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Accounting for human rights: Evidence of due diligence in EU-listed firms' reporting

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ABSTRACT

This paper investigates the extent and the strategies of human rights due diligence (HRDD) disclosure by the largest 100 EU-listed firms. Our work is performed at a key point in time when institutional expectations to conduct HRDD are building, allowing us to assess firms' readiness for emerging and forthcoming legally binding regulation in the EU. To analyse corporate disclosures, we develop a scoring tool based on the United Nations' Guiding Principles on Business and Human Rights (UNGPs). We interpret our findings building on Oliver's (1991) theoretical framework of firms' strategic responses to institutional pressures, as adopted in the context of social and environmental accounting and integrated with concepts from the literature on substantive and symbolic disclosure approaches. Our contributions advance the understanding of the ways that firms are engaging with the HRDD issue and the state or level of their engagement. We reveal three key HRDD disclosure strategies: dismissal, concealment, and compliance. The presence of the dismissal category is particularly significant, implying weak engagement with HRDD for many firms in our sample. Furthermore, we find that while many firms have a talk-orientation, where they communicate a commitment to protect human rights, the extent to which disclosures are action-oriented and detail the key practice of HRDD is significantly neglected. Important implications also follow for policymakers as our results can enhance the capability of new regulation to better enforce a strategic engagement outcome.

1. Introduction

Persistent reports of extreme human rights abuses linked to supply chains in China's Xinjiang province (Kriebitz & Max, 2020) and apparel factories in Bangladesh and other low-income countries during the COVID-19 pandemic (LeBaron et al., 2021) have restated human rights as a significant challenge for business. While the concept of human rights covers a wide variety of issues pertaining to the dignity of human life, the most prominent human rights issues for business relate to the operations and supply chains of multinational organisations (Parsa et al., 2018). In response to concerns about the impact of business on human rights, there has been a proliferation of both soft regulation, such as standards and conventions, and legally mandated actions, which have shaped organisations' activities, in turn leading to voluminous reporting (Baboukardos et al., 2020). Our study is motivated by an interest in the extent to which firms are prepared for mandatory human rights due diligence (mHRDD) given the propagation of legislation based on that principle. HRDD

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is the cyclical, proactive process of identifying and assessing adverse human rights impacts, existing and potential, of integrating the findings of those assessments into relevant organizational processes, of tracking the effectiveness of those processes, and of communicating to stakeholders what was identified and the actions that followed (Office of the United Nations High Commissioner for Human Rights, 2018). Extant standards and regulations, demanding as they do that firms report more information about the specific actions they are taking to identify, mitigate, and remedy human rights abuses in their supply chains, provide civil society – and researchers – with important information about how organizations conceptualize their human rights responsibilities, and how they act as a result. However, the focus on disclosure that has come with some standards, and even certain legislation (for example the UK Modern Slavery Act 2015), has been criticised for allowing firms to frame issues in ways that suit themselves and reduce accountability. Firms have, for example, turned human rights into a managerial issue (Gutierrez-Huerter O et al., 2021) and protect the status quo through transferring responsibility as a form of deliberate ambiguity (Meehan & Pinnington, 2021). Reporting can become the aim of the exercise, rather than a medium for explaining action (Michelon et al., 2020). Nonetheless, disclosure remains important as a method for evidencing organizational practices. Both widely accepted guidance such as the United Nations' Guiding Principles on Business and Human Rights (UNGPs) and legally binding regulation make disclosure an important part of the HRDD process and call for firms to act and then inform stakeholders of how they have acted and what the impacts of those actions are. This action-disclosure cycle is designed to enhance accountability through informing stakeholders. Though voluntary, the UNGPs have become a key element in the institutional landscape for attempting to hold organisations to account on human rights (McPhail & Ferguson, 2016). Indeed, the framework is linked in a broader sense to organisations' understanding of corporate social responsibility (Rasche & Waddock, 2021), meaning that it forms part of a backdrop of soft regulation which has been in existence longer than current and impending national and supranational hard legislation. Despite the myriad standards and frameworks that comprise the institutional context, however, human rights, and HRDD more specifically, remain under-investigated in the accounting literature. Important contributions to scholarly research on accountability and regulation with regard to human rights have been made in special issues of Critical Perspectives on Accounting (Gallhofer et al., 2011; Gray & Gray, 2011; Islam & McPhail, 2011) and Accounting, Auditing and Accountability Journal (McPhail & Ferguson, 2016; Methven O'Brien & Dhanarajan, 2016; Siddiqui & Uddin, 2016). Much of the early literature in this space suggest that human rights disclosure was growing (Gallhofer et al., 2011; McPhail and Ferguson, 2016), offering a route for accounting scholars to begin to engage with human rights (Gray and Gray, 2011). Such early work was written before the publication of the UNGPs. Therefore, specific processes of planning, action, disclosure, and consideration were yet to be institutionalized. Thus, Methven O'Brien and Dhanarajan (2016, p.542) state, five years after the publication of the UNGPs, that "change is slow and partial and the results achieved are still unsatisfactory. Severe business-related human rights abuses remain endemic in many industry sectors and in many countries." Where business was favoured over human rights (Siddiqui & Uddin, 2016), therefore, firms continued to develop approaches - and disclosures - to human rights slowly (McPhail & Ferguson, 2016). Much of the literature to date, therefore, is conceptual, featuring discussions of the relevance of human rights to accountants and accounting scholars, the conclusions of such publications being that the accounting profession can make contributions to accountability (Gallhofer et al., 2011) and democracy (Li & McKernan, 2016) through attention to human rights issues. The entreaties of Frankental (2011) and McPhail and Ferguson (2016) for accounting scholars to further engage with the concept of due diligence remain relevant, therefore, despite emerging research on human rights in broader terms.

There is good reason to expect that human rights and the UNGPs would be relevant to accountants. Measurement, analysis, and reporting, including non-financial reporting (NFR), are core areas of accounting work (Cooper & Slagmulder, 2004; O'Dwyer & Owen, 2005; Gallhofer et al., 2011). The concept of due diligence is also a term and a set of practices with which accountants are familiar (Bonnitcha & McCorquodale, 2017). For instance, UNGP 20 states that organisations' tracking of human rights impacts should "be based on appropriate qualitative and quantitative indicators" (UN Human Rights Council, 2011, p. 22). However, despite the centrality of accounting as a technology to the development of such metrics, human rights remain a topic that is not well addressed in the accounting literature (McPhail & Ferguson, 2016) and HRDD in particular is rarely studied (Buhmann, 2018). The threats to vulnerable communities and individuals posed by corporate (in)action, and the associated corporate reputational risks, make this an important subject of study. The present moment, in which multiple jurisdictions are legislating for corporate human rights, also makes our study timely. Given the pivotal role HRDD is increasingly playing in legislative efforts to address corporate human rights risks and the attention that corporate responsibility for human rights has so far received in the legal literature (e.g. Martin-Ortega, 2013; Bonnitcha & McCorquodale, 2017; FASTERLING, 2017), we consider the lack of a flourishing accounting literature on the subject an opportunity to spur the conversation.

Addressing this gap in the literature, this paper adopts a qualitative research approach, analysing the annual, sustainability, and human rights reports and human rights policies of the largest 100 firms listed on stock exchanges in the European Union to answer the following research question:

How are EU-listed firms accounting for human rights due diligence in their human rights disclosures?

Drawing on Oliver's (1991) framework of corporate strategic responses and the dichotomy of talk and action disclosure in non-financial reporting literature, our conceptual framing comprises a typology of HRDD reporting practices in response to institutional pressures, some symbolic (i.e., a concealment tactic), or talk-oriented, some substantive (i.e., a compliance tactic), or action-oriented, and some a complete silence on HRDD (i.e., a dismissing tactic).

To examine the nature and the extent of HRDD disclosure practices, we employed content analysis and disclosure scoring of 2019 corporate reports based on a set of HRDD indicators derived from the UNGPs.

We find evidence of firms signalling a commitment to protect human rights, but a significant gap in the reporting of the due diligence required to underpin that commitment. Specifically, there is less reporting by firms in our sample with regard to measuring activities to protect human rights, integrating the findings of those measurements, identifying human rights issues in firm operations,

and mitigating and remedying those issues. We find some, albeit limited, evidence across our sample that hard legislation (represented by French firms, already subject to legally binding regulation in the form of France's *Devoir de Vigilance* law of 2018) tends to encourage engagement with HRDD principles, though there remains a broad spectrum of reporting performance even for these firms. The French legislation is not explicitly aligned with HRDD principles but does make firms within its scope liable for harms that due diligence could have prevented (Article L. 225-102-4). We explain this variety in part by theorising that the institutional norms represented by the UNGPs have yet to fully diffuse across the institutional field. In sum, the diffusion we observe is one which reflects a relatively shallow pattern of adoption, where more is done to signal commitments of a responsibility to protect human rights broadly than to recognise the requirements to carry out HRDD.

This study makes three contributions. First, our empirical findings describe a typology of talk- and action-orientation in firm HRDD disclosure where we show that firms exhibit one of three main types of behaviour: concealment, compliance or dismissal. The presence of the dismissal category is particularly significant, implying weak engagement with HRDD for many firms in our sample. Second, our work advances what is a relatively limited literature on accounting for human rights, examining current corporate HRDD disclosures to show that those firms that do engage with HRDD emphasise the talk-oriented (policy) activities in the UNGPs and that less well represent the kind of action required, to both protect vulnerable people and deliver on firms' own policies and commitments to international standards, in their disclosures. Finally, we contribute methodologically by creating a framework for benchmarking HRDD reporting performance against accepted expectations.

