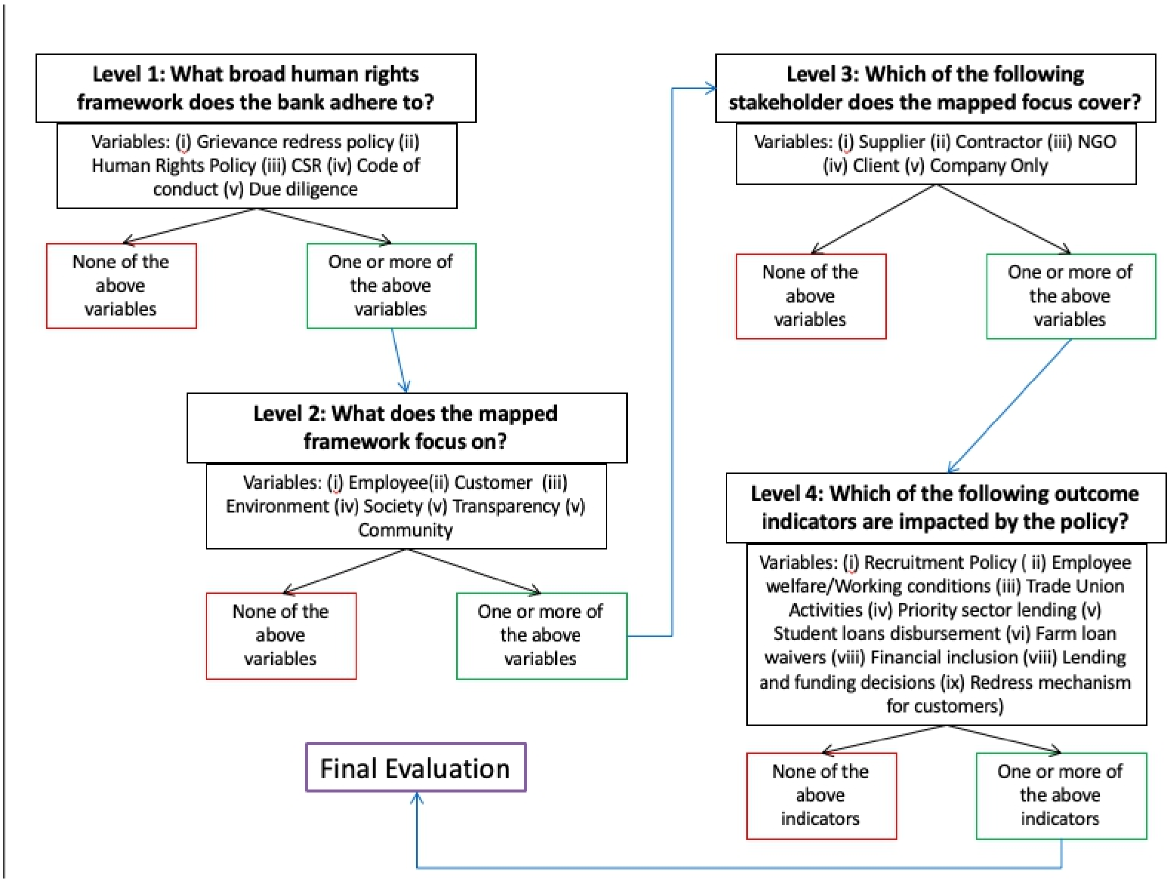
Indian Banking Sector and Ruggie Framework

In the context of regulatory framework for banking, in this section of the paper, we will evaluate the performance of Indian banks. A good source to make this assessment is the analysis of self-reported Business Responsibility Reports (BRR)[xviii].These reports are organised around nine principles: 1) Adherence to ethics, transparency and accountability; 2) Provision of safe and sustainable products; 3) Respect for the well-being of employees; 4) Respect for stakeholder interests, especially the marginalised; 5) Respect and promote human rights; 6) Respect and restore the environment; 7) Responsibly engage in influencing policy; 8) Support inclusive growth and equitable development; and 9) Provide value to customers and consumers responsibly.

