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# Four Varieties of Social Responsibility: Making Sense of the 'Sphere of Influence' and 'Leverage' Debate Via the Case of ISO 26000

Stepan Wood

*Allard School of Law at the University of British Columbia, wood@allard.ubc.ca*

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## **Four Varieties of Social Responsibility: Making Sense of the “Sphere of Influence” and “Leverage” Debate via the Case of ISO 26000**

**Abstract:** One of the key controversies in social responsibility discourse is whether an organization’s responsibility should be based on its capacity to influence other parties or only on its actual contribution to social and environmental outcomes. On one side of the debate are those who argue that the limits of an organization’s responsibility should be defined in terms of its “sphere of influence” (SOI): the greater the influence, the greater the responsibility to act. On the other side are those who reject the SOI approach as ambiguous, misleading, normatively undesirable and prone to strategic manipulation. Foremost among the critics is the United Nations Secretary General’s Special Representative for business and human rights, Professor John Ruggie, who rejects SOI as a basis for defining the boundaries of the business responsibility to respect human rights. The newly published ISO 26000 guidance standard on social responsibility was at the centre of this controversy during its final stages of drafting. This paper examines how the concept of SOI is articulated in ISO 26000 and the extent to which it responds to the concerns identified by critics. It proposes a four-part matrix of “influence-based” responsibility, defined by the intersection of two distinctions that are often elided in SR discourse: the distinction between “influence as impact” and “influence as leverage,” on one hand, and the distinction between negative and positive responsibility, on the other. The paper argues that ISO 26000 avoids the conceptual ambiguity identified by critics by defining SOI exclusively in terms of “leverage”; that it avoids the main operational ambiguity identified by its critics by eschewing the problematic concept of “proximity;” that it embraces all four varieties of social responsibility to varying degrees, repudiating the normative claim that social responsibility is only negative and impact-based; and that it provides at least a partial response to the problem of strategic gaming.

**Keywords:** Social responsibility; sphere of influence; leverage; ISO 26000; John Ruggie; business and human rights.

**JEL Classification:** K39

**Stepan Wood**

Associate Professor,

Osgoode Hall Law School, York University

Jean Monnet Fellow,

Robert Schuman Centre for Advanced Studies, European University Institute.

## **Four Varieties of Social Responsibility: Making Sense of the “Sphere of Influence” and “Leverage” Debate via the Case of ISO 26000**

Stepan Wood\*

### **I. INTRODUCTION**

In December 2010, the International Organization for Standardization (ISO) published the ISO 26000 guidance standard on social responsibility, marking the end of a six-year global negotiation (ISO 2010). One of the key controversies in the drafting of ISO 26000 was what role, if any, the concept of “sphere of influence” (SOI) should play in social responsibility (SR). The debate came to a head at the last meeting of the ISO Working Group on Social Responsibility (WGSR) in Copenhagen, in June 2010, after an intervention by the Special Representative of the United Nations Secretary General on Business and Human Rights (SRSG), Professor John Ruggie.

At its base the controversy concerns the question of how and where to draw the outer boundaries around an organization’s social responsibility, in particular when the organization is implicated in the action or inaction of third parties such as suppliers, contractors, sub-contractors, distributors, joint venture partners, police, armed forces, or government officials. The SOI concept, described in Section 2, offers one approach to answering this question, based on the assumption that every organization has a certain domain within which it can influence actions and outcomes through its relationships, and outside which it cannot. This “sphere” is often characterized as a series of nested circles radiating outward from the organization’s own workplace. For many, it is an intuitively attractive metaphor for thinking about the extent of an organization’s social responsibility. Others, including the SRSG himself, have criticized it as ambiguous, misleading, normatively undesirable and prone to manipulation. These objections are described in Section 3.

The purpose of this paper is not to evaluate the merits of this debate but to examine how the concept of SOI is articulated in ISO 26000 and the extent to which it responds to the concerns identified by critics. This is the topic of Section 4. The main source of conceptual ambiguity identified by the SRSG is the conflation of “influence as impact” with “influence as leverage.” Influence as impact refers to the impacts caused by an organization’s decisions and activities; influence as leverage refers to an organization’s capacity to influence other parties’ decisions to act or refrain from acting in certain ways. ISO 26000 avoids conflating these two by defining SOI exclusively in terms of leverage (Section 4.2). It also avoids the main source of operational

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\* Associate Professor, Osgoode Hall Law School, York University and Jean Monnet Fellow, Robert Schuman Centre for Advanced Studies, European University Institute. The research for this paper was made possible by a Standard Research Grant from the Social Sciences and Humanities Research Council of Canada. A shorter version of this paper is forthcoming in Adrian Henriques, ed., *ISO 26000 In Practice* (London: BSI, forthcoming).

ambiguity identified by the SRSG, the tendency to operationalize SOI in terms of the potentially misleading criterion of “proximity”.