This research also has practical implications. First, our findings contribute to policymaker understanding of the limitations of both soft regulation and hard legislation as they are currently formulated. Second, our results may be useful for understanding how the EU HRDD legislation should be outlined to drive real organisational change.

The remainder of the paper is structured as follows. The next section offers an overview of the existing literature on business and human rights and accounting and human rights. The third section introduces our theoretical framing of strategic responses to institutional pressures. Section four explains the research methodology. Section five presents our findings and a discussion of those findings in relation to the extant literature and our theoretical framework. Finally, we conclude with a summary and highlight future research directions as well as noting the limitations of our study.

2. Accounting for human rights

Traditionally, the protection of human rights was assumed to be the sole responsibility of the state (Cassel, 2001). The focus on the role and responsibilities of corporations, where firms have a clear imperative to bear certain human rights responsibilities (Cragg, 2012; Wettstein, 2009), which go beyond 'doing no harm' and include the positive duties to protect, respect, and realise human rights (Wettstein, 2010; 2012) occurred decades later.

In light of the difficult progress of international law and the failure of nations to ensure adequate human rights protection, an awareness has developed that "reliance must be placed on alternative measures that involve the participation of non-state agents, including corporations, to close 'governance gaps' and move towards a more satisfactory level of worldwide human rights protection" (Fasterling & Demuijnck, 2013, p. 800). This has clear implications for the accountability of firms (Dillard et al., 2023) and the disclosures the UNGPs demand.

Further, increasing levels of foreign investment, and the globalisation of supply chains more broadly, have created a need for accounting and accountability on human rights (Sikka, 2011), abuses of which have also led to calls for legislation and regulation (Islam & McPhail, 2011). Though to date there has been limited research on accounting for human rights (Hsiao et al., 2022), perspectives on human rights reporting have begun to emerge. In the absence of such formal pressures, firms began to voluntarily report on their human rights impacts. This came in the form of both individual case studies (e.g. Lauwo & Otusanya, 2014), studies on high-risk countries (e.g. Islam et al., 2017), and studies of corporate reporting against standards such as the Global Reporting Initiative (GRI) (e.g. Parsa et al., 2018).

However, multinational firms' human rights reporting can be inconsistent with what NGOs and others see 'on the ground' (Islam et al., 2021) and NFR standards are no guarantee of good practice (Moneva et al., 2006). The prevalence of standards over legal accountability has left corporate human rights and broader sustainability disclosures open to criticism, and even derision (She & Michelon, 2019). Indeed, *voluntary* disclosure is often found to be "clearly woeful by any of the standards that accounting would apply to its own variables" (Gray & Milne, 2015, p.60). The result is that, even on issues as grievous as the prevalence of child labour in cocoa supply chains, Nestlé has been able to focus on repairing its legitimacy over substantive disclosure of actions which have reduced suffering (Perkiss et al., 2021).

Perkiss et al.'s (2021) cocoa study is illustrative because it demonstrates that voluntary disclosure is poorly conceived as a mechanism for mitigating and remedying human rights abuses. As Dillard and Vinnari (2019, p.16) put it, disclosure "literature suggests that an increased level of reporting has not prompted the anticipated increased levels of accountability." In part, this may be because much of the disclosure that firms make voluntarily is aimed more at investors than other stakeholder, such as consumers (Michelon et al., 2020). One result is that firms use voluntary disclosure to enhance their legitimacy without the requirement for the genuine transparency that mandatory reporting might offer, meaning that firms often signal adherence to standards or report generically, limiting accountability (Parsa et al. (2018)). Alternatively, Hackett and Janský (2022) find that firms disclose more positive information when reporting may negatively impact them in order to 'crowd out' bad news.

There is an abundant accounting literature on the limitations of firm approaches to intractable sustainability problems, from voluntary disclosure prioritising firm legitimacy over protecting vulnerable people and communities (Bigoni & Mohammed, 2023; Boersma & Bedford, 2023) to the accounting profession's largest firms' responsibility for over-simplifying sustainability for their own

ends (Rodrigue et al., 2022). Even mandatory disclosure on human rights issues such as modern slavery has focused on compliance, with disclosure routinely failing to focus on business operations' impact on vulnerable people. Such weak legislation, and the poor responses to it, underscore the explicit problem of demanding disclosure and expecting action that Al-Dosari et al. (2023) state and which Parsa et al. (2023) frame as regulatory capture. Nonetheless, given the largest firms' claims to align their practices with the UNGPs, the increasing legislation on the corporate impact on human rights, and the impending convergence of those two factors in the enactment of legislation explicitly building on the UNGPs, we believe that analyzing corporate disclosure remains worthwhile if conducted critically.

The HRDD literature, necessarily action-oriented by its subject, is severely limited in accounting journals. Lopatta et al.'s (2022) paper is a step towards addressing this significant and important gap, but nonetheless remains rooted in voluntary reporting. Silva and Schaltegger (2019) find that HRDD is still a rare topic for accounting scholars despite specific calls for research on the subject (McPhail & Ferguson, 2016). In part, this reflects both the broad, multi-faceted conceptualisation of business and human rights (McPhail & Adams, 2016) and the slow change in the traction of human rights as an accounting issue for corporations (Methven O'Brien & Dhanarajan, 2016). Dillard et al. (2023) go further, making worker-driven accountability core to best practice in corporate considerations of human rights (Clarke, 2021).

There is a growing awareness evident in the literature that due diligence is key to firms ensuring that abuses of working conditions and human rights are detected and dealt with such that future abuses are prevented. However, scholars have stressed how HRDD effectiveness is, in many respects, dependent upon the moral commitment of the corporation and its managers (Fasterling & Demuijnck, 2013; Muchlinski, 2012) as well as upon the willingness to acknowledge human rights respect as a business goal that orientates corporate strategy (Fasterling, 2017). Much of this literature is concerned with suggested frameworks in place for conducting due diligence rather than analyses of firm practices or reporting (e.g. Antonini et al., 2020; Christ & Burritt, 2021; McCorquodale et al., 2017).

Where such analyses are found, for example in the World Benchmarking Alliance's Corporate Human Rights Benchmark (CHRB) (WBA, 2021), the focus is on specific industries and a global geographical scope. CHRB looks at agricultural products, apparel, automotive, extractives, and information and computer technology manufacturing. There are therefore only 23 firms covered by CHRB which appear in our sample. CHRB uses six metrics – governance and policies; embedding respect and human rights due diligence; remedies and governance mechanisms; company human rights practices; responses to serious allegations; transparency – to score companies. Covering firms from geographies outside our sample, CHRB's Benchmark is therefore a rolling, regular assessment which therefore also differs from ours, which uses disclosures to assess firm readiness for mHRDD. Beyond this narrow range of firms, there is little information on how firms disclose their human rights obligations.

While some extant literature highlights the due diligence work being conducted by corporations (e.g. Smit et al. (2021) interview ten firms about their wider operational practices), there is little holistic understanding of the state of reporting practices across the largest European firms. This is a particularly stark oversight given the power that large firms have in both their human rights impacts and efforts to address those issues (Rogerson et al., 2020). This paper therefore investigates the current state of HRDD in the 100 largest EU-listed firms to understand the proliferation of firms' HRDD efforts and thus their readiness for impending EU legislation on the matter.

3. Theoretical framing

This section sets out our theoretical framing to understand HRDD disclosure strategies and their diffusion through the EU's largest listed firms.

First, we outline the institutional forces in the HRDD environment that pressure firms to respond. We anchor our conceptual development with respect to Oliver's (1991) framework of strategic responses against these institutional pressures. We then explore Oliver's framing in non-financial disclosure contexts, to develop our own version as applied to HRDD. Next, we discuss literature that characterises firms' reporting with respect to substantive and symbolic properties. Finally, we summarise the overall conceptual model.

3.1. Responses to institutional pressures in HRDD disclosure

That businesses respond to institutional pressures to be more socially responsible is well documented (Aguilera et al., 2007; Brammer et al., 2012; Ozdora-Aksak & Atakan-Duman, 2016), where the conditions in the institutional environment explain firms' socially responsible behaviours (Campbell, 2007; Jackson & Apostolou, 2010; Matten & Moon, 2008; Shabana et al., 2017).

In the HRDD context, strong institutional pressures, a feature of the EU markets in particular (Matten & Moon, 2008), compel firms to follow similar patterns of reporting behaviours, which spread across firms. EU announcements in 2021 suggested that coercive pressure will be intensified in the external environment with the advent of new legislation requiring firms to carry out effective due diligence with respect to human rights (European Parliament, 2021). Shabana et al.'s (2017) study of the diffusion of social responsibility reporting finds that in the early phase of diffusion, coercive pressures are particularly explanatory. Campbell (2007) similarly emphasises the role of state regulation in the adoption of socially responsible practices. Further, positive firm engagement has been observed in studies on the consequences of mandatory CSR reporting (e.g. Ioannou & Serafeim, 2017), especially in the EU (Dinh et al., 2023).