Principle 5 of the BRR explicitly refers to human rights. In response to principle 5 on human rights, the expectation is to explicity disclose whether company is extending their human rights policies to cover external stakeholders, like suppliers or if it is restricted to the company itself. When elaborating on how the business should promote and respect human rights, SEBI makes five distinct points. The first pertains to complying with domestic and international laws on human rights. This includes the Constitution of India as well as the international bill of human rights. Secondly, it advises businesses to incorporate respect for human rights in daily and core operations and put in place a robust grievance redressal system. The next three points contain the essence of human rights adoption by businesses as they address both rights enhancement by the business as well as human rights risk mitigation by the organization and partners across the value chain. It states that businesses should acknowledge and respect the human rights of all concerned entities even beyond the workplace. Thus, local groups, customers and marginalised communities come into the picture. Businesses should also exert their power to put in effort towards "realisation of human rights across their value chain". Finally, it brings to the forefront the critical need for organisations to "not be complicit with human rights abuses by a third party" (SEBI, 2013).

The focus while analysing the documents was on how the bank had reported on principle 5 of the guidelines that dealt with human rights. The parameters for analysis have been shown in Figure1[xix].The first level shows the mentions of variables in the BRR, like grievance redress, human rights, etc. If any of the vairiables are fulfilled, we then shift to variables under Level 2 like is the focus on employee or customer or environment? Once that is answered, we question under Level 3 whether the bank's human rights scope is the supplier, consumer, employer? Finally, we examine how the above parameters impact various outcome indicators under Level 4.

Figure1: Parameters to evaluate human rights adherence in Indian banks



Source: Modified by authors primiarily relying on - (2017)

Before we report the findings of systematic comparison of six banks selected as case study for this paper, we provide an overview on the performance of the largest bank of the country: State Bank of India (SBI)[xx].

One of the most highlighted documents which benchmark the UNGPs for banks across the world is the BankTrack Human Rights Benchmark Report[xxi], which has been publishing its findings since 2014. The latest report, published in 2019, clearly shows that across the globe, there has been little regard for human rights in the banking sector. Out of the 60 banks they surveyed, 40 had scored 6 out of 14 on overall performance, which brings alarm to human rights activists fighting for rights in the banking sector. Within these 40 banks, however, what is relevant to this paper is the State Bank of India's abysmally poor performance in the test. The State Bank of India[xxii], the only Indian bank surveyed in the report, scored an unfortunate 1 out of 14[xxiii], standing at a rank of 54 out of the 60 banks surveyed.

For this paper, we selected six banks to understand whether ethical practices of banks amount to Ruggie framework[xxiv]. These are three public sector banks – Punjab National Bank[xxv], Union Bank of India[xxvi]and Bank of Baroda[xxvii]– and three private sector banks – HDFC Bank[xxviii], ICICI Bank[xxix]and Axis Bank[xxx]. We use same parameters as used by BankTrack to make the assessment. A brief overview of the measures is presented in Table 1.

Table 1: Human rights measures adopted by six Indian Banks

Bank Type	Bank Name	Human Rights Policy
Public Sector Bank	Punjab National Bank[xxxi]	Addresses sexual harassment - Adopted the Code of Commitment to MSMEs
	Union Bank of India[xxxii]	Adopted the Code of Commitment to MSMEs - Has disciplinary measures for employees and expects customers to respect their employees' human rights
	Bank of Baroda[xxxiii]	Addresses sexual harassment Has a grievance redressing mechanism in place Lays emphasis on transparency and employee-customer protection
Private Sector Banks	HDFC Bank[xxxiv]	- Has an internal code of conduct
	ICICI Bank[xxxv]	No specific emphasis on human rights Emphasises on anti-corruption
	Axis Bank[xxxvi]	Though it has an internal policy on human rights exclusively, it does not mention much about employee protection, but focuses on anti-corruption

Therefore, firstly, among the PSBs, Punjab National Bank was the only bank that stated that they did not hire workers on contractual basis. As for the rest, while the banks invested heavily in training and development programs for the permanent employees, a very few percent of the contractual or temporary workers were engaged in safety & skill up-gradation training.