Moving to the normative claim that it is inappropriate to ground responsibility in leverage, ISO 26000 is ambivalent on this point. To make sense of the Guide’s treatment of this question, it is useful to consider the impact/leverage distinction alongside another distinction between negative and positive responsibility (Section 4.3). A negative responsibility is one that calls upon an actor to “do no harm”; a positive responsibility is one that calls upon an actor to “do good”. Putting these two distinctions together, it is possible to identify four varieties of influence-based social responsibility: impact-based negative responsibility, impact-based positive responsibility, leverage-based negative responsibility and leverage-based positive responsibility (Section 4.4). While ISO 26000 favours impact-based responsibility, it contains examples of all four varieties. Examples of impact-based responsibility in the standard are described in Section 4.5, and leverage-based in Section 4.6. Section 4.7 discusses briefly how ISO 26000 responds to the SRSG’s final main concern about the concept of SOI, that it promotes strategic gaming.

## II. THE IDEA OF SPHERE OF INFLUENCE

The concept of sphere of influence (SOI) was introduced into SR discourse by the United Nations Global Compact (UNGC), which calls on signatory companies to embrace, support and enact the Compact’s ten principles “within their sphere of influence”.<sup>1</sup> It presupposes that a company – and by extension any organization<sup>2</sup> – is linked to other actors via networks of relationships through which it can influence actions and outcomes outside its own organizational boundaries. It recognizes that the nature and degree of influence varies substantially from organization to organization, relationship to relationship and issue to issue. Nonetheless it assumes that every organization has a zone within which it has significant influence over social or environmental conditions, and outside which it does not.

An organization usually has the most influence in its relationship with its own workers. Relationships with local communities in which the organization operates, other organizations in its supply chain, competitors and consumers are usually in intermediate zones. Relationships with government and society are often considered among the most remote and attenuated, although this is not always the case. The nature and degree of an organization’s influence are highly fact-specific, depending on a number of factors including its size, geographic scale of operations, material and human resources, technology, knowledge, ownership and decision-

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<sup>1</sup> United Nations Global Compact, “The Ten Principles,” <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html> (visited 5 February 2011).

<sup>2</sup> For purposes of this paper, as in ISO 26000, “organization” does not include an organ of a State acting in a governmental capacity (ISO 26000, 2.12 “organization”).

making structures, strategic position in particular networks or communities, as well as the characteristics of its environment (Gasser 2007). According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the larger the company, “the larger the sphere of influence is likely to be” (OHCHR 2005, 14).

The notion of a sphere offers a crude metaphor for the array of relationships through which an organization can act upon the world around it. It is often portrayed as a series of concentric circles (e.g. BLIHR, UNGC & OHCHR 2006, 8; Baab & Jungk 2009, 2). The UNGC Office, for example, developed a model with the workplace in the centre, moving outward to the supply chain, marketplace, community and government (SRSO 2008a, 4). Some companies use this approach explicitly, adapting it to their own circumstances (e.g. Gasser 2007, 10-13; BHP Billiton Ltd. 2006, 416-17). While many companies do not use the term SOI, their human rights policies and practices often mirror this model (SRSO 2007, 21).

The SOI model assumes that the organization’s degree of influence diminishes with distance from the centre (SRSO 2008a, 4). A survey of transnational companies conducted for the SRSO found that “this differentiation based on gradually declining direct corporate responsibility outward from employees appears to reflect an emerging consensus view among leading companies” (SRSO 2006, 10).

SOI is often operationalized in terms of proximity: it “tends to include the individuals to whom [the organization] has a certain political, contractual, economic or geographic proximity” (ICHRP 2002, 136; OHCHR 2005, 14). The online Guide for Integrating Human Rights into Business Management published jointly by the Business Leaders Initiative on Human Rights, UNGC Office and OHCHR explains the proximity principle:

The extent of a company’s ability to act on its human rights commitment may vary depending on the human rights issues in question, the size of the company, and the proximity between the company and the (potential) victims and (potential) perpetrators of human rights abuses.

However, a company does not have complete control over every business partner, and cannot be responsible for the actions of partners over which it has little influence. The closer a company is to actual or potential victims of human rights abuses, the greater will be its control and the greater will be the expectation on the part of stakeholders that the company is expected to support and respect the human rights of proximate populations.