This perspective recognises the key importance to firms of maintaining their organisational legitimacy, through signalling their conformance to commonly held institutionalised social norms, values and beliefs in the external environment (Deephouse, 1996; Doh

& Guay, 2006). That substantive practices follow these signals of conformance cannot be assumed (Bowen, 2014). However, institutional pressures may give rise to heterogeneous organisational responses and thus a variation in reporting responses.

Based on the assumption of heterogeneity and variation in the ways in which organizations react to the institutional environment, Oliver (1991) developed a typology of alternative strategic behaviours that organizations may enact in direct response to institutional pressures. According to Oliver (1991), firms' responses to institutional forces vary according to the degree of active agency and resistance exerted by the organization and can then be classified along a continuum from passive to active strategies, with *acquiescence* as the most passive, *manipulation* as the most active, and *compromise*, *avoidance* and *defiance* that lie between the two extremes.

Oliver's (1991) framework has become a significant theoretical lens to make sense of and interpret corporate strategic responses to institutional pressures and expectations of CSR behaviour.

Building on this framework, scholars account for variation in firms' responses to environmental (Tingey-Holyoak, 2014) or CSR regulations (Khan et al., 2020) and identify the institutional determinants of corporate responses (Clemens et al., 2008). For instance, Khan et al. (2020) document a range of banks' alternative strategic responses (from fully accommodating to fully resistant behaviour) to regulatory CSR initiatives in Bangladesh. Other works (Pedersen & Gwozdz, 2014; Clementino & Perkins, 2021) find evidence that firms responding to pressures for CSR tend to go beyond usual strategies that focus on conformance and resistance behaviour, by also engaging in opportunity-seeking actions.

Oliver's (1991) work has become established within the social and environmental reporting literature (Criado-Jiménez et al., 2008; Di Tullio et al., 2022; Pedersen & Gwozdz, 2014; Esteban-Arrea & Garcia-Torea, 2022). For instance, Oliver's framework has been applied in the work of Criado-Jiménez et al. (2008) to investigate the effectiveness of social and environmental reporting regulation in Spain and by Di Tullio et al. (2022) to examine corporate disclosures strategies in response to EU Directive 2014/95's requirements to disclose business model information.

Here scholars have applied and refined the framing to identify three important types of responses, among the repertoire of behaviours proposed by Oliver (1991), that are particularly relevant to predict and explain how firms respond to institutional pressures to disclose non-financial information: acquiescence (with the tactic 'compliance'), avoidance (with the tactic 'concealment'), and defiance (with the tactic 'dismissal').

Acquiescence is the complete conformity to institutional rules and may take alternative forms including habit, imitation, and compliance. Compliance is an acquiescence tactic defined as "conscious obedience to or incorporation of values, norms, or institutional requirements" (Oliver, 1991, p. 152), motivated by the desire to enhance legitimacy and increase stability. For instance, Esteban-Arrea and Garcia-Torea (2022) find that firms are more likely to comply with reporting requirements and disclose on the requested topics when they face the pressures of multiple stakeholders.

Defiance is the unequivocal rejection of institutional norms and expectations which may take the form of dismissal, challenge, and attack tactics. Dismissing, or ignoring institutional rules and values, is a strategic response which entails non-conformity and resistance to institutional rules. Essentially, in the context of disclosure strategies, companies exhibit a dismissing tactic when they resist the institutional pressures to include certain disclosures in their reports (Criado-Jiménez et al., 2008). Companies are more likely to exhibit a dismissing behaviour when "the potential for external enforcement of institutional rules is perceived to be low or when internal objectives diverge or conflict very dramatically with institutional values or requirements" (Oliver, 1991, p. 156). Alternatively, non-conformance may be caused by scarce understanding of the rationale behind institutional pressures and the consequences of noncompliance, resource limitations and misinterpretations (Pedersen & Gwozdz, 2014).

Finally, avoidance is the organizational attempt to preclude the necessity of institutional conformity. Organizations can circumvent the condition that make conforming necessary by concealing their nonconformity, buffering themselves from institutional pressures, or escaping from institutional rules. Concealment is the avoidance tactic which involves "disguising nonconformity behind a façade of acquiescence" (Oliver, 1991, p. 154). Concealment tactics could take the form of "window-dressing" or ritualism. In the context of disclosure, concealment involves engagement in some form of ritual and insubstantial disclosures that do not meet stakeholder demands but, instead, give the impression that firm is conforming to the institutional pressures to attain legitimacy (Criado-Jiménez et al., 2008). Criado-Jiménez et al. (2008) report that the avoidance tactic of concealing non-compliance was the most common strategy among Spanish firms mandated to report environmental provisions in their financial reports.

While dismissing involves non-conformity (i.e., lack of disclosure), concealment can be distinguished from the acquiescent strategy of compliance by "the degree to which conformity is apparent or real" (Oliver, 1991, p. 155).

3.2. Talk- and action-oriented disclosure

Having drawn on Oliver's (1991) framework as adapted in the context of firms' disclosure practices, we also engage with the theoretical dichotomy between talk and action-oriented disclosures. She and Michelon (2019, p. 51) recognise a distinction in CSR reporting, identifying important differences between "talk disclosure" and "action disclosure", in terms of how they generate different reactions for stakeholders. Talk-disclosure involves information that presents a firms' intentions and perhaps its principles, such as commitments and corporate policies (Cho et al., 2015), while action-disclosure is information about a specific activity or initiative that relates to what the firm is actually doing or has already undertaken (She & Michelon, 2019). Cho et al., (2015, p.78) counterpose action and talk disclosures, distinguishing between "substantive disclosure" from "organizational facade", setting out the differences between firm disclosures that support and reflect real improvements in firm performance on sustainability (Boiral, 2013) and disclosures that are more superficially motivated (Moneva et al., 2006). Other scholars also reflect the talk and action disclosure dichotomy in relation to symbolic and substantive approaches to CSR communications and reporting (Delmas & Burbano, 2011; Marquis & Qian, 2014). Christensen et al., (2021, p.414) similarly identify a type of organizational communication, where firms might be formulating their

CSR vision, talking in general terms – here there is a lack of “action criteria”.

Symbolic, or talk-oriented, activities have a purported aim, but are not always genuinely or fully implemented in practice, and where the aim is therefore not always met. Instead, they communicate the appearance of conformance with norms, but the activities can remain a ceremonial means to gain legitimacy, without incurring the cost and complexity of meaningful implementation (Westphal & Zajac, 1997), and thus fail to deliver benefit to society (Bowen, 2014). In this instance talk oriented approaches to reporting may be designed for legitimacy purpose alone (Cho et al., 2015) or to address the bare minimum required (Jackson & Apostolakou, 2010), more than to transparently and fully report on progress in the organization practice. Substantive or action-oriented approaches, by contrast, involve more specific use of resources and give scope for monitoring (Campbell, 2007), thus strengthening the link to social impact.

3.3. Summary of our conceptual model

We can thus summarise our theoretical framework. We propose that for legitimacy reasons, many firms are expected to respond to pressures to the HRDD agenda, at least in some forms in their reporting. At the same time, we also expect they may not respond in the same way, with variation in the extent of emphasis on the issues and the extent to which HRDD information is substantively in evidence.

Integrating selected aspects of Oliver’s (1991) framework of corporate strategic responses with the dichotomy of talk and action disclosure in reporting and CSR literatures, we expect three modes of disclosure to be important for HRDD. One where the firm may exhibit a concealment tactic and be reporting in what we refer to as a talk-oriented mode, where the communication sketches ideas only in general terms (Christensen et al., 2021), using disclosure to generate a “camouflaging” for the firm (Moneva et al., 2006, p.121), and give the impression of conformity with HRDD institutional expectations. Here there is a presence of talk disclosure in firm reporting.

The second relates to a compliance strategy, when a firm may be reporting in an action-oriented mode, more specifically shaping expectations (Christensen et al., 2021) and supporting greater scrutiny through the materiality of its disclosure (Boiral et al., 2019). It is by this means, through high quality action-oriented reporting, that firms become accountable to their commitments (Boiral, 2013), in this instance to protect human rights. By contrast, accountability is threatened with symbolic approaches characterised by talk-oriented disclosure. Here there is a presence of action disclosure in firm reporting.

Finally, firms may exhibit a dismissing behaviour, ignoring institutional pressures to conduct and report on HRDD and leaving information on this issue out of their reports. Here there is an absence of talk or action disclosure in firm reporting.

In sum, we expect that the uncertainty on what business and human rights involves (Obara & Peattie, 2018) is expected to flow through to create a variation in what HRDD reporting practices involve for each firm, some symbolic (i.e., concealment), or talk-oriented, and some substantive (i.e., compliance), or action-oriented, or a complete silence on HRDD (i.e., dismissing). This uncertainty is because the practice of HRDD is relatively new for many firms which are working in the early part of the adoption ‘cycle’, before specific norms have become universally sanctioned and prescriptively formalised (Shabana et al., 2017).

To conclude, we have been able to develop a conceptual framing of firm responses to the prevailing institutional pressures which allows us to make sense of firm’s behaviours with respect to the pressures that drive diffusion of HRDD. This framework guides our empirical analysis, which we discuss next, to understand the variation in how firms respond to pressures for adopting and reporting HRDD practices.

4. Research design

To examine the nature and the extent of HRDD disclosure practices, this study employed content analysis and disclosure scoring of corporate annual reports and human rights disclosures, including discrete human rights reports and human rights policies. Content analysis is an established and systematic method for “making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use” (Krippendorff, 2004, p. 18). This method has been extensively used to investigate social and environmental reporting (e.g. Michelon et al., 2020; Bouten & Everaert, 2015; Jayasinghe et al., 2021).