Secondly, while SBI, Bank of Baroda and Union Bank of India recognised employee associations, PNB has not officially recognised any employee association though two majority unions, namely the All India PNB Employee Federation and the All India PNB Officers Association represent the staff and more than 80% of their employees are members. As far as the policy of the company on human rights is concerned, Bank of Baroda and PNB said it was limited to the company only, while SBI and Union Bank of India included the dimension of human rights awareness across the value chain. The Bank sets expectations from its business correspondents to respect the human rights of their workforce (since workforce is the focus of the organization's human rights) and condemns violation of the same.

Among the private banks, Axis bank was the only bank to state that they had devised an explicit human rights policy to oblige with principle 5 of the National Voluntary Guidelines on responsible business practices, rather than executing the same through codes of conduct, CSR or other company policies, which was the case with all other banks, public or private. The focus on transparency in operations was a far more emphasised category among private banks than public sector banks, with four out of five banks calling it out under human rights. All the banks have workers hired on contractual basis. Axis bank had as much as 35% of workers hired on contractual basis, and while close to 99% of the permanent employees were given safety and skill up-gradation training, there was no mention of the same were casual/temporary workers.

What stands out from the above description and comparison is the fact that all of these banks have failed to focus on due diligence as a primary component of addressing human rights. All of the banks examined above either interpret human rights as employee-centric regulations or customer service. A comprehensive human rights policy requires an instution to attach equal amount of importance to ethics in lending transparency, financial inclusion of the marginalised, disbursement of student loans or farm loan waivers, in the case of India. None of the banks even use the phrase 'due diligence' in their BRRs. Secondly, all the banks have integrated human rights in the company only through an applicable code of conduct and their CSR policies. This has predominantly been either the code of Bank's Commitment to Customers as well as the Code of Bank's Commitment to Micro and Small Enterprises by the BCSBI or a code of ethics and in some instances an internal code for the board and directors on the subject of corporate governance. These are primarily voluntary codes that set standards for banking practices. An explicit human rights policy and a due diligence policy have not been drafted by most banks. The mention of an explicit human rights policy to honour principle 5 of the National Voluntary Guidelines on responsible business practices featured only in the BRR of Axis Bank, thought the policy was not found in the public domain.

Thus, while the Thun Group[xxxvii]has focused on human rights due diligence in lending to fulfil its responsibility to respect and promote human rights, Indian banks showcase a completely different trend when it comes to the interpretation of human rights responsibility. Banks have adopted a human rights definition comprising generic best practices, primarily revolving around fair hiring practices and employee welfare, with no concrete human rights obligations specific to the banking sector. Hence, the language of human rights enjoyment as well as due diligence needs to be reinforced in banking parlance to develop a bank specific definition of human rights.

Why do Asian Values Matter?

The Singaporean leader, Lee Kuan Yew, was the first to propagate the futility of an attempt to apply the United Nations Declaration of Human Rights (UNDHR) in East Asian countries. He argued that the Asian values are not opposed to the idea of human rights but pungently critique human rights as they stand in the Western notion of liberalism. A critical understanding of the Asian values[xxxviii]in human rights would require one to venture beyond an individual's liberty and democracy. This directly translated to the fact that Asians hold communities more important than the individual as in the West. Asian values also yearn for order and discipline rather than freedom and autonomy. It is for this reason that the UNDHR would never find acceptance in the Asian community.

As we reflect on this, perhaps it is this very cultural acceptance of the Asian values which deters an Indian bank from going out of its way to formulate and apply a comprehensive human rights policy. As concluded from our analysis on the six Indian banks, it is evident that due diligence is not a priority on the bank's human rights checklist. This can be well attributed to Asian values. Drawing from traditional operations, any Asian institution will avoid due diligence as long as it is made a part of 'right of an individual' as a blanket recommendation without regulation or authority. This stems from the fact that Asian values place community and authority over individual, free-flowing liberty. It is to be understood that in India, micro-financing has succeeded solely for the reason that there is a community factor involved, where the community is given a shared responsibility of holding each other accountable in lieu of defaulting. The Asian value of focus on groupism instead of individualism is the obstacle in the way of the Ruggie framework to be followed in the banking sector. For such global documents to even make an impact, regional cultures need to be taken into consideration.