Similarly, the closeness of a company’s relationship with authorities or others that are abusing human rights may also determine the extent to which a company is expected by its stakeholders to respond to such abuse.<sup>3</sup>

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<sup>3</sup> Business Leaders Initiative on Human Rights, United Nations Global Compact Office and Office of the High Commissioner for Human Rights, “A Guide for Integrating Human Rights into Business Management” (2<sup>nd</sup> ed.),

### III. CRITICISM OF SPHERE OF INFLUENCE

The SOI approach has come in for harsh criticism, particularly after it was incorporated in the ill-fated Draft United Nations Norms on the human rights responsibilities of transnational corporations (Weissbrodt 2008).<sup>4</sup> The SRSG is among the sceptics, concluding that “while sphere of influence remains a useful metaphor for companies to think broadly about their human rights responsibilities and opportunities beyond the workplace, it is of limited utility in clarifying the specific parameters of their responsibility to respect human rights” (SRSG 2008a, 6).

One problem with the concept is imprecision. Until ISO 26000 there was no authoritative definition of the concept (OHCHR 2005, 14; Gasser 2007). The SRSG criticizes the SOI model for failing to distinguish between actors whose rights might be affected negatively by the company’s practices and those over whose actions the company might have leverage—i.e., agents and objects of harm (SRSG 2008a, 6). It thus conflates two different meanings of “influence”:

One is “impact”, where the company’s activities or relationships are causing human rights harm. The other is whatever “leverage” a company may have over actors that are causing harm or could prevent harm. (Ibid.)

While the SRSG is concerned with negative impacts, it is important to recognize that impacts may also be positive. ISO 26000 defines “impact” as a “positive or negative change to society, economy or the environment, wholly or partially resulting from an organization’s past and present decisions and activities” (clause 2.9). Influence as impact thus refers to an organization’s direct or indirect contribution to positive or negative outcomes. Influence as leverage refers to an organization’s ability to influence the decisions or activities of other organizations or individuals through its relationships.

Secondly, the SRSG argues that operationalizing SOI in terms of “proximity” is problematic:

What constitutes “political proximity”, for example? The most intuitive meaning of proximity - geographic - can be misleading. Clearly, companies need to be

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“Global Business Case: Supporting Tools,” online: [http://www.integrating-humanrights.org/global\\_business\\_case\\_sphere\\_of\\_influence](http://www.integrating-humanrights.org/global_business_case_sphere_of_influence) (visited 10 February 2011). The passage is adapted from UNGC/OHCHR Embedding I, 17, 21.

<sup>4</sup> United Nations Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, “Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights,” U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (26 August 2003), Art. A.1 (“spheres of activity and influence”).

concerned with their impact on workers and surrounding communities, but their activities can equally affect the rights of people far away from the source, as, for example, violations of privacy rights by Internet service providers can endanger dispersed end-users. (SRS 2008a, 6).

It is also worth noting that an organization's degree of influence over particular actors or outcomes may vary as much or more within one circle as between different circles. The spatial metaphor of a sphere of concentric circles, with influence declining from one circle to the next, can therefore be misleading (SRS 2008b, 19).

Thirdly, the SRS rejects SOI as a basis for assigning human rights responsibility on normative grounds because "it requires assuming, in moral philosophy terms, that 'can implies ought'" (SRS 2008a, 5). In his view, "companies cannot be held responsible for the human rights impacts of every entity over which they may have some leverage, because this would include cases in which they are not contributing to, nor are a causal agent of the harm in question" (ibid.). The responsibility to respect human rights, he concludes, should be limited to situations where a company is contributing directly or indirectly to negative impacts.

Finally, the SRS argues that assigning responsibility on the basis of influence invites strategic gaming (SRS 2008a, 6; SRS 2008b, 20; Ruggie 2007, 826). He warns:

the proposition that corporate human rights responsibilities as a general rule should be determined by companies' capacity, whether absolute or relative to States, is troubling. On that premise, a large and profitable company operating in a small and poor country could soon find itself called upon to perform ever-expanding social and even governance functions – lacking democratic legitimacy, diminishing the State's incentive to build sustainable capacity and undermining the company's own economic role and possibly its commercial viability. Indeed, the proposition invites undesirable strategic gaming in any kind of country context. (SRS 2010, 14)

In summary, Professor Ruggie concludes that the scope of the corporate responsibility to respect human rights "is not a fixed sphere, nor is it based on influence" (ibid., 8). Rather,

Scope is defined by the actual and potential human rights impacts generated through a company's own business activities and through its relationships with other parties,... Such attributes as companies' size, influence or profit margins may be relevant factors in determining the scope of their promotional CSR activities, but they do not define the scope of the corporate responsibility to respect human rights. Direct and indirect impacts do. (ibid., 13)

