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Human Rights Disclosures, Corporate Governance Mechanisms, and Firm Performance: Directions for Future Research

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Abstract

This paper aims at investigating and scrutinizing prior literature of human rights disclosures, corporate governance mechanisms and their effect on firm performance in an attempt to unveil the influence of non-financial disclosures such as human rights on the corporation's financial performance. Wehighlighted that the "board of directors" plays a vital role as one of the "corporate governance" mechanisms in spreading the awareness of the importance of "human rights" issues that might impact the corporation. Additionally, we propose the need for a change in corporate governance mechanisms to be more accountable towards human rights. Also, our analysis suggests that human rights disclosures impact the corporation's image which in turn could be translated into increasing sales that would eventually influence the financial performance of the corporation. Therefore, this paper sheds the light on directions for future research that will explore the association between human rights disclosures and firm performance through incorporating corporate governance mechanisms.



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Introduction

The debate of whether societal and environmental disclosures of a business entity can also lead to a beneficial outcome has been of researchers' interest for over four decades (Brooks & Oikonomou, 2018). Companies used "corporate social responsibility" (CSR) reports as a medium that facilitates the understanding of the company's social and environmental performance and to improve

relationships with stakeholders (Fuente et al., 2017). More recently, a new aspect has been added to the CSR report, which is the "human rights" disclosure. Hence, more inquires have been raised in the accounting literature about why human rights are not disclosed in social reporting? and how the human rights performance of a company can be measured? (Frankental, 2011). Therefore, this gap in literature gives ample room to explore

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these issues through the literature. Moreover, there have long been concerns over the influence of corporations as non-state actors, and their social duties for promoting and respecting human rights (Galhofera, et al., 2011). Recently, further attention is directed to the fair treatment of the workforce in the global value chain(Parsa, et al., 2018), which advocates the need to account for human rights; which involves achieving fairness and equality in every procedure that the firm perform. Hence, firms are required to disclose their responsibility to avoid adverse impacts on human rights through the firm's activities, along with preventing or mitigating adverse human rights issues that are directly linked to its operations (Pianessi & Cinquini, 2016; Felice, 2015;). Accordingly, the United Nations, in June 2011, endorsed "the Guiding Principles on Business and Human Rights", which are based on three main pillars: protect, respect, and remedy. Those guiding principles don't only represent a shift in the organizational and institutional context within which the accounting operates, but also, it views accounting as a technology for implementing the second pillar; "corporate accountability" to respect human rights. Since then, a growing number of regulatory agents have adopted the guiding principles, most notable are the World Bank and Organization for Economic Cooperation and Development (McPhail & Ferguson, 2016; Pianessi & Cinquini, 2016; Felice, 2015; Islam & Jain, 2013; Frankental, 2011).

Since 2011, the main elements of corporate responsibility concerning respecting human rights have been incorporated by International organizations, standard-setting bodies, governments, and business enterprises. A considerable example of incorporating human rights in business enterprise is what "Nestle Co." has done by partnering with "the Danish Institute for Human Rights" to conduct a human rights' gap analysis of its corporate policies and procedures. This analysis results in reforming some of its policies and procedures to be more accountable for human rights (Felice, 2015). Later on, the "Guiding Principles" were used to develop the "Guiding Principles Reporting Framework", which guides for companies to report on their human rights performance by following the Guiding Principles. The reporting framework developed has provided management with a sound basis for the implementation of "corporate governance"

mechanisms and reporting of "human rights risks" (McPhail & Ferguson, 2016).

Furthermore, global reporting initiatives (GRI) have produced the most widely recognized set of human rights benchmarks for companies, addressing wide-ranging issues, including: "procurements", "policies", "child labor", "forced and compulsory labor", "security practices and indigenous rights", "freedom of association and collective bargaining", "non-discrimination and investment agreements". The main aim of the GRI is to harmonize reporting practices so that, as with "International Financial Reporting Standards" (IFRS), consistency and hence comparisons of the reports can be achieved for companies around the world(Parsa, et al., 2018). Notably, the role of the "board of directors" in disclosing "human rights" issues is a crucial aspect in the process. The board represents the interest of both shareholders and stakeholders as well as it is responsible for risk management and reporting (Fuente, et al., 2017), Accordingly, the board of directors' characteristics play an important role in disclosing human rights issues. This paper aims to focus on the board of directors as a corporate governance mechanism in explaining the impact of human rights disclosure on firm performance.