Consistent with previous studies (e.g. Jayasinghe et al., 2021; Hossain et al., 2017; Kamal & Deegan, 2013), this paper uses a disclosure scoring method to assess the quality and the quantity of HRDD information included in the firms’ reporting. The disclosure scoring framework was deductively derived from the UNGPs on Business and Human Rights for their broad acceptance across a wide range of stakeholders, continued support from national and supranational organisations (McPhail & Ferguson, 2016), and the reference made by the European Commission on the Directive proposal on mHRDD (European Commission, 2022), and therefore their institutionalisation as norms and standards on conduct in business operations (Methven O’Brien & Dhanarajan, 2016).

4.1. Context of UNGPs on business and human rights

At the heart of the UNGPs’ conception of corporate responsibility to respect human rights is due diligence, defined as “the steps a company must take to become aware of, prevent and address adverse human rights impacts” (Ruggie, 2008, para. 56). HRDD requires corporations to have knowledge about, to monitor, and to mitigate the human rights impacts of their operations. In this way, human rights issues become more “discernible and manageable” (Fasterling & Demuijnck, 2013, p. 801) for business, through the integration into existing corporate risk management systems (Fasterling, 2017). However, HRDD differs from traditional business management due diligence, since it focuses on human rights impacts and risks to potential victims of corporate actions, and not solely on enterprise-

related business risks (Muchlinski, 2012, p. 156).

The due diligence approach adopted by the UNGPs requires “positive actions by a corporation and not merely a requirement to do no harm” (McCorquodale, 2009, p. 393). Indeed, HRDD comprises four main steps (Methven O’Brien & Dhanarajan, 2016): 1) having a human rights policy; 2) assessing human rights impacts of corporate activities; 3) integrating those values and findings into corporate cultures and management systems; 4) tracking as well as reporting the due diligence process and its results. These steps are not a linear process to be completed but are better described as an iterative cycle of evaluation and change. Further, the protection of human rights requires an anticipatory approach to risk, recognising current and potential future impacts; this is a complex and dynamic situation, requiring ongoing monitoring and continual organisational learning and adaptation that is forward-looking (Buhmann, 2018).

4.2. Sample selection and data collection

Our sample consists of disclosures by the largest 100 firms by revenue listed on stock exchanges in the EU during 2019 (McCracken et al., 2018), that were retrieved using Osiris database. The shared level of visibility afforded by the size of these firms leads us to identify this as an institutional field. Part of the rationale for this study was to understand the readiness of firms headquartered in countries under EU jurisdiction for the proposed mHRDD legislation. Since the UK had left the EU when we began our study, we omitted UK firms from the study. A list of the firms in our sample can be found in Appendix 1.

We downloaded the relevant reports in English where available from the firms’ websites. One firm – Sanofi – does not publish this document in English but does translate the LDV section into English and publishes it separately. Two firms on the original list – Heineken Holding NV and McKesson Europe AG – were removed since they do not report fully in Europe because their parent firm is also included in our sample (Heineken) or because their reporting is led by the US parent company (McKesson). They were replaced by the next two largest firms from our Osiris search, Suez and Faurecia. The disclosures in our sample are broken down as follows: the annual report of each of the 100 firms, 48 sustainability reports from non-French firms and the sustainability disclosures of 32 French firms within their annual reports per that country’s LDV law, and 21 human rights policies.

4.3. HRDD disclosure scoring framework

Informed by prior approaches (Jayasinghe et al., 2021), we developed a scoring framework of HRDD disclosure based on indicators derived from the UNGPs. By doing so, we can determine the level of adherence of a firm’s HRDD process to the UNGPs as reflected in the firms’ disclosures and the type of disclosure strategy they exhibit.

We developed our scoring framework from the UNGPs on business and human rights, focusing on the principles dealing with HRDD. The text of the UNGP was carefully examined by each of the authors in order to break up the guidance into a set of elementary requirements and standards of conduct. We considered the sentences included into the UNGPs and the commentary which define what company *should* do as part of their HRDD, while we did not integrate into our framework those requirements that are referred as actions that companies *might* or *could* do. The relevant requirements were converted into disclosure items and used as parameters to assess if a company provides a satisfactory disclosure in relation to each specific course of action that it should perform within its HRDD process.

In this process of conversion, we merge into a single disclosure item the parts of the text of the UNGPs which intend to clarify or exemplify previously stated requirements of general nature. For instance, we developed only one disclosure item, i.e., “The assessment of HR impacts is undertaken at regular intervals”, from the following paragraph of commentary to UNGP 18 “Because human rights situations are dynamic, assessments of human rights impacts should be undertaken at regular intervals: prior to a new activity or relationship; prior to major decisions or changes in the operation (e.g. market entry, product launch, policy change, or wider changes to the business); in response to or anticipation of changes in the operating environment (e.g. rising social tensions); and periodically throughout the life of an activity or relationship”.

As a result of this process, we developed a scoring framework including 30 disclosure indicators relating to HRDD process, covering six dimensions: ‘commitment to respect human rights’ (UNGP 16–9 indicators); ‘commitment to conduct HRDD’ (UNGP 17–5 indicators); ‘assessment of human rights impacts’ (UNGP 18–6 indicators); ‘integration of findings’ (UNGP 19–2 indicators); ‘tracking performance’ (UNGP 20–4 indicators); and ‘remedy mechanisms’ (UNGP 22–4 indicators).

Since the proposed EU Directive on mHRDD reflects the European Commission’s commitment and efforts to align with and build upon relevant international HRDD standards as the UNGPs, companies that achieve a high score using our framework are likely to exhibit a high level of compliance with the proposed EU legislation.

To empirically capture variations in the level of dismissing, concealment and compliance HRDD strategies, we interpreted the UNGPs disclosure indicators as reflecting either talk-disclosures or action-disclosure as introduced above (Cho et al., 2015; She & Michelon, 2019; Michelon et al., 2020). Cho et al. (2015) label ‘Talk-disclosure’ as written or spoken words presenting firms’ commitments and policies to interact with the external environment, while ‘Action-disclosure’ reflects activities and initiatives that firms are doing and/or have undertaken for a specific social issue (She & Michelon, 2019).

Building on these notions, we interpreted the HRDD disclosure indicators of UNGP 16 (‘Policy commitment’) and UNGP 17 (‘Human Rights Due Diligence’) as ‘talk-disclosures’, since they relate to corporate commitments, plans, visions, and intentions in the area of HRDD. UNGP 16 requires firms to express their commitment to respect human rights through a statement of policy, while disclosing adherence to UNGP 17 means that a firm explicitly declares to carry out HRDD processes to identify, prevent, mitigate and account for adverse human rights impacts. Conversely, disclosure indicators covered by UNGPs 18–20 and UNGP 22 can be interpreted as ‘action-disclosures’, since they refer to performance, results, and outcomes. Adherence to these indicators implies that firms are

undertaking specific actions and initiatives in relation to human rights, such as conducting a human rights risk assessment (UNGP 18), integrating the findings across internal functions and processes (UNGP 19), tracking the effectiveness of their actions (UNGP 20), and providing adequate remedies to human rights violations (UNGP 22).

Measuring the level of talk- and action-disclosure, we can assess the consistency between what companies declare and are committed to do in respect for human rights, and what they are effectively doing to minimise and mitigate their human rights impacts. Table 1 shows the coding categories while Appendix 2 provides details on the disclosure items.

4.4. Content analysis

Firms received scores based on each of the points of UNGPs' HRDD guidance that they disclosed information against. Most indicators were scored using a dichotomous approach, where a score of 0.5 is awarded if an item is disclosed and 0 otherwise. We realised that this approach was not appropriate for some disclosure indicators (number 20, 21, 23) where firms may provide different degrees of disclosure. Then, these items were awarded a score of 0 (non-disclosure), 0.5 (low disclosure), 1 (medium disclosure) or 1.5 (high disclosure). We calculated the disclosure scores of each company as a percentage by dividing the sum of the scores awarded by the maximum score (18). Appendix 2 summarizes the scores for all the disclosure indicators. In our scoring model there is no difference between not-disclosures and disclosures a non-compliance with a HRDD indicator (in both cases a score of 0 is assigned), since they both show the lack of appropriate disclosed HRDD actions.

We conducted a pilot study before the main coding analysis. We then chose a selection of firms from different countries and industries and, between the three authors, coded the reports of 20 firms to test the relevance and clarity of our coding scheme. In order to ensure that we were conducting coding in the same manner and to the same standards, we then coded the reports of three companies each of which had previously been coded by one of the other two authors. Our coding scheme changed little as we conducted the pilot study, since we used the headings of the UNGPs against which to code. Once we had established consistency, the three authors completed the coding of the other 80 firms' reports and, as a final check, re-coded the reports of ten firms each of which had previously been coded by another author.

In this way, we ensured the usability of the scoring system and reliability in the coding process. In the process of coding, we copied quotations from human rights disclosures which were relevant to each of the UNGPs on HRDD. We use indicative quotes to support our narrative throughout later sections, drawing, where possible, on different companies in different industries and from different countries to demonstrate the widespread nature of our findings. Appendix 3 provides some examples of the coding of the non-dichotomous HRDD disclosure items (No. 20, 21 and 23).