The critique of SOI has achieved considerable traction in SR discourse. The SRS brought his concerns about SOI to the attention of the ISO Working Group on Social Responsibility in November 2009, urging it to revise the Draft International Standard to bring it into closer

alignment with his three-part “Protect, Respect, Remedy” framework (SRSG 2009). His advice was taken seriously and substantial changes were made. His “Protect, Respect, Remedy” framework, in the context of which his critique of the SOI approach was articulated, has been endorsed by the United Nations Human Rights Council. The Draft UN Norms, with their “spheres of activity and influence” approach, appear to be a dead letter. On the other hand, SOI remains a central feature of both ISO 26000 and the UN Global Compact, whose Tenth Anniversary Leaders’ Summit reaffirmed its SOI language.<sup>5</sup> The SRSG’s remark five years ago that the concept has a “life of its own” still holds true (SRSG 2006, 10).

My purpose here is not to assess the merits of the SOI debate. Rather, it is to consider how the concept is articulated in ISO 26000 and the extent to which it responds to Professor Ruggie’s concerns. It is important to recognize at the outset that Ruggie does not reject the SOI approach *per se*, but only in relation to the corporate responsibility to respect human rights, which he defines as a responsibility to exercise due diligence to avoid doing harm (SRSG 2008a, 8; 2008b). He acknowledges that SOI can be useful outside this context (*ibid.*, 6; 2009, 2).

## IV. SPHERE OF INFLUENCE IN ISO 26000

### A. A CENTRAL CONCEPT

One of ISO 26000’s key achievements is to provide for the first time an internationally agreed definition of social responsibility. ISO 26000 defines the term as follows:

responsibility of an organization for the impacts of its decisions and activities on society and the environment, through transparent and ethical behaviour that

- contributes to sustainable development, including health and the welfare of society;
- takes into account the expectations of stakeholders;
- is in compliance with applicable law and consistent with international norms of behaviour; and
- is integrated throughout the organization and practised in its relationships. (ISO 26000, clause 2.18)

Relationships refer to “an organization’s activities within its sphere of influence” (*ibid.*). SOI is thus integrated into the very definition of SR. The term “sphere of influence” appears 34 times in ISO 26000, scattered from the Introduction to the Bibliography, and is discussed at length in two subclauses (5.2.3 and 7.3.3). SOI, in short, is one of the central concepts in ISO 26000.

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<sup>5</sup> United Nations Global Compact Office, “Business and UN Raise the Bar for Corporate Practices in ‘New York Declaration,’” <http://www.unglobalcompact.org/news/53-06-25-2010> (visited 5 February 2011).



This Section examines ISO 26000's treatment of the concept in relation to the main criticisms described earlier and proposes a four-part matrix to make sense of what is at times a confusing set of messages about the relationship between influence and responsibility.

## B. ADDRESSING THE PROBLEMS OF DEFINITION AND OPERATIONALIZATION

ISO 26000 marks the first time agreement has been reached on the definition of the term "sphere of influence" in a global forum, a major accomplishment in itself. ISO 26000 defines SOI as "range/extent of political, contractual, economic or other relationships through which an organization has the ability to affect the decisions or activities of individuals or organizations" (clause 2.19). This responds to the SRSG's main concern about conceptual ambiguity: the conflation of "impact" with "leverage". ISO 26000 avoids this problem by defining SOI strictly in terms of leverage, although as we shall see in Section 4.3 this does not imply that leverage equals responsibility.

The definition also responds to the concern about the limits of the spatial metaphor of concentric circles by making clear that SOI is a relational rather than spatial concept. While the term "range/extent" is awkward, it is best understood as referring to the variety of the organization's relationships and the degree of its influence. The definition goes a long way toward liberating the concept from its spatial origins.

ISO 26000 also responds to Professor Ruggie's concerns about the use of the concept of "proximity" to operationalize SOI. There is no reference to proximity in the definition of SOI. Appearing only three times in the Guide, the term is restricted clearly to physical proximity and is portrayed as only one of several factors determining an organization's influence.<sup>6</sup> Instead, sphere of influence is operationalized in terms of an open-ended set of contextual factors which includes typical sources of influence (ownership and governance, economic relationships, legal or political authority and public opinion), factors affecting the degree of influence (physical proximity, scope, length and strength of the relationship) and means of exercising influence (contractual terms, public statements, stakeholder engagement, investment decisions, knowledge dissemination, joint projects, lobbying, media relations, promotion of good practices, and partnerships with other organizations, among others) (clauses 7.3.3.1, 7.3.3.2). Given the variety of organizational practice, paucity of existing international guidance on SOI and fact-specific exercise of evaluating any organization's SOI, this is probably the most that can be expected at this stage.