Nonetheless, there have been calls for accounting scholars to engage with the "human rights" disclosures, and to explore more on how accounting and "corporate governance" can be affected by the appropriate implementation of "human rights" (Parsa, et al., 2018; McPhail & Ferguson, 2016; Ponser, 2016; Frankental, 2011; Sikka, 2011). In response to those calls, this paper intends to pinpoint directions for future research regarding the exploration of the association between the "human rights" disclosure and firm performance through incorporating corporate governance mechanisms. Although, some studies have presented the significance of governance in protecting and promoting "human rights", stressing the fact that accounting practices, namely information disclosures, could play an important role in this process(Parsa, et al., 2018; McPhail & Ferguson, 2016; Galhofera, et al., 2011). However, the literature still lacks evidence on the impact of corporate governance mechanisms on human rights disclosures.

This paper limits its interest within the accounting field to explore a link between corporate governance mechanisms and human rights disclosures. The aim is to develop a fruitful conclusion on how to attract the attention of corporations to non-financial measures of performance. Therefore, this paper intends to draw attention on how future research would explore the impact of human rights disclosures - as one aspect of CSR report - on the firm's performance.

The rest of this paper is organized as follows: the next section is a discussion of previous studies on human rights disclosures and corporate governance and their impact on financial performance followed by the conclusions.

Discussion of Previous Studies Human Rights Disclosures

Human rights protect the freedom of people to engage in all social practices, given that this freedom would not harm or cause harmful consequences for someone else (Gallhofer, et al., 2011). Thus, human rights disclosures are one dimension of the broader social and environmental disclosures. Although disclosing human rights performance in CSR reports, still in its infancy, but it has gathered considerable attention from academia (McPhail & Ferguson, 2016; Islam & McPhail, 2011). Historically, human rights were seen as a duty of the state, without any intervention from corporations. Thus, there is no direct responsibility on businesses towards "human rights" within the domain of the "International human rights" law. However, quite recently, there have been many arguments about the duties of corporations as non-state actors, towards human rights (Gallhofer, et al., 2011; O'Brien & Dhanarajan, 2016). Also, with the increasing power and importance of corporations, came an increasing call for the development of principles that would hold corporations liable for respecting and disclosing human rights performance (Sikka, 2011). However, there are quite number of studies involved in the role that accounting may contribute to the "human rights" disclosure in the business environment. This led to assigning a special issue of the journal of Critical Perspectives on Accounting (Volume 22, Issue8, 2011) to the topic of "Accounting and Human Rights" for the aim of placing the "human rights" debate on the accounting research agenda (Pianessi & Cinquini, 2016). Another stream of studies was concerned with how International boards, like International Accounting Standard Board (IASB) would be responsible with "human rights" disclosures and whether they should be held accountable for any violation in terms of "human rights" and how to assess the validity of incorporating "human rights" in the accounting practices(McPhail, et al., 2016; Pianessi & Cinquini, 2016). Those studies concluded that; first, the IASB should be involved in investigating human rights disclosures in organizations because IASB act in the interest of the public and that social accounting and conventional accounting are more effective if they combine all dimensions of the social and environmental issues including human rights violations. Second, the IASB should consider human rights issues in the development of financial reporting standards so that human rights would be embedded in the reporting standards that the organization is adapting.

A pivotal change has been done in the business and human rights arena, in 2005, when Professor John Ruggie had been appointed as the UN Secretary-General's Special Representative on Business and Human Rights. He gave greater emphasis on the role of businesses in respecting "human rights", in terms of ethical norms and moral characters and not in terms of legal liabilities (O'Brien & Dhanarajan, 2016). Later on, in 2008, the United Nation Human Rights Council approved the "Protect, Respect and Remedy" framework related to human rights issues of transitional corporations and other business enterprises, which was developed by Professor John Ruggie. This framework is based on three pillars, the first pillar, is the responsibility of corporations to protect human rights, meaning that corporations should incorporate in their strategies the moral values and the importance of respecting human rights when performing businesses. The second pillar is the respecting of human rights by corporations, this should appear in the day-to-day operations of the corporation. Finally, the third pillar is the responsibility of corporations to remedy for any human rights violations, meaning that any victims resulting from human rights violations, should have an effective access to remedy, both judicial and non-judicial.