5. Results

In this section, we examine the extent of HRDD disclosure reported by our sampled companies. This analysis provides insights into the extent to which firms significantly identify human rights as issues which might be necessary or even beneficial to extensively disclose.

First, we discuss the results of the content analysis, before examining which types of HRDD information are reported. In order to investigate the impact of *hard*- and *soft*-regulation on firms' HRDD disclosure practices, we compared the disclosure score of French firms (i.e., a legally binding regulation approach) and non-French firms (i.e., *soft-law* approach). As a second step, we built on Oliver's (1991) framework, as adopted in the context of social and environmental reporting (Criado-Jiménez et al., 2008; Di Tullio et al., 2022), to examine and classify the types of HRDD disclosure strategies employed by the sampled companies. We discuss the main traits of these strategies, drawing on examples from the companies, to advance our understanding of the existing alternative approaches to HRDD disclosure.

5.1. Compliance with UNGPs on Business and Human Rights – A content analysis of corporate reporting

The results of our content analysis are presented in Table 2, Panel A, B, and C, where we report summary descriptive statistics of the overall disclosure compliance scores, including the distribution across ranges. The 100 firms in our sample published 48 sustainability reports and had 21 human rights policies. The average, between annual and sustainability reports and human rights policies, is 237 pages, in which the term human rights is mentioned 44 times on average. There are, on average, mentions of the term "due diligence"

Table 1
Coding categories.

Dimension	Coding categories
Level of <i>talk</i> -disclosure on HRDD	Commitment to respect human rights (UNGP 16)
	Commitment to conduct human rights due diligence (UNGP 17)
Level of <i>action</i> -disclosure on HRDD	Assessment of human rights impact (UNGP 18)
	Integration of findings (UNGP 19)
	Tracking performance (UNGP 20)
	Remedy mechanisms (UNGP 21)

Table 2
Results of content analysis – Descriptive statistics.

Panel A. Mean disclosure scores					
Disclosure items	Mean score				
Total disclosure score	31.10 %				
Talk-disclosure score	44.36 %				
Policy commitment score	49.44 %				
Commitment to HRDD score	35.20 %				
Action-disclosure score	22.55 %				
Assessment of human rights impact score	29.25 %				
Integration of findings score	16.50 %				
Tracking performance score	15.67 %				
Remedy mechanisms score	25.50 %				

Panel B. Distribution of talk-disclosure scores (% of firms)					
Disclosure items	Score range				
	0–19 %	20–39 %	40–59 %	60–79 %	80–100 %
Commitment to respect human rights	14	21	28	26	11
Commitment to conduct HRDD	48	14	20	11	7
Total talk-disclosure	23	21	20	28	8

Panel C. Distribution of action-disclosure scores (% of firms)					
Disclosure items	Score range				
	0–19 %	20–39 %	40–59 %	60–79 %	80–100 %
Human rights impact	36	39	6	16	3
Integration of findings	63	21	8	3	5
Tracking performance	82	6	2	5	5
Remedy mechanism	50	17	19	9	5
Total action-disclosure	55	26	13	1	5

with respect to human rights 3 times per report. The median mentions of ‘human rights’ is 31 and of ‘due diligence’ with respect to human rights is 1. Disclosures on human rights and HRDD are almost exclusively made in separate sections within sustainability areas of reports, if referred to at all. For French firms, disclosures in sustainability reports are simply copies of the mandated disclosure in annual reports, with no extra details.

Taken together our findings suggest that, despite the growth in scope of non-financial reporting, corporate efforts to align sustainability activities with the UN Sustainable Development Goals, and specific national warnings to do so (Eastwood et al., 2020), few companies have reported substantial information on human rights in line with due diligence best practices. Indeed, as Panel A of Table 2 indicates, the mean disclosure score of the sample companies indicates that, on average, European listed companies disclose about 31.10 % of the HRDD requirements prescribed by the UNGPs.

Examining the level of *talk*-disclosure provides insights into the extent to which companies explicitly communicate their commitment to respect human rights and conduct HRDD. We obtained the firm’s talk disclosure score as a percentage dividing the scores awarded for the indicators of UNGPs 16 and 17 by the maximum score of these dimensions (7). Examining the level of *action*-disclosure, we investigated whether and to what extent companies provide information about how the different phases of the HRDD process are carried out and managed. We calculated the firm’s action disclosure score as a percentage dividing the scores awarded for the indicators of UNGP 18, 19, 20, and 22 by the maximum score of these dimensions (11).

We found a significant gap between *talk*-disclosure and *action*-disclosure, whose score average at 44.36 % and 22.55 %, respectively. Hence, while almost half of the selected firms exhibit their commitment to respect human rights, only roughly half of that number disclose the actions they take to conduct the due diligence necessary to fulfil those commitments or the impacts of the relevant processes.

Focusing on the distribution of *talk*-disclosure scores, we observe that although 37 % of firms provide more than 60 % of the information related to commitment to respect human rights, only 18 % of companies score more than 60 % in relation to commitment to conduct HRDD. These results indicate that many companies explicitly commit to respect human rights and to adhere to internationally recognised human rights standards and principles, but they fail to commit to conduct appropriate due diligence activities. This is particularly interesting given that over a third of the firms in our sample make specific commitments to the UNGPs in their disclosures. We find that sampled firms which commit to the UNGPs outperform those firms without any explicit commitment to the UNGPs. The average HRDD score of firms with UNGPs commitment is 87 % higher than the rest of the firm. The discrepancy is higher for talk-disclosure (+97 %) than for action-disclosure (+87 %). Perhaps not surprisingly, because our method grants points to firms committing to, and then follow up on the UNGPs, firms which have committed to that standard unsurprisingly score well in our coding.

Additionally, the level of *action*-disclosure also varied, where some firms reflected an understanding of the UNGPs or communicated an understanding of all the steps required, for example, while others neglected to feature the human rights-related reporting with

respect to any of the expectations of HRDD. The lowest *action*-disclosure score is tracking performance (15.67 %), while the highest is assessment of human rights impact (29.25 %).

Panel B of Table 3 reports that only a large minority of companies has achieved high level of compliance with items requiring actions on HRDD. Indeed, only 3 % of companies has disclosed more than 80 % of information for the assessment of human rights impact, and 5 % has disclosed more than 80 % of information for the rest of action-disclosure items.

Our results support prior findings on corporate reporting in anticipation of human rights-related legislation, which demonstrate a lack of depth and quality (Christ et al., 2019) and where organisations continue to report the minimum expected in these areas even after legislation is enacted (e.g. Flynn & Walker, 2020). Further, our analysis finds that firms typically fail to demonstrate a serious approach to HRDD.

Additionally, the significant differences observed between the performance of *talk*- and *action*-disclosure, as well as the non-homogenous distribution of companies within the score ranges, suggests a variety of strategies enacted by companies against the pressures for HRDD.

5.2. A comparison between French and non-French companies

Our results show significant differences between companies operating under different regulatory approaches (i.e. legally binding regulation vs. voluntary frameworks).

Table 3 compares the results obtained for French (as cases of firms operating under legally binding regulation) and non-French companies (as cases of firms operating under voluntary frameworks).

Table 3 shows that the mean total disclosure score is 24.09 % for non-French firms and 41.49 % for French firms. This suggests that, on average, firms subjected to mandatory HRDD tend to disclose more information in their reports. In general, French firms exhibit better performance for all the items of both *talk*- and *action*- disclosure. Overall, Panel B indicates that French firms disclose on average more *talk*-related information on their HRDD (average score 55.13 %) than non-French firms (average score 39.53 %). It is worth noting that 22.06 % of non-French firms provide less than 20 % of the information related to commitment to respect human rights. This suggests that almost a quarter of firms which deal with soft-law regulation tend to ignore human rights issues in their reports. Quite surprisingly, we also observed significant variation in the level of *talk*-disclosure across the group of French firms. While 6.25 % of French companies provide less than 20 % of the required information, 25 % are in the range 20 % to less than 40 %, 21.88 % are in the range 40 % to under 60, 34.38 % are in the range 60 % to under 80 %, and 12.50 % provide more than 80 % of the information. This suggests that despite being under HRDD legislation, French firms exhibit a variety of interpretations, and communications, of their commitment to conduct due diligence with respect to human rights.

Furthermore, we find significant differences also between the *action*-disclosure score of French (average score 32.81 %) and non-French firms (average score 18.06 %). Although HRDD is mandatory for French firms, our findings suggest that the majority of them exhibit poor disclosure compliance with the UNGPs' requirements. This suggests both that French companies perceive the potential for enforcement mechanisms to be low or that their internal objectives diverge significantly with legal requirements and that the legislation is not sufficiently specific in mandating action over disclosure. Indeed, 75 % of French firms provide less than 60 % of the information with regard to the assessment of human rights impacts and potential abuses, the integration of these findings into corporate practices and processes, and the mitigation and remedy of those issues. Interestingly, almost 72 % of French firms are

Table 3
Results of the content analysis: French vs. non-French companies.