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<sup>6</sup> Clause 6.3.4.1 (describing proximity of operations to indigenous communities as a human rights risk situation); 6.8.1 (defining "community" as a human settlement located in "physical proximity" to an organization's sites); 7.3.3.1 (describing "physical proximity" as one of several factors determining an organization's influence).

### C. IMPACT VS. LEVERAGE AND OTHER DISTINCTIONS

ISO 26000 provides an ambivalent answer to the SRSG's normative rejection of leverage-based responsibility. The definition of SR, the two passages devoted to guidance on SOI (clauses 5.2.3 and 7.3.3) and the clause on human rights (6.3) adopt the SRSG's position more or less; but numerous other passages appear to embrace a leverage-based conception of responsibility. To begin to make sense of the Guide's treatment of this issue, it is useful to distinguish three distinctions that inform—and are often elided in—the SOI debate.

We have already considered the distinction between influence as impact and influence as leverage. A second is the distinction between negative and positive responsibility. A negative responsibility is one that calls upon an actor to do no harm; a positive responsibility is one that calls upon an actor to do good. Negative responsibilities are often couched in terms of avoiding, preventing, minimizing or eliminating, positive in terms of supporting, promoting, improving, fulfilling, or contributing. The corporate responsibility to respect human rights, as articulated in the Protect, Respect, Remedy framework, is an example of a negative responsibility. A responsibility to support the realization of human rights is a positive responsibility.

The distinction between positive and negative responsibility is not a distinction between a responsibility to act and a responsibility to refrain from acting. As the SRSG and others have noted, a responsibility to “do no harm” is not merely passive but entails affirmative steps (SRSG 2008b, 17; ISO 26000, clause 6.3.2.2). Indeed the responsibility to exercise human rights due diligence cannot be discharged without taking positive action.

ISO 26000 addresses both positive and negative dimensions of social responsibility. It encourages organizations, for example, to “respect and, where possible, promote” fundamental human rights (4.8) and “respect and promote” specified environmental principles (6.5.2.1). These are just a few of many passages that portray social responsibility as both negative and positive. In this respect ISO 26000 is closer to the UNGC, with its emphasis on “embracing, supporting and enacting”,<sup>7</sup> than to the SRSG's framework, with its insistence that positive responsibilities are only for States.

A third distinction is between the minimum steps all organizations should take to be considered socially responsible and additional best practices which organizations may choose or be encouraged to adopt. As a guidance standard, ISO 26000 is not supposed to make this distinction. But it drops numerous hints. It distinguishes, for instance, between situations in which an organization has a responsibility to exercise its influence (namely, when it is

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<sup>7</sup> United Nations Global Compact, “The Ten Principles,” <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html> (visited 5 February 2011).


contributing to negative impacts), and situations in which it may wish or be asked to do so voluntarily (5.2.3). It also differentiates between the “baseline responsibility” to respect human rights and the “opportunity” to support or contribute to the fulfillment of human rights (6.3.2.2). In other places, it appears to combine minimum expectations and best practices indiscriminately. The Guide itself, therefore, does not provide a clear basis for making this distinction.

This leaves two dimensions of variation on which to examine ISO 26000’s treatment of the relationship between influence and responsibility: the impact/leverage and negative/positive distinctions.


#### D. FOUR VARIETIES OF INFLUENCE-BASED RESPONSIBILITY

Combining the impact/leverage and negative/positive distinctions, it is possible to characterize four varieties of “influence-based” social responsibility (Table 1). The vertical axis represents the operative definition of influence: as impact or as leverage. The horizontal axis represents the character of responsibility: negative (“do no harm”) or positive (“do good”). The potential scope of social responsibility is smallest in the top left-hand cell, expands as one moves down or to the right, and is greatest in the bottom right-hand cell.

**Table 1. Four Varieties of Social Responsibility Arising from an Organization's Influence**

Increasing scope of responsibility 

		Character of Responsibility	
		Negative	Positive
Character of Influence	Impact	An organization has a responsibility to avoid contributing to negative social and environmental impacts directly or through its relationships.	An organization has a responsibility to contribute to positive social and environmental impacts directly or through its relationships.
	Leverage	An organization has a responsibility to use its leverage to avoid or minimize the negative social and environmental impacts of other actors with whom it has relationships regardless of whether it contributes to such impacts.	An organization has a responsibility to use its leverage to increase or maximize the positive social and environmental impacts of other actors with whom it has relationships.