Furthermore, the "United Nations" formally endorsed the "Guiding Principles on Business and Human

Rights" in June 2011, those "Guiding Principles" GPs were able to some extent to combine previous disconnected regulatory initiatives, because those GPs were resulted from various consultative processes, referred to as "principal pragmatism". Consequently, those principles were widely supported by different stakeholder groups and considered the first widely used set of principles that are associated with the "risk of adverse" impact on "human rights" related to business activities (Parsa, et al., 2018; McPhail & Ferguson, 2016; O'Brien & Dhanarajan, 2016). The GPs require businesses to address their human rights impacts through disclosing them. More specifically, corporations are to communicate their "human rights" performance to the public by disclosing them in a separate section in their CSR reports. Since then, human rights disclosures by corporations deemed necessary to be investigated and to analyze the impact of such disclosures on the corporation's financial performance. Also, the GPs require corporations to disclose their respect to "human rights" through the statement of policy that covers the following five requirements (Felice, 2015):

- The statement of policy must be approved by senior management.
- The statement of policy must be prepared by internal or external expertise.
- The expectation of the corporation, on how to respect "human rights" when dealing with business partners or other parties directly linked to its operations, must be clearly disclosed in the statement of policy.
- The statement of policy must be readily and publicly available to all stakeholders.
- The statement of policy must explain the corporation's commitment to respect "human rights" by disclosing the reflection of such commitment in its operational policies and procedures.

The Guiding Principles, Accounting, Reporting and Assurance of Human Rights

The GPs states that businesses should have two types of processes to be able to commit to respecting human rights. The first process is the due diligence process to identify and account for how businesses address their impact on human rights. Due diligence means, having proper management in place and reporting system to detect and address human

rights issues (Harrison, 2013). Also, in the due diligence process, businesses should disclose how they are going to prevent or mitigate any human rights violations. The second process is how the business is going to be prepared for any remediation resulting from the adverse human rights impact that the business has caused. Since the GPs provided a different vision of responsibility and governance of the corporations (McPhail & Ferguson, 2016), many International organizations, standard-setting bodies, governments and business enterprises started to adopted GPs to account for human rights issues. Most significant examples of such organizations are; "the Organization for Economic Co-operation and Development" (OECD) which added a chapter on "human rights" in its guidelines for Multinational enterprises. Additionally, in April 2013, listed companies in the UK were compulsory required to report on "human rights", which means that the largest 18,000 European companies are required to publish a non-financial statement containing information related to human rights issues alongside other topics (Felice, 2015).

What is more, a wider initiative has taken place, to widen the reporting practices on businesses and "human rights" issues. This initiative is "Human Rights Reporting and Assurance Framework Initiative" (RAFI) developed by human rights NGO Shift and the accounting firm Mazars. The result of this initiative is "the UN Guiding Principles Reporting Framework" launched in February 2015, which offers the first comprehensive guide to report on "human rights" performance by following the GPs. Also, "the RAFI" project has signed a memorandum of understanding with the GRI, reflecting their collaboration and joint commitment towards the development of "human rights" reporting (McPhail & Ferguson, 2016; GRI, 2017). The second phase of "the RAFI project" is to develop an assurance framework for "human rights" reporting. Thus, corporations have the GPs to follow to be accountable for human rights, along with reporting framework to guide them on reporting about the impact of such "human rights" issues on their business operations. In addition, corporations could follow the assurance framework as guidance for auditors.

Table (1) illustrates the eleven "human rights" disclosure indicators in accordance with GRI (ACCA

et al., 2011). As shown in Table (1), there are eleven human rights guidelines based on the GRI and each

one of them can be reported using the corresponding indicators.