Panel A. Mean disclosures scores of French vs. non-French firms					
Disclosure item	Mean score of French firms	Mean score of non-French firms			
Total disclosure score	41,49 %	24,09 %			
Talk-disclosure score	55,13 %	39,53 %			
Policy commitment score	61,81 %	43,80 %			
Commitment to HRDD score	43,13 %	31,85 %			
Action-disclosure score	32,81 %	18,06 %			
Assessment of human rights impact score	41,02 %	24,02 %			
Integration of findings score	21,09 %	14,67 %			
Tracking performance score	24,48 %	11,69 %			
Remedy mechanisms score	40,63 %	19,06 %			

Panel B. Distribution of talk- and action-disclosures scores of French vs. non-French firms (% of firms)					
Disclosure item	Score range				
	0–19 %	20–39 %	40–59 %	60–79 %	80–100 %
Talk-disclosure scores of non-French firms	30,88	19,12	19,12	25	5,88
Talk-disclosure scores of French firms	6,25	25	21,88	34,38	12,5
Action-disclosure scores of non-French firms	66,18	17,65	13,24	0	2,94
Action-disclosure scores of French firms	31,25	43,75	12,5	3,13	9,38

awarded very low scores (below 20 %) in relation to disclosing the tracking mechanisms of the mitigating measures.

5.3. Disclosures as strategic responses to HRDD

As a second step of our analysis, we examined the types of HRDD disclosures strategies employed by the companies in our sample. To this end, we combined the scores awarded for the two coding dimensions used in our analysis, i.e. the level of *talk*-disclosure and the level of *action*-disclosure. For each score companies can exhibit a low (scoring less than 40 %), a medium (scoring more than 40 % and less than 60 %), or a high (scoring more than 60 %) level of disclosure. Fig. 1 shows the distribution of companies across the two coding dimensions, where the X-axis stands for the level of *action*-disclosure, and the y-axis for the level of *talk*-disclosure.

As shown in Table 4, drawing on our theoretical framework, we expect that companies exhibit the following three main HRDD disclosure strategies:

- Defiance strategy in the form of dismissing tactic: low *talk*-disclosure combined with low *action*-disclosure (43 firms).
- Avoidance strategy in the form of concealment tactic: medium–high *talk*-disclosure combined with medium–low *action*-disclosure (51 firms).
- Acquiescence strategy in the form of compliance tactic: high *talk*-disclosure combined with high *action*-disclosure (5 firms).

5.3.1. Dismissing HRDD disclosure

43 % of the selected companies exhibit low compliance with both *talk*-disclosure and *action*-disclosure on HRDD. Interestingly, the phrase ‘human rights’ is never mentioned in 8 % of the sample and it is mentioned fewer than 10 times by 22 % of the companies. In the latter case, the human rights issue is referred to only in a cursory way, as exemplified in the following sentences:

To make clear our understanding of important values inside and outside our Group, Munich Re joined the United Nations Global Compact in 2007. The ten principles of this declaration (covering human rights, labour standards, environmental protection and combating corruption) form the benchmark for our actions in all fields of business within the Group, and thus provide the fundamental framework for our corporate responsibility (Munich Re Annual Report 2019, p. 20).

Siemens has policies for environmental, employee and social matters, for the respect of human rights, and anti-corruption and bribery matters, among others (Siemens Annual Report 2019, p. 2).

Other reports include very superficial and vague references to human rights. Bayer claims to “demand that our business partners, particularly our suppliers, fully observe human rights” (Bayer Annual Report 2019, p. 38), while CNP Assurances states that “Contractual clauses on the protection of workers are included in the standard contracts offered to suppliers and in CNP Assurances” (CNP Assurances Annual Report 2019, p. 350).

Furthermore, few of the sample firms have attempted to explain the implications of human rights for their business, i.e. what they are supposed to look for, mitigate, and remediate. EDF, for example, states that “human rights include social components (e.g. labour or health and safety rights), societal aspects (e.g. community rights or safe services), and ethical matters (e.g. respect for people, and the fight against discrimination and corruption)” (EDF Annual Report 2019, p. 149). The firm does not define any of these groupings of

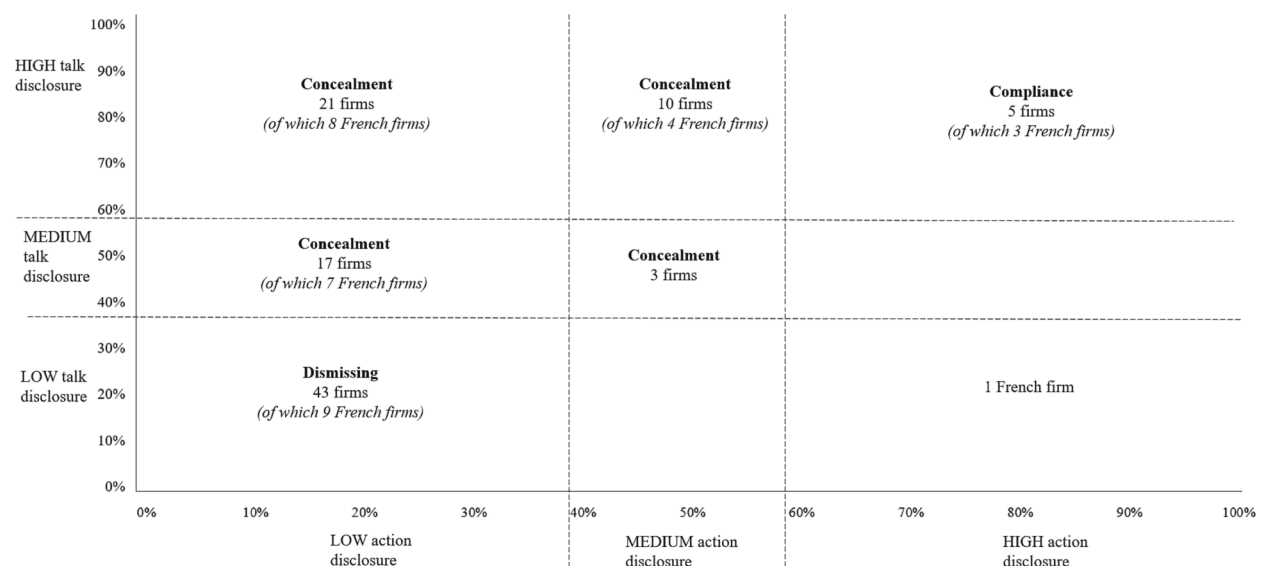


Fig. 1. Distribution of companies across the two coding dimensions.

Table 4
Combination of *talk*-disclosure score and *action*-disclosure score.

	High action-disclosure score	Medium action-disclosure score	Low action-disclosure score
High talk-disclosure score	5	10	21
Medium talk-disclosure score	0	3	17
Low talk-disclosure score	1	0	43

rights beyond ‘community rights’, for example. Similarly, Fiat Chrysler requires “adherence to applicable local laws that are designed to recognize international principles for the respect and support of fundamental human rights in all geographic areas where the Group operates.” (Fiat Chrysler Sustainability Report 2019, p. 37). Like several firms in our sample, E.ON “expects our suppliers worldwide to meet minimum standards for environmental, social, and governance (ESG) performance, including respect for human rights,” pushing responsibility onto suppliers without disclosing what the standards expected of those firms are.

Where firms make commitments to the UNGPs, a framework in which conducting HRDD and remedying human rights impacts are key features, due diligence is described in vague terms and mentions of remedy often feature whistle-blower hotlines and not the actions the firm actually takes to remedy abuses. Deutsche Telekom, for example, “made an express commitment to upholding the UN Guiding Principles on Business and Human Rights” but discloses no more detail than that the firm has “developed an extensive program to implement these Principles throughout our Group and introduced an ongoing process comprising several interconnected measures and tools” (Deutsche Telekom Annual Report 2019, p. 91). On remedy, the firm reports that it has an email address complainants can use but that none of the eight complaints it received in 2019 were “deemed plausible” (Deutsche Telekom Annual Report 2019, p. 92). Similarly, Ericsson takes an administrative approach to disclosing its approach to human rights remedy, stating that employees are “encouraged” to report concerns to managers and call also use a whistle-blower hotline, which will lead to

The Corporate Investigations team investigates plausible group relevant compliance concerns and presents findings to the Group Remediation Committee and quarterly to the Audit and Compliance Committee of the Board of Directors. The allegation management governance and process were strengthened during 2019 to ensure inclusion of both centrally and locally reported compliance concerns. It has similarly expanded its remit to ensure adequate capture of consequence management in relation to substantiated group relevant (Ericsson Annual Report 2019, p. 177).

Nowhere in this particular report does the company disclose what instances of abuse were made known during the year, nor does it discuss its approach to remedy if abuses were to be identified.

Of the six UNGPs which refer to the responsibility of business, there is a clear pattern of adherence to disclosure versus action. The first two UNGPs – *policy commitment to respect human rights* (UNGP 16) and *commitment to conduct HRDD* (UNGP 17) - are simple policy commitments and are made by all firms, sometimes voluminously, in our sample to some extent. SAP, for example, commits to adherence to the United Nations Global LGBTI Standards of Conduct for Business, United Nations Sustainable Development Goals, the Global Reporting Initiative (GRI), Universal Declaration of Human Rights, the UN Global Compact, the OECD Guidelines, the ILO Declaration, and the UNGPs. In attempting to check the firm’s specific commitments, as explained in the SAP Global Human Rights Commitment Statement, we found a ‘404 page not found’ error on the company’s website.