Impact-based negative responsibility, which corresponds to the SRSG's formulation of the corporate "responsibility to respect," is found in the upper left-hand cell. Under this approach, an organization has a responsibility to avoid or minimize the negative social and environmental impacts of its own activities and decisions. It has a responsibility, in other words, to avoid contributing to negative social and environmental impacts, either directly or through its relationships with other actors. An example is the responsibility not to be complicit in human rights abuses committed by third parties.

Under leverage-based negative responsibility (bottom left-hand cell), by contrast, an organization has a responsibility to use its leverage to avoid or minimize the negative social and environmental impacts of the decisions and activities of other actors with whom it has relationships, regardless of whether it is contributing to such impacts. It has a corresponding responsibility not to use its leverage over others to encourage negative social and environmental outcomes. A responsibility to take steps to encourage other parties to minimize pollution or avoid corruption, even where the organization is making no contribution to such pollution or corruption, is an example of leverage-based, negative responsibility.

There are two varieties of positive responsibility. In the top right-hand cell (impact-based positive responsibility), an organization has a responsibility to contribute to positive social and environmental impacts, either directly or through its relationships with other actors. Stated otherwise, it is responsible to increase or maximize the positive impacts of its own activities and decisions. A responsibility to contribute to sustainable development or the fulfillment of human rights is an example of this variety of responsibility. Finally, under leverage-based positive responsibility (bottom right-hand cell), an organization has a responsibility to use its leverage to increase or maximize the positive social and environmental impacts of the decisions and activities of other actors with whom it has relationships. A responsibility to encourage the development of public policies that benefit society at large is an example of this variety of responsibility.

The distinction between the last two varieties of responsibility is subtle and difficult to discern in practice, since both require an organization to promote positive outcomes through its relationships. The difference is largely one of emphasis: with impact-based positive responsibility the emphasis is on the organization's actual contribution to desired outcomes, while with leverage-based it is on the effort to achieve them.

Examples of all four varieties of responsibility can be found in ISO 26000.

#### E. IMPACT-BASED RESPONSIBILITY IN ISO 26000

ISO 26000 is full of references to impact-based responsibility. The most important is the definition of SR itself, which refers to an organization's responsibility "for the impacts of its decisions and activities on society and the environment" (2.18). ISO 26000's guidance on SOI also emphasizes impacts. It acknowledges that an organization may have the ability to affect the behaviour of actors through its relationships and declares: "An organization does not always have a responsibility to exercise influence purely because it has the ability to do so" (5.2.3).<sup>8</sup> So when will it be responsible to exercise its leverage?

[an organization] cannot be held responsible for the impacts of other organizations over which it may have some influence if the impact is not a result of its decisions and activities. However, there will be situations where an organization will have a responsibility to exercise influence. These situations are determined by the extent to which an organization's relationship is contributing to negative impacts. (Ibid.)

Outside these limits, an organization may wish, or be asked, to exercise its leverage, but this is a voluntary choice, not a responsibility (ibid.). Further guidance on SOI is found in Clause 7.3.3, which mentions both negative and positive impacts: "An organization can exercise its influence with others either to enhance positive impacts on sustainable development, or to minimize

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<sup>8</sup> See also the note to the definition of SOI ("the ability to influence does not, in itself, imply a responsibility to exercise influence") (2.19).

negative impacts, or both". Unlike Clause 5.2.3, it uses the word "can" rather than "should", which in ISO-speak indicates possibility, not desirability.<sup>9</sup>

ISO 26000 states that whenever it uses the term SOI, it should be understood in the context of the guidance in 5.2.3 and 7.3.3 (2.19). The overall message of these passages is that social responsibility is based on impact rather than leverage, and that it is negative, not positive in character (see Box 1 for examples of impact-based negative responsibility in ISO 26000).

**Box 1. Examples of Impact-Based Negative Responsibility in ISO 26000**

An organization should...

- "exercise due diligence to identify, prevent and address actual or potential human rights impacts resulting from their activities" (6.3.3.1) and "to ensure that it does not engage in activities that infringe, obstruct or impede the enjoyment of" economic, social and cultural rights (6.3.9.2)
- ensure that it does not discriminate against anyone "with whom it has any contact or on whom it can have an impact" (6.3.7.2)
- "implement programmes...to assess, avoid, reduce and mitigate environmental risks and impacts from its activities" (6.5.2.1)
- prevent corruption (6.6.3)
- prohibit the use of undue influence and coercion in political processes (6.6.4)
- avoid anti-competitive behaviour (6.6.5)
- respect property rights (6.6.7)
- avoid actions that would jeopardize people's ability to satisfy their basic needs (6.7.2.2)
- "provide products and services that, under normal and reasonably foreseeable conditions of use, are safe" (6.7.4.2)
- seek to eliminate the negative health impacts of its processes and products (6.8.8.2).