Table 1: Disclosure on Human Rights Indicators

Human rights reporting guidelines	Indicators
HR1 Investment and procurement practices	 Percentage and a total number of significant investment agreements that include human rights clauses. Percentage and a total number of significant investment agreements that have undergone human rights screening.
HR2 Suppliers screened for human rights	 Contracts that include criteria and have undergone screening on human rights. Contracts that were subjected to actions taken as a result of HR screening.
HR3 Employees training for policies and procedures	 Total hours of employees training on policies and procedures concerning aspects of human rights that are relevant to operations. Percentage of employees trained.
HR4 Incidents of discrimination	 Total number of incidents of discrimination Report concrete actions taken.
HR5 Risks to freedom of association	 Operations identified in which the right to exercise freedom or association and collective bargaining may be at significant risk. Measures taken by the organization to support these rights.
HR6 Risk of child labor	 Operations identified as having significant risk for incidents of child labor. Measures taken to contribute to the elimination of child labor.
HR7 Risk of forced labor	 Operations identified as having significant risk for incidents of compulsory labor. Measures taken to contribute to the elimination of forced labor.
HR8 Security practices	 Percentage of security personnel trained in the organization's policies and procedures concerning aspects of human rights that are relevant to operations.
HR9 Indigenous rights	 Total incidents of violations involving rights of indigenous people and action taken.
HR10 Assessment	 Percentage of a total number of operations that have been subject to human rights reviews or/and human rights assessments.
HR11 Remediation	 The number of grievances related to human rights filed, addressed and resolved through formal grievance mechanisms.

Source: Parsa et al., (2018) & ACCA et al., (2011)

Each guideline has its own set of indicators to guide the corporation through reporting such incidents. Following those guidelines would allow the firm to clearly report on "human rights" practices and also follow GRI reporting framework.

To sum it up, two questions can be raised here, the first one how can businesses respect "human rights"? and the second one would be, how can businesses disclose them? The answer to the first question could be; first, any business enterprise has to avoid causing or contributing in any "human rights" violations when performing their operations, and if any violation has occurred, the business enterprise shall disclose the impact of such violations. Second, enterprises have to strive to mitigate and prevent adverse "human rights" impacts whether those impacts are directly or indirectly linked to their businesses. The answer to the first question is directly linked to the "Protect, Respect and Remedy" framework. Where, the first part of the answer covers the protect and respect pillars, while the second part of the answer covers the remedy pillar of the framework. The answer to the second question would be, corporations should use "human rights" indicators to measure the human rights disclosure level, those indicators simplify and standardize "human rights" data to combine different pieces of information about "human rights". Then, those indicators would be used to compare the corporation'shuman rights performance against another corporation.

Human Rights Disclosures and Corporate Governance

Nowadays, corporations have "human rights" guidelines to follow, reporting framework to commit to, and assurance framework for auditors to ensure that the corporation is adapting the guidelines in practice. Therefore, one might assume that, there would be a need for rigorous "corporate governance" mechanisms for the managing and reporting of "human rights" performance. More specifically, reporting framework has provided the basis for adapting "corporate governance" mechanisms to ensure the implementation of the GPs and reporting on "human rights" risks (McPhail & Ferguson, 2016). Additionally, "corporate governance" mechanisms can play a significant role in protecting "human rights" (Galhofera, et al., 2011).

The literature argues that the existing "corporate governance" policies encourage maximization of the shareholder's value without taking into consideration corporate accountability towards human rights (Lauwo & Otusanya, 2014; Sikka, 2011). The debate in the literature concerning "corporate governance" and "human rights" disclosures can

be highlighted as first; in the primacy model of corporate governance, the interest of shareholders dominates the corporate governance regime in many countries, ignoring other stakeholders' interests, such as responsibility towards "human rights". Second, corporate accountability towards "human rights" might be developed under the shadow of the existing "corporate governance" mechanisms that0020arebased on the shareholders maximization model (Lauwo & Otusanya, 2014). Therefore, there is a need for changing the neo-liberal governance mechanisms to be more accountable towards addressing and reporting "human rights" issues. Thus, this paper suggests the need for a change in "corporate governance" mechanisms to be more accountable towards "human rights". Furthermore, good governance is associated with guaranteeing the realization of "human rights" in a manner free of abuse and violation, so examining the impact of different "corporate governance" mechanisms on human rights disclosures would be an essential issue for future research in an attempt to ensure good governance systems.