The next two principles – *assessment of human rights impact* (UNGP 18) and *integration of findings* (UNGP 19) – require more action but are treated as administrative across our sample. There is much less disclosure on these UNGPs than the previous two, but most firms report against UNGP 18 and UNGP 19 nonetheless. Heidelberg Cement takes a typically policy-, rather than action-, driven approach, stating that “suppliers must subscribe to fundamental human rights relevant in the business context, such as the prohibition of child and forced labour, fair and safe work conditions, freedom of association, and a ban on discrimination” (Heidelberg Cement Annual Report 2019, p.58). Nowhere in the company’s report is there evidence of action being taken on the ground to ensure that suppliers comply with any of such policies.

Fewer firms still disclose action against UNGP 20 *Tracking performance* which includes, in Deutsche Telekom’s case, the use of supplier surveys rather than the ground fact-finding. Perhaps because firms have done so little to find human rights abuses in their supply chains, they disclose almost nothing on UNGP 22 *Remedy mechanisms* but it is nonetheless true that here, where action is most required, the least (and absolutely nothing in many cases) is reported.

The absence, or the scarcity, of human rights disclosure in the annual reports does not necessarily mean that these companies do not conduct any HRDD activities. For example, Accenture states that it “received a perfect score on Human Rights Campaign’s Corporate Equality Index each year since 2008” (Accenture Annual Report 2019, p. 8), but no further HRDD related information is provided. Other companies simply state that human rights disclosure is covered by other reports (e.g. sustainability report or stand-alone report). For instance, this is the case of Deutsche Bank, which states that:

We reinforce our commitment on specific issues, such as climate change and human rights, by publicly communicating our support, e.g. for the European Union (EU) Action Plan for Sustainable Finance, or by publishing dedicated statements, such as our Human Rights Statement (Deutsche Bank Annual Report 2019, p. 205).

There are several explanations for firms that neither express a strong emphasis on human rights, nor evidence a serious due diligence approach.

First, not all firms conceive of their human rights responsibilities as integrated in their strategies (Fasterling, 2017). Firms are only now developing a stand-alone focus on human rights, which have traditionally been organised with respect to other structures, for

example the legal compliance or CSR departments (Obara & Peattie, 2018). As such the explicit treatment of human rights is only just emerging for some firms. On the other hand, other explanations paint a more cynical picture, and call into question companies' moral commitments (Fasterling & Demuijnck, 2013). Here firms might seek to deliberately minimise the agenda or dispute their role in taking responsibility for human rights impacts.

Furthermore, the notion that firms may not wish to signal their credentials of responsibility is not new. According to Matten and Moon's (2008) framework, the lack of explicit companies' authorships and attachments to a social issue is a typical feature of *implicit* CSR, under which firms' engagement in society is not conceived as a voluntary and deliberate decision, but rather as a reflection to codified norms and customary ethics.

Delmas and Burbano (2011, p. 64) identify 'silent greens', who do little to promote their strong environmental strategies. Carlos and Lewis (2018, p. 130) explain that strategic silence can result from the fear of accusations of organisational hypocrisy. For some firms it is the risk that they may be misperceived (Carlos & Lewis, 2018) and viewed, incorrectly, as firms that are operating with style but not substance. This apparent legitimacy risk is intensified here, perhaps, due to two factors: the complexity and sensitivity of human rights. Those firm efforts to address these complex issues are required to be dynamic and ongoing means that perfect protection of human rights, even for the proactive firms, is particularly challenging and perhaps unrealistic. In addition, human rights issues are particularly sensitive, or morally loaded, which changes the way judgements of firm behaviour may be composed, involving potential stigma for negligent firms (Hudson & Okhuysen, 2009). These firms may thus anticipate and seek to avoid a negative legitimacy feedback loop. Here firms who may be seen as over-emphasising human rights are negatively judged, potentially risking the legitimacy they seek. This is particularly salient for firms in industries with a track-record of serious human rights incidents.

5.3.2. Concealing HRDD disclosure

51 % of the selected companies combine medium-high level of *talk*-disclosure with a medium- low level of *action*-disclosure. This implies that these companies express a strong commitment to respect human rights and to prevent and mitigate potential human rights risks. Despite this, they do not disclose how their HRDD practices work and, consequently, do not provide evidence and examples about how they manage potential and actual human rights risks in the business operations and in the supply chain. While firms may not be motivated to disclose such negative risks, given the public nature of the disclosure, human rights risks are widespread across supply chains in almost all industries, and the expectation that they must identify such risks is nonetheless explicitly contained within the UNGPs, which the majority of firms claimed to uphold.

In most cases, a strong commitment is exhibited to uphold widely accepted human rights norms, principles and standards:

For many years already, our General Business Principles (GBP) have expressed our support and respect for human rights as set out in the International Bill of Human Rights and the International Labor (sic) Organization's Declaration on Fundamental Principles and Rights at Work. In this, we follow the guidance given in the United Nations Guiding Principles on Business and Human Rights (UNGP) and the OECD Guidelines for Multinational Enterprises (Philips Annual Report 2019, p. 41).

We use the UN Guiding Principles on Business and Human Rights as a guide to understand, avoid and address human rights-related risks in our operations and supply chain. Our human rights due diligence process focuses on a number of key areas: –assessing and prioritising human rights risks; –integrating the Human Rights Policy into ways of working; –tracking and auditing policy implementation; and –reporting progress internally and externally (Heineken N. V. Annual Report 2019, p. 147).

In other terms, a strong emphasis on typical HRDD-related expressions and references is combined with little disclosure about evidence of human rights impacts and actions taken to prevent, mitigate, or remedy human rights abuses.

It appears that these firms are strategically interpreting expectations with respect to implementing HRDD (Fasterling & Demuijnck, 2013). In this instance, the firm may be working intentionally to develop organisational facades (Cho et al., 2015) to convey compliance with these emerging norms, without demonstrating that their practices have changed (Meyer & Rowan, 1977). This can be described as a form of organisational greenwashing, where the firm's talk disproportionately emphasises the actions the firm takes in practice (Bowen, 2014). Equally, firms may be selective about what is reported when it comes to identifying specific negative risks in public disclosures (Parsa et al., 2018). Further, firms may also lack experience of the particular reporting requirements of human rights, which diverge from traditional, backward-focused reporting; due diligence requires proactivity and forward-looking orientation to prevent future negative impacts (Buhmann, 2016).

5.3.3. Complying with HRDD disclosure

Finally, exemplar firms that show both a high emphasis on human rights and provide evidence of a proactive approach that is rooted in HRDD principles are not well represented in our sample. Indeed, only 5 % of the firms are awarded with a high score for both *talk*-disclosure and *action*-disclosure on HRDD. These companies act as issue pacesetters (Dawkins, 2005), which may influence the disclosure practices of their competitors in the future and, in this way, drive the institutionalisation of HRDD good practice and disclosure (Shabana et al., 2017).

This strategic engagement with HRDD disclosure is well represented by Telefonica's Annual Report, which not only states that, "In line with our Global Human Rights Policy, we have a human rights due diligence process in place to identify, prevent, mitigate and remedy (potential and actual) human rights impacts" (p. 187), but also provides detailed information about the human rights impact assessment, the integration of results into internal policies and processes, the tracking and the key human rights indicators, as well as the grievance and remedy mechanisms.

Interestingly, only three French firms exhibit a serious approach to HRDD disclosure, revealing the heterogeneity of HRDD disclosure despite the existence of dedicated French legislation.

6. Discussion

Mirroring the conclusions of Gray and Milne (2015, p.22), who declare that voluntary social and environmental disclosure are “so clearly woeful by any of the standards that accounting would apply to its own variables”, we find very limited levels of action orientation in firm disclosures and satisfactory engagement with the UNGPs guidance on HRDD overall across our sample. Over a third of the firms in our sample state that they use the UNGPs as a framework in their human rights considerations and almost all companies in our sample signal the use of a human rights benchmark or standard. Yet evidence from the firms themselves demonstrates a lack of attention to detail, the absence of adequate planning, and a lack of action, measurement and tracking of performance, and remediation. Given the breadth and depth of organisational human rights violations specifically identified in the literature (e.g. Rogerson et al., 2020), the notion that EU-listed firms have almost no such issues in their operations and supply chains is highly implausible. The lack of disclosed cases is much more likely attributable to the absence of disclosed effort in identifying abuses. The governance gaps highlighted over a decade ago by Frankental (2011) thus continue to pose risks to human wellbeing and dignity and by extension corporate legitimacy.

6.1. Implications for literature

In answering our research question, *How are EU-listed firms accounting for human rights due diligence in their human rights disclosures?*, we find that firms are disclosing substantially more about the policies they have, than on the actions they have taken and plan to take. In finding that firm disclosure on human rights remains remarkably limited, we contribute to the emergent accounting literature on human rights that has identified persisting weaknesses in firm’s approaches. A decade ago, as the UNGPs were taking shape, accounting had begun to grapple with human rights in business as a phenomenon relevant to the discipline. Yet accounting has yet to meaningfully “come to the service of human rights” (Gallhofer et al., 2011, p.765). Indeed, despite human rights catastrophes such as the Rana Plaza factory collapse in Bangladesh in 2013, accounting has been unable to drive human rights considerations into the corporate limelight. While stakeholder expectations therefore drive firm disclosure, for example (e.g. Islam et al., 2017), there remains an implicit assumption that poor human rights disclosure is unlikely to be punished in the wider corporate world.