What we see here, therefore, is a strong belief in the spirit of publicly-owned, authoritative and regulatory institutions as providers of welfare as opposed to private organisations who only concern themselves with profit-making. This reaffirms the fact that the 'Asian values' as put forth by Lee Kuan Yew are strong in India as well. To choose a community-led institution over those which prefer individuals bring us back to the fact that Asians at large give more importance to community rights rather than individual rights, the latter being the Western notion of liberalism. The very idea that the public sector bank champions the *Jan Dhan Yojana* because it is led by an authoritative entity, who has been mandated to provide welfare instead of profits highlights how important it is for Indians to believe in groups and order, quite in line with 'Asian values.'The UNGP, thus, is agnostic of the cultural diversities, and this leads to the lack of compliance with such well-intentioned documents.

Conclusion

In the evidence provided in this paper, it is clear that the banking sector in India fails to address human rights as delineated through the Ruggie framework. A structural change is much more plausible. As of now, the format of the BRR requires the banks to address only two questions under the human rights sub-heading.Revising and askingmore pertinent questions to solidify the Ruggie framework is crucial. For example, to take cognizance of due-diligence or priority sector lending, we need to ask how many projects did the bank finance in the last financial year? Or, what documents pertaining to human rights risks were assessed by the bank before sanctioning the loan for the project? To take stock of ethical practices, we must ask how many projects financed in the last financial year were stalled/scrapped mid-way due to issues pertaining to environmental clearances, protests by communities, civil society action, unethical company conduct or other human rights conflicts?What was the loss incurred by the bank on account of such stalled projects? Finally, a crucial question is what initiatives has the bank taken to integrate advancement of human rights enjoyment in the society with its core operations?

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[i] These SRs are mandated to examine, investigate, monitor and publicly report on their respective human rights thematic issue. For the same, they can use various tools including individuals, manipulated media, academia to regularly engage in fact-finding missions. A verified human rights violation then leads to the SR sending urgent request letters to the respective nation to address the issue (OHCHR website, accessed on 27th June 2020).

[ii]The UNGPs were developed after several years of efforts to create a code of conduct for transnational companies (TNCs). In the early 1970s, at the initiative of UN ECOSOCa commission was appointed which would study the impact of multi-national corporates on international development processes. Unfortunately, the group dissolved in 1994 after several disagreements between the developed and developing nations (Deva 2012). The UN Human Rights Sub-Commission approved the Norms on the responsibilities of business enterprises in 2003. These norms integrated existing standards concerning labour rights, human rights, consumer protection and environmental protection. However, there was no enforceability for these norms since the Commission members rejected the document and it thus had no legal credibility. A resolution was adopted by the UN Commission on Human Rights in 2005 that asked for the appointment of a Special Representative on the issue of human rights and MNCs. John Ruggie was appointed as special representative and was tasked with defining the responsibilities of States, companies and other social actors in the sphere of responsible business.

[iii] While this framework is widely celebrated, a critical assessment by David Blitchz (2010) highlights the loopholes in the three pillars particularly, how responsibility has been presented in a negative light in the UNGPs. He also argues that Ruggie's idea of corporate participation is flawed. Not only must the corporate world prevent violation of rights but also must actively contribute to the cause of furthering these rights.

[iv] The UN Global Compact comprises a set of 10 principles, non-enforceable in nature, to be followed by businesses worldwide in order to make human rights more sustainable in the for-profit sector. The principles include guidelines on human rights, labour, environment and anti-corruption.

[v]A number of tools like the Value Driver Model along with the Compact's efforts to guide towards incorporation of ESG issues into the company's investments are improving information sharing, transparency and accountability in the process.