Although a mere disclosure of "human rights" issues might not reflect corporate accountability towards "human rights", however, it may open up chances for discussing the "human rights" agenda that might create awareness (Muchlinski, 2012). One might assume that creating the awareness of "human rights" issues falls in the hands of the board of directors. In other words, the connection between "human rights" and "corporate governance" might be elaborated through the role of the board of directors as overseeing "human rights" compliance as part of its responsibility to create ethical organization (Bold, 2016). Also, the board is accountable for creating the appropriate culture to ensure robust management of human rights risks (Probohudono, et al., 2015). Therefore, corporations might need to consider expanding their "corporate governance" mechanisms to account for human rights disclosures. This expansion might take the form of changing the composition of the board of directors to include other significant social members, such as; representatives of environmental and social interest, human rights activists, or representatives of community interests. Finally, modern corporations are committed to being socially responsible through disclosing their social responsibility activities in their CSR reports (Scherer & Palazzo, 2011), which contain

a human rights section, in which the organization explains its contribution in protecting and respecting human rights. The consequences of poor human rights practices might not only affect the organizational image, but alsomay impact the organization's relationship with its stakeholders, financial performance and future sustainable value creation(Dallas, 2015). Accordingly, it is necessary to expand corporate governance mechanisms to encompass the recognition of human rights issues in conformity with the sustainable development of the organization.

Human Rights Disclosures, Corporate Governance and Firm Performance

The effect of "corporate governance" quality indices on a firm's financial performance has been empirically studied in much of the previous literature (Kilincarslan 2020), but the association between "human rights" disclosure practices and firm performance is scarce. Thus, literature is scarce on the association between "human rights" disclosures, "corporate governance", and "firm performance". We suggest that one way to fulfill the enforcement of standards and guidelines of non-financial disclosures is by strengthening the internal control governance structure, mainly the responsibilities of the board of directors. Hence, an association between "corporate governance" and "human rights" disclosures might be assumed that it would consequently reflect on the financial performance. Moreover, within the context of globalization, companies are operating in countries with different levels of human rights protections, one way to ensure that those companies are abiding by those protection guidelines, is through disclosing "human rights" issues in the organization's annual reports. Disclosing such issues would be the role of the board of directors. Consequently, committing to disclosing "human rights" practices that would satisfy the needs of stakeholders might in turn impact the organizational financial performance.

Nonetheless, transparency and accountability are the main pillars of corporate success and sustainability, particularly in the corporate annual reports (Brooks & Oikonomou, 2018). Disclosing "human rights" issues might contribute to more transparency and accountability and thus, would reflect on the corporate image that would consequently impact the organizational financial performance. Furthermore,

Bold (2016) suggests that the connection between "corporate governance" and "human rights" has gone beyond the traditional understanding of the role of the board of directors. Also, this connection has gone beyond viewing the "human rights" issues as part of the risk management role, to consider how the board of directors can positively contribute to the fulfillment of the human rights protection.In other words, if the board of directors (as a corporate governance internal mechanism) is concerned with "human rights" issues and emphasis respecting and protecting human rights. Then, the board of directors would be keen to disclose such issues in the organization's annual report and frequently improve the organization's performance regarding reporting on "human rights". Thus, the firm financial performance might be affected. In this sense, Dallas (2015) argued that poor "human rights" practices might significantly affect the firm's stakeholders' relations, financial performance and sustainable value creation. Accordingly, "human rights" issues might be seen as fundamental to good "corporate governance" practices, and it is the responsibility of the board of directors to establish the appropriate procedures and culture to account for human rights issues. Disclosing the human rights in the annual reports is one way for firms to show that it is establishing the awareness for both internal and external stakeholders about how the firm is dealing or will deal with human rights issues along with stating how to manage those issues.

Integrating Theories with the Research Variables

Legitimacy, stakeholder, institutional and agency theories provide theoretical bases for understanding human rights disclosures, with legitimacy and stakeholder theories being the most vital (Fuente, et al., 2017; Brooks & Oikonomou, 2018). Legitimacy theory speculates that the "economic", "social", and "political" factors in the company's industry push the company to disclose social information that focuses on legitimizing the company's action, therefore, the company is required to develop indicators to measure its activities and performance regarding environmental and social standards, while, disclosing its conformity with those standards. Thus, legitimization is achieved when the company's performance meets the dominant social standards, and a legitimate company frequently ensures the congruence between its value system and that of its society by disclosing information in its CSR

report (Parsa, et al., 2018). Hence, human rights disclosures became necessary for companies who strive to maintain their legitimization in their operational market. Furthermore, concerning agency theory perspectives, corporate governance mechanisms can be considered as a major factor in justifying the decisions of corporate voluntary disclosure (such as disclosing human rights issues) (Samaha, et al., 2012). Hence, the board of directors as a corporate governance mechanism would play a vital role in disclosing human rights issues.