The human rights clause of ISO 26000 embodies the same impact-based, negative "responsibility to respect" articulated in the Protect, Respect, Remedy framework (6.3). The section on discrimination is typical:

An organization should take care to ensure that it does not discriminate against employees, partners, customers, stakeholders, members and anyone else with whom it has any contact or on whom it can have an impact.... It should also ensure that it is not contributing to discriminatory practices through the relationships connected to its activities. (6.3.7.2)

<sup>9</sup> See also 6.7.8.1 (an organization "can" contribute to fulfillment of the right of access to essential services); 6.8.7.1 (an organization "can" contribute to wealth and income creation)

Going beyond this “baseline responsibility” and contributing to the fulfillment of human rights is not a responsibility but an opportunity (ibid; see also 6.3.9.2). The concept of SOI can help an organization understand the extent of this opportunity (6.3.2.2), but ISO 26000 also warns against the potential negative or unintended consequences of seeking to influence other organizations (ibid.).

ISO 26000’s guidance on due diligence, both in the context of human rights (6.3.3) and in general (7.3.1), is also broadly consistent with the SRS’s articulation of the concept with its focus on avoiding contribution to negative impacts (SRS 2008b). The clause on consumer issues shares this emphasis, but it extends it from impacts of the organization’s decisions and activities to impacts of its products (6.7).

Impacts also feature prominently in the clause on the environment, which states that “an organization should assume responsibility for the environmental impacts caused by its activities” (6.5.2.1). In some places this responsibility is described in negative terms (e.g. to avoid, reduce, minimize, eliminate or mitigate negative environmental impacts, 6.5.2.1, 6.5.6.2), but unlike the human rights section roughly equal emphasis is given to positive responsibility. Organizations are urged to improve their own performance as well as that of others within their sphere of influence (6.5.2.1), commit to continuous improvement of their environmental performance (6.5.2.2), invest in cleaner production and eco-efficiency (ibid.), and improve the prevention of pollution from their activities (6.5.3.2).

These are some of many instances of positive impact-based responsibility in ISO 26000 (See Box 2). Positive responsibility is integrated into the very definition of SR, which involves behaviour that “contributes to sustainable development, including health and the welfare of society” (2.18). The opening language of clause 4 (Principles of SR) is even stronger: the “overarching objective” of an organization implementing SR is “to maximize its contribution to sustainable development” (4.1).

#### **Box 2. Examples of Impact-Based Positive Responsibility in ISO 26000**

An organization should...

- “contribute to redressing discrimination or the legacy of past discrimination” (6.3.7.2)
- take “positive actions to provide for the protection and advancement of vulnerable groups” (6.3.10.3)
- “act to improve its own [environmental] performance, as well as the performance of others within its sphere of influence” (6.5.2.1)
- “integrate ethical, social, environmental and gender equality criteria” in purchasing, distribution and contracting practices (6.6.6)
- “make direct investments that alleviate poverty through employment creation” (6.8.5.2)
- “select technologies that maximize employment opportunities” (6.8.5.2)
- consider supporting economic diversification initiatives in the local community

(6.8.7.2)

- contribute to the promotion of health, the prevention of health threats, and the improvement of access to health services (6.8.8.1).

This enthusiasm for positive responsibility even affects the section on human rights. While elsewhere supporting and promoting human rights is portrayed as an optional extra, clause 6.3.4.2 says that an organization should base its decisions on the responsibility to respect “while also contributing to promoting and defending the overall fulfilment of human rights”. Similarly, the anti-discrimination clause opines that an organization should contribute to redressing discrimination by supporting efforts to increase access to education, infrastructure or social services, promoting gender equality in the economic, social and political spheres, contributing to disabled people’s realization of dignity, autonomy and full participation in society, and contributing to promotion of climate of respect for the rights of migrant workers (6.3.7.2). The Guide also calls on organizations to make efforts to advance vulnerable groups and eliminate child labour (6.3.10.3). Finally, the clause on community development and involvement is concerned primarily with the organization’s impact on the local community, asking organizations to consider both negative and positive impacts (e.g. 6.8.2.2, 6.8.5.2, 6.8.7.2).

All of the preceding responsibilities, whether negative or positive, are defined in terms of an organization’s contribution to impacts, even where they involve the exercise of influence over other actors. Yet other parts of ISO 26000 suggest that responsibility can arise from leverage alone.