[vi]The United Nations Environment Programme Finance Initiative (UNEP FI) is one of the few initiatives that specifically lays emphasis on the environment. It is an international cooperation between UNEP and the financial sector. Over 200 institutions, including banks, insurers, mutual funds and hedge fund managers work with the UNEP to change the way finance and investments interact to ensure it supports sustainability (UNEP Finance Initiative 1992). UNEP FI has been followed by the establishment of the Principles for Responsible Investment (PRI), the six core Principles on Responsible Investment that encapsulate the ESG approach. The process was convened by the United

Nations Secretary-General. This shows the growing importance of sustainability in the area of financial investments (Mercer 2009).

[vii] Founded in 2000, the group is a conglomerate of banks that offer a specific, yet distinct perspective to obligations of financial institutions. At a government level, the Financial Action Task Force on Money Laundering plays a similar role. Fourteen documents collectively called the Wolfsberg Standards have been published as on 2015 (The Wolfsberg Group 2000).

[viii]In fact, time and again, the private sector itself has proven to be a challenging sphere for the application of human rights frameworks. A 2016 research report by Oxfam India studies the responses of civil Society, NGOs, associations and corporates to comprehend the corporate risk framework in decision-making recommended as per the Ruggie framework. They particularly analyse what kind of social risks are factored in by the private sector. The study on challenges in the manufacturing, mining and construction sector, explores the human rights due diligence paradigm and briefly recommends the human rights identification and human rights due diligence mapping tool to combat existing risks.

[ix]The failure of the CRA is credited to corporate fraud and the deficiencies in financial engineering of the system itself.

[x]There is no space to revisit the history of Indian banking in this paper, which has been extensively written elsewhere (see for instance, "The Advent of Modern Banking in India: 1720 to 1850s". Reserve Bank of India. Retrieved 12 January 2015.);

[xi]Banks listed in the second schedule of the Reserve Bank of India Act, 1934 are defined as scheduled banks. Popular examples include the State Bank of India, foreign banks and regional rural banks. All nationalised banks too fall within this realm. New and old private sector banks like HDFC and Federal Bank respectively too fall under this category. Some cooperative banks also fall under this category.

[xii]Banks not listed in the second schedule of the Reserve Bank of India Act, 1934 are defined as non-scheduled banks. They differ from the scheduled banks in the sense that they are not allowed to borrow from the RBI for regular banking activities unless an 'abnormal circumstance' warrants so.

[xiii]Ever since its inception in 1975, RRBs have been offering their services to the rural areas and agricultural sectors with access to financial services. The ownership of an RRBs is split between the central government (50%), the state government (15%) and a sponsor bank (35%). There have been instances of commercial banks sponsoring RRBs like in the case of Bank of Maharashtra sponsoring

Maharashtra Gramin Bank. RRBs intend to create a fair, structured financial atmosphere by eliminating the need for exploitative moneylenders.

[xiv]The RBI classification of Commercial Banks includes both scheduled and non-scheduled commercial banks that come within the purview of the Banking Regulation Act, 1949. Commercial banks are run with a profit motive. Their main functions include accepting deposits and lending to the general public, businesses and also the Government.

[xv]Banks that have been registered under the Cooperative Societies Act, 1912 are called co-operative banks. An elected managing committee runs this bank according to rules and laws developed by the community. Such banks play a crucial role by financing small budding businesses in the urban areas and agriculture related activities in the rural areas. Here, profit is not the primary goal so long as the banks break even. The Banking Laws (Application to Co-operative Societies) Act, 1965 are applicable here and the RBI is the chief regulator.

[xvi]These institutions were defined as ‘‘an institution promoted or assisted by Government mainly to provide development finance to one or more sectors or sub-sectors of the economy”(Chakrabarty, 2013).It strives to balance between a calculated mix of commercial profit driven objectives like other private entities and developmental goals. Moreover, the relationship with the client is established as a long-term partnership. The term DFI has not been categorically referred to in the various statutes or in the regulatory Acts that govern banking in India.

[xvii]The Basel Committee on Banking Supervision, set up in 1975 by the Central Bank Governors of the G-10 countries is a committee dedicated to cooperation on banking supervisory matters. The committee’s guidelines on capital adequacy, effective banking principles and cross-border supervision are internationally recognized. BASEL-I was introduced in 1988 that primarily dealt with credit risk. The capital adequacy ratio in India was set according to this after India adopted BASEL-1 in 1999. BASEL-II guidelines that came in 2004, were a refined version of BASEL-I and increased risk supervision by making it mandatory for banks to disclose risk exposure to the RBI. The BASEL-III guidelines that were drafted keeping the 2008 financial crisis as its background were established in 2010.