Stakeholders' theory indicates that actors other than shareholders also have a great interest in the decisions of the organizations. Thus, organizations are not only liable to their shareholders, but also, to any individual or groups that are influenced or may be influenced by the corporation's actions. Also, stakeholders' theory suggests that the organization can achieve long-term support by its stakeholders when the organization's board of directors' implements corporate social responsibility practices (Fuente, et al., 2017). Accordingly, based on stakeholders' theory, it is deemed necessary for organizations to disclose information about human rights issues that have an effect or may affect their stakeholders' decisions.

Institutional theory considers that the norms and rules are imposed on the organizations from dominant institutions in the society (i.e., non-governmental institutions, environmental institutions, human rights institutions). It also, assumes that acceptability of the organization from the society is gained when following the norms and rules of dominant institutions (Zeng, 2017). It explores how specific organizational form (i.e., code of conduct) might be followed to bring legitimacy to the organization. One way to ensure the organization is following the norms of those institutions is through social and environmental disclosures.

Agency theory concerns with the agent-principal relationship. On the one hand, the theory assumes that agency problems might be mitigated by enforcing CSR in the organization (Henri, 2006). This means that the agent will be forced to act ethically, and thus would perform in the best interest of the principal. Moreover, managers might enforce CSR for their own interests rather than the interests of the principal (Chung, et al., 2012); which would

increase the agency problem. We support the view that implementing CSR throughout the organization might mitigate agency problems, because CSR creates a sense of an ethical environment that would motivate managers to deviate from self-interest to focus on the interest of the principal.

Conclusions

Disclosing of human rights issues in the annual reports of corporations elaborates that "human rights" issues have become part of the governance context of corporations. The economic forces have perceived changes in the past few decades, which have shifted the nature and the size of corporations resulting in the "human rights" debate. Therefore, corporations have more to gain by appearing responsible by disclosing CSR information including human rights, as this disclosure would help them to manage their relationships with stakeholders. The board of directors is the body responsible for ensuring the satisfaction of stakeholders' demands. Hence, the association between human rights disclosures as an aspect of CSR and the board of directors as a corporate governance mechanism might be of focal interest to accounting scholars.

Furthermore, there have been inconclusive results in the literature concerning the effect of "environmental", "social", and "governance" disclosure on the firm performance. The reason behind this inconclusiveness is that CSR encompasses many dimensions and the empirical results concerning which of those dimensions (including human rights disclosures) is of value creation, where this issue is not clear as in the case of firm's environmental performance and employee's satisfaction. Accordingly, this paper addresses the gap in the literature by disentangling "human rights disclosures" from "CSR" to explore its impact through corporate governance mechanisms on firm performance. Besides, companies have always viewed economic growth in terms of financial and contractual obligations, whereby, social and cultural rights are usually ignored.

Moreover, the disclosure of information plays an important role in promoting "human rights" and disseminating accountability towards "human rights" in the value chain. Accordingly, it might be vital for future research to investigate the link between "human rights" disclosure and "corporate

governance" mechanisms. It has been argued that lacking of corporate accountability in protecting "human rights" has become a severe concern and that many International companies such as "Nike", "Wal-Mart", "Gap" and "H&M" have been regarded as violating "human rights" in their supply factories in developing nations. Thus, there have been calls in recent years for more scholarly debate about "human rights", especially after the development of "GRI guidelines". Furthermore, much empirical research has tested the extent to which CSR can lead to superior firm performance. Recently, the increased attention to the notion of "human rights" as one aspect of CSR and the corresponding growth of the socially responsible investment industry has provided accounting scholars with a greater incentive to dig deep into the link between "corporate social responsibility" and firm performance. Hence, exploring the impact of "human rights" disclosures on the firm performance through corporate governance mechanisms provides a rich venue to investigate the overall impact of CSR on the firm performance. We believe that future research may concentrate on the need for changes in corporate governance mechanisms to be more accountable towards "human rights" practices. Additionally, a wide range of human rights disclosure strategies may be tested to define the most suitable one based on the social, cultural, economic, and organizational factors that represent the determinants of human rights disclosure and reporting and its impact on firm performance and value creation.

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Conflict of Interest

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