Our findings are perhaps a warning to regulators, if regulation is expected to change behaviours on this serious issue. Disclosure among the EU’s 100 largest firms is very limited with respect to HRDD. We reiterate that many firms have voluntarily signed up to disclosure frameworks such as the UNGPs and the UN Global Compact. Further, firms have often formally accepted responsibility for their roles in protecting vulnerable people in supply chains. We also know that evidence suggests a clear link between firm decisions, for example, on outsourcing (Murcia et al., 2020) and social (ir)responsibility, where the scale of human rights abuses in the supply chains of the largest firms is massive (Lafargue et al., 2022; Walk Free Foundation, 2023). In this respect, our findings demonstrate that firms might continue to find ways to respond to new pressures in ways that can be considered “extremely poor” (Deegan, 2017: p. 67), or even “woeful” (Gray & Milne, 2015, p. 60), as earlier scholars have found.

Our findings illustrate how this weakness arises; many firms feature some level of talk-oriented disclosure in their reporting that relates to human rights, but the action-oriented disclosure is relatively less well represented. There is thus an apparent overall tendency to conform with norms to report on human rights, in tandem with a shallowness and strategic interpretation within the detail of firms’ HRDD. Many firms mention a commitment to human rights norms and standards in their reporting, but HRDD, a key tenet of human rights principles, was often only weakly represented. Within our typology of firm disclosures, this is categorized as a *concealment* kind of HRDD disclosure. This supports the literature that proposes that firms are deliberately selective in their non-financial reporting, while they might seek to limit major operational changes in practice (e.g. Parsa et al., 2018). That firms are perhaps intentionally strengthening broader discursive contributions that relate to human rights more than they are engaging with the requirements of organisational learning to protect human rights, perhaps points to the creation of a ‘facade’ (Cho et al., 2015, p. 78) of human rights reporting. This signals compliance with emerging institutional norms while allowing them to evade the scrutiny that can follow when language becomes less ambiguous (Christensen et al., 2021). Our concealment category is akin to the greenwashing perspective, where more is said than done (Delmas & Burbano, 2011). Further that we find the *concealment* category is more populated than our *compliance* category, where firms are active in both talk and action-oriented disclosures, is perhaps evidence of the importance of this approach in practice, where reporting is importantly used to convey appearances (Cho et al., 2015).

Yet, that we also identify and describe a *dismissal* of HRDD disclosure strategies, adds another dimension to the discussion highlighted in this literature. A firm in the dismissal category does little in both talk and action-oriented disclosure. The empirical importance of the dismissal category has particularly interesting implications for the literature that conceives of reporting as a form of window-dressing, prone to misuse (Cho et al., 2015) as well as literature that argues that reporting supports a firm’s performance in practice (Boiral, 2013). This is because we find here that many firms avoid even the talk-oriented disclosure. At face value, this is an intriguing finding suggesting that many firms are not moved to respond at all by the current prevailing pressures, as they might do for environmental sustainability reporting. It is perhaps the case that human rights represent a different category of non-financial reporting, which involves greater uncertainties and risks than other types of responsibility. Further research is thus warranted that might thus compare how action-oriented disclosures on human rights compare with action-oriented disclosures within environmental sustainability reporting, for example. Of course, tying our benchmarking with impact is a further extension to our work. As time elapses, especially after the introduction of harder law, we would expect to see connections between disclosure and practice, though the linkages are far from guaranteed.

6.2. Implications for practice and policy

Implications also follow for practice and policymakers. The benchmarking we have performed has provided some unique insights at a particular point in time when we can learn about the influence of legally binding regulation, while assessing the readiness of firms for the impending EU Directive on mHRDD. We find that firms are typically well oriented to the notion of human rights in broad terms and appear to recognise a corporate responsibility to commit to the protection of human rights in the course of their operations. However, the poor level of disclosure in firm reporting leaves us with fundamental doubts about the degree of preparedness for delivering on this aspiration, particularly when it comes to exhibiting the necessary HRDD capabilities. In this respect, our work highlights the unpreparedness of most of the largest European firms for impending mHRDD legislation. Our findings are similar to the CHRB 2019 results looking at the human rights performance of 200 of the largest global companies in four high-risk sectors. The CHRB find that the majority of companies was failing to demonstrate their respect for human rights, with nearly half of the companies assessed scoring 0 across all indicators related to the process of HRDD.

Our study suggests not simply that firms should disclose more, for disclosure alone cannot drive meaningful change (e.g. Dillard and Vinari, 2019), but that when they do, the disclosure can reveal something of the nature of a firm's engagement with HRDD. Disclosure alone is not well linked to impact (Parfitt, 2022), nonetheless the disclosure of action-related activities linked to the UNGPs is useful information since it informs stakeholders of steps taken, cases identified, and remediation efforts undertaken. Failing to report on such action, in line with the UNGPs which have become the de facto standard, will only increase the legislation on mHRDD in future. We might speculate, from our findings, that the organisational learning and adaptations necessary for fulfilling firms' responsibilities remains nascent, given the kind of reporting we have seen. We find that where the weakness in the HRDD reporting was most apparent was in the extent to which firms recognised that HRDD is an inherently anticipatory, bespoke, and ongoing process - a cycle that they are never outside of, that is conducted regularly and not deemed complete. The practice of HRDD is a universal expectation for companies, yet the implementation of this practice is firm-specific, and thus perhaps hard to formulate in terms of standards of high-quality reporting. The learning necessary is inherently individualised based on the firm's context, supply chain arrangement, countries of operation, industry features, etc. Due diligence demands that firms learn iteratively; proactively seeking information on human rights impacts and/or risks, refining their processes accordingly before, again, seeking information on human rights impacts and so on. This requirement for firm learning, on which HRDD depends, was notably absent in the reports of our sample firms.

Our findings also allow us to draw some important implications about the role of legally binding regulation in a context which also features soft regulation. This is because we were able to study French firms, at a time following the introduction of mHRDD in France, with respect to non-French firms which did not experience such coercive pressure. That French firms also exhibited the variation in behaviour described in our wider findings - such that the extent of HRDD scores ranged from low to high - is perhaps disappointing for policymakers, who may expect more uniformity and higher levels of engagement under mandatory rules. However, there is some support for the sway of legally binding regulation; when we study the strategically engaged group of firms, we find that France is relatively well-represented. This suggests that while the impact is modest, coercive pressures do have a bearing.

7 Conclusion

Through this research we ask, how are EU-listed firms accounting for HRDD in their reporting? We have been able to develop some depth of knowledge in the domain of HRDD reporting practices by benchmarking large EU firms' performance at this time and, building on Oliver's (1991) framework, we developed a typology that describes three important HRDD disclosure strategies, termed *dismissal*, *concealment* and *compliance*. The compliance strategy, where a satisfactory level of engagement with the UNGPs is achieved, was relatively less well represented than our dismissal and concealment strategies. We have thus been able to contribute to the literature with our understanding of firm behaviour which can be characterised, at this point in the diffusion of the corporate human rights agenda, to involve more symbolic, or talk-oriented disclosure than more substantive action-oriented intent to evidence the important underpinning principles enshrined in HRDD as set out by the UNGPs. Our findings therefore raise significant doubts about EU-listed firms' ability to respond, at least in the first instance, to impending legislation on mHRDD in a way that can drive the intended purpose of the legislation: to protect human rights in the supply chains.

Our study is not without limitations. We look at an important point in time, where corporate human rights expectations have been thoroughly problematised (Clarke, 2021), but before the transition to EU jurisdiction to compel behaviour change. However, longitudinal studies over a longer period of time are recommended to explore how these trends develop, and the extent to which organizational commitments strengthen with time (Christensen et al., 2021). We thus suggest future work to examine the extent to which this trend develops for all EU firms once they come under the purview of the forthcoming legislation. Our HRDD benchmarking framework provides a basis for such further research.

The focus of our research on HRDD disclosure also means we are unable to draw inferences on the interaction between firms' HRDD and their impact on human rights in practice. Impact is, of course, the intent of HRDD and while our work supports a better understanding of what might be required to bridge talk and action on HRDD, the link is not well established. With continuing doubts about firms' performance on the ground (Buhmann, 2018) further research on impact is warranted, especially as human rights controversies are found to be a persistent phenomenon of large firms (Olsen et al., 2021).

We also note that the degree to which we can comment on the effectiveness of legally binding regulation is limited by the nature of legally binding regulation in this particular context, where there are some doubts as to the extent to which the legislation on HRDD is enforceable. This suggests future work might usefully explore further categorisations within the various, different legally binding regulations emerging. Campbell (2007) proposes that the degree to which socially responsible behaviour is demonstrated by firms depends on the way in which the regulation is arrived at, where consensus and communication between firms and state strengthen the

enforcement capabilities of the regulation. Certainly, what it means for regulation to have ‘teeth’ is a subject of interest to scholars of social policy and policymakers alike.

Finally, our evidence indicating a gap in the firms’ engagement in practice with key HRDD principles suggests future research to explore the barriers here. For instance, future research may address the following questions: Do firms really understand HRDD, and how might they implement the ongoing learning processes due diligence requires? How might HRDD reporting guidance better represent the requirement for firm learning and limit the scope for concealing strategies?

8 Data statement

Our data are taken entirely from publicly available sources. We used annual reports for the European Union’s largest stock exchange-listed companies (determined by a finance database on a given date at the start of our project) and the United Nations Guiding Principles on Business and Human Rights.

Declaration of competing interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Data availability

Data will be made available on request.

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Appendix A. Supplementary data

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