[xviii]It is in response to Securities and Exchange Board of India’s (SEBI) guidelines in 2012, banks started publishing their performances on nine principles of responsible business practices.

[xix]The framework of the study was developed in the original dissertation and modified by the authors later.

[xx]Headquartered in Mumbai, India the State Bank of India is the largest public sector bank in the country with a 23% market share in assets and a share of one-fourth of the total loan and deposits in the financial market. Founded in 1955 by renaming the Imperial Bank of India, which was an amalgamation of three pre-independence Indian princely state banks, the SBI has expanded operations on such a scale that it was ranked 236 in Fortune Global's 500 list of the biggest corporations of the world in 2019.

[xxi]BankTrack works towards achieving the four pillars laid down by John Ruggie across financial institutions in the world. It does so by holding regular consultations with international organisations and maintaining accountability by publishing regular studies. The full report can be found at https://www.banktrack.org/campaign/banks_and_human_rights.

[xxii]SBI recognises its human rights obligations chiefly through fair and non-discriminatory recruitment practices, employee training and development and just working conditions with adequate redressal mechanisms for employees. They explicitly mention that the bank has a no-tolerance policy towards child labour and forced labour and tried to influence its chief suppliers to respect human rights accordingly. SBI also subtly touches upon increasing human rights enjoyment by mentioning its CSR and microfinance initiatives. On the whole, human rights only translate to employee rights in the SBI BRR. SBI has developed an independent code for its directors and management so as to guide the bank on ethical and transparent operations.

[xxiii] In the report by BankTrack, SBI is evaluated on four categories: Policy Commitment, Due Diligence Process, Reporting and Remedy. Each indicator asks key questions such as 'Does the bank have a policy which respects human rights?', 'Does the bank have a proper mechanism to address grievances externally?', etc. SBI scores 0 on every question except two—it has been given a total of 1 on 14 because of the existence of its Sustainability and Business Report Policy. The full report can be found at https://www.banktrack.org/campaign/banks_and_human_rights.

[xxiv]To study the ethical practices in these banks we adopted a mixed method. First, we analysed the Business Responsibility Reports (2015-16) by each of these banks carefully. Based on this we developed interview schedule administered with bank managers, members of trade union leaders of the bank and regulators of banking industry.

[xxv]Owned by the Government of India, the Punjab National Bank (PNB) is the second largest public-sector bank in India. Headquartered in the country capital, New Delhi, it was founded in 1894. It also has a subsidiary in the UK with branches in Hong Kong, Dubai, Shanghai and Sydney. In 2019, the Finance Minister of India announced the amalgamation of PNB with the Oriental Bank of India and the United Bank of India post the fraud cases PNB was involved in 2018. The merger came into effect on April 2020.

[xxvi]The Union Bank of India, amalgamated with the Andhra Bank and the Corporation Bank on April 2020, is the fourth largest public sector bank in India in terms of business and customer base. Founded in 1919, it also operates through a subsidiary in the UK.

[xxvii]After the SBI and the ICICI bank, the Bank of Baroda is the third largest bank in India. Its amalgamation with the Dena Bank and Vijaya Bank was announced in 2018. Founded in 1908, it is headquartered in Vadodara, Gujarat.

[xxviii]Headquartered in Mumbai, HDFC bank is the largest private sector bank in India. It was founded in 1994 as a subsidiary of the Housing Development Finance Corporation.

[xxix]ICICI Bank is one the Big Four Banks of India, the others being the SBI, Bank of Baroda and HDFC Bank. It offers a range of financial services and has made a significant impact in terms of shares and customers in India's financial market.

[xxx]Founded in 1993 in Ahmedabad as the Unit Trust of India (UTI) Bank, it was rebranded to Axis Bank on 30 July 2007. It is also one of the major players in the private banking sector and is known for its customer-centric services.

[xxxi]Punjab National Bank too takes an employee centric approach to human rights by describing a detailed prevention of sexual harassment policy and grievance redressal mechanism that has been set up for the employees. The bank has also adopted the Code of Banks Commitment to Micro and Small Enterprises (MSE) drafted by the Banking Codes and Standards Board of India (BCSB). This is a voluntary code which explains how banks should deal with MSEs in their daily operations and in crisis.

[xxxii]Union Bank of India continues the PSB trend of interpreting human rights as employee rights. The bank follows both the principles of the code set by the Banking Codes and Standards Board of India (BCSBI) as well as an independent code of business principles to guide the functioning of the daily operations. The bank has also developed policies to structure employee conduct like "The Union bank of India Officer Employee's (conduct) Regulations 1976" and "The Union bank of India Officer

Employee's (Discipline and Appeal) Regulations 1976". The business responsibility performance is appraised by the CSR committee. Under human rights, the bank focuses on employee development, and expects stakeholders to respect the human rights of the bank's employees.

[xxxiii]Bank of Baroda lays emphasis on both employees as well as customers in its human rights discussion. The bank stresses on non-discriminatory practices as far as recruitment and employee working conditions are concerned. The bank in this sense states that it has striven to incorporate the Human Rights content of the Constitution of India and other international frameworks. Freedom of association and collective bargaining too is encouraged. Prevention of sexual harassment at the workplace policies recurs as is the trend with PSBs. Bank of Baroda also lay emphasis on transparency by addressing dissemination of information in the human rights bracket. The bank also specifically addressed customer grievance redressal via zonal internal complaints committees and the Standardized Public Grievances Redressal system (SPGRS), a web based online customer complaint redressal module.

[xxxiv]HDFC bank explicitly recognises its human rights obligations via a code of conduct and ethics that governs human rights as well as transparency and anticorruption issues in addition to a CSR policy like other banks. This code of conduct and ethics manual highlights human rights principles that adhere to the United Nations' Universal Declaration of Human Rights framework. This is an internal document and not accessible to the public.

[xxxv]ICICI bank honours principle 5 on respecting human rights via the Group Code of Business Conduct & Ethics (Code). The bank stresses on transparency in operations, fair employee treatment and good customer service. The codes issued by the Banking Codes and Standards Board of India are complied with. While the bank does mention the need for environmental clearances in the lending process, human right due diligence has not been brought up. ICICI bank was the only other private bank to call out a zero-tolerance approach to bribery and corruption and it made all partners in the value chain to subscribe to this. The bank includes business partners in the scope of human rights execution to some extent. In essence, behavioural and ethical standards expected of employees and provision of a non-discriminatory work environment for the workforce forms the crux of the human rights understanding of ICICI bank. While no employee union is recognised by the management, employee redressal through a whistle-blower policy is encouraged.

[xxxvi]Axis Bank was among the two private banks to state explicitly state that it has put in place a policy on human rights. The policy is applicable to “all employees to reaffirm its commitment to human rights”, thereby driving focus of the human rights definition to employees. The policy is said to supplement the Bank’s Code of Conduct and Ethics, which lays down the acceptable employee behaviour on various aspects including human rights. The bank was vague about whether this code extended to external stakeholders like suppliers and if the employees were members of trade unions that the management recognized, thought it did mention that the Bank respects the right of ‘Freedom of Association and ensures that all employee grievances are received and addressed through various channels. Unlike other private banks, Axis bank did not speak about customer rights in their human rights section, employees and transparency in operations remained the key focus.

[xxxvii]An informal group of banks, the Thun Group has consistently worked over the past few years to better understand how to apply human rights in the banking sector. The group recognizes unique nature of banking activities, and therefore helps banks in mapping, analyzing and supporting banks across the globe in addressing their human rights challenges.

[xxxviii]On several occasions, Amartya Sen provides a critique to the idea of ‘Asian values.’ He opposes Lee Kuan Yew and argues that it is not authoritarianism which Asians prefer, but the idea of building on capabilities to act independently. Sen’s focus is much more on an individual’s human right to be capable that the ‘Asian values’ framework put forth.