## F. LEVERAGE-BASED RESPONSIBILITY IN ISO 26000

Examples of leverage-based negative responsibility in ISO 26000 include the exhortation to implement measures to reduce and minimize direct and indirect pollution within the organization’s control or influence (6.5.3.2), prevent the use of chemicals of concern by organizations within its sphere of influence (ibid.) and encourage actions to reduce greenhouse gas emissions within its sphere of influence (6.5.5.2.1; see Box 3 for other examples). These responsibilities arise regardless of whether the organization is contributing to such pollution, chemical use or greenhouse gas emissions. An organization is expected to use its leverage in such situations even where its decisions and activities are making no causal contribution to the harm in question. In short, a socially responsible organization contributes to solving certain problems even if it did not contribute to causing them.<sup>10</sup>

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<sup>10</sup> It may be that these passages, at least those that explicitly mention “sphere of influence,” should be read as subject to a “contribution to negative impacts” criterion due to the definition of SOI which states that the term SOI should always be understood in the context of the guidance in clauses 5.2.3 and 7.3.3; but this interpretive gloss was added at the last minute and was not likely in the minds of the drafters when these passages were drafted.



**Box 3. Examples of Leverage-Based Negative Responsibility in ISO 26000**

An organization should...

- “refrain from encouraging governments to restrict the exercise of the internationally recognized rights of freedom of association and collective bargaining” (6.4.5.2)
- “implement measures to progressively reduce and minimize direct and indirect pollution within its control or influence” (6.5.3.2)
- “seek to prevent use of [chemicals of concern] by organizations within its sphere of influence” (ibid.)
- “reduce and minimize the direct and indirect GHG emissions within its control and encourage similar actions within its sphere of influence” (6.5.5.2.1)
- “work to oppose corruption by encouraging others with which the organization has operating relationships to adopt similar anti-corruption practices” (6.6.3.2)

The clause on fair operating practices (6.6) is a mix of negative, positive, impact- and leverage-based responsibility. Some passages emphasize impact-based negative responsibility, including those on corruption (6.6.3), anti-competitive behaviour (6.6.5) and respect for property rights (6.6.7). Others emphasize leverage-based negative responsibility, including the exhortation to encourage other organizations to adopt anti-corruption practices (6.6.3.2). The opening language of the clause, however, speaks of positive responsibility:

fair operating practices concern the way an organization uses its relationships with other organizations to promote positive outcomes. Positive outcomes can be achieved by providing leadership and promoting the adoption of social responsibility more broadly throughout the organization’s sphere of influence. (6.6.1.2).

The section on responsible political involvement combines encouragement of the development of public policies that benefit society at large (leverage-based positive responsibility) with prohibition of undue influence and coercion (impact-based negative responsibility) (6.6.4). Another passage urges organizations to:

- consider the potential impacts of its procurement and purchasing decisions on other organizations, and take due care to avoid or minimize any negative impacts (impact-based, negative);
- integrate ethical, social, environmental and gender equality criteria in purchasing, distribution and contracting practices (impact-based, positive);
- encourage others to adopt similar policies (leverage-based, positive); and
- participate actively in raising the awareness of organizations with which it has relationships about principles and issues of social responsibility (leverage-based, positive) (6.6.6).

Even the guidance on due diligence hints at the possibility of positive, leverage-based responsibility, when it states that “an organization may find that in some cases it is both possible and appropriate to seek to influence the behaviour of other entities towards enhancing their performance on social responsibility” and that “As an organization gains experience in the area of enhancing performance on social responsibility, it may grow in its capacity and willingness to intervene with other entities to advocate this objective” (7.3.1).

ISO 26000 contains numerous other references to leverage-based positive responsibility in the clauses on ethical behaviour (4.4), international norms of behaviour (4.7), labour practices (6.4), environment (6.5) and consumers (6.7) (see Box 4). One passage on labour practices even asserts that “a high level of influence is likely to correspond to a high level of responsibility to exercise that influence” (6.4.3.2).

**Box 4. Examples of Leverage-Based Positive Responsibility in ISO 26000**

An organization should...

- actively promote observance of its standards of ethical behaviour not just within the organization but by others (4.4)
- consider opportunities to seek to influence relevant organizations and authorities to remedy conflicts between international norms of behaviour and law (4.7)
- consider facilitating human rights education to promote awareness of human rights among rights holders and those with the potential to have an impact on them (6.3.2.2)
- “make reasonable efforts to encourage organizations in its sphere of influence to follow responsible labour practices” (6.4.3.2)
- promote fast uptake of green products and services (6.5.3.2)
- stimulate water conservation within its sphere of influence (6.5.4.1)
- contribute to building capacity to adapt to climate change within its sphere of influence (6.5.5.2.2)
- encourage the development of public policies that benefit society at large (6.6.4)
- participate actively in raising awareness of social responsibility in organizations with which it has relationships (6.6.6)
- “promote effective education empowering consumers to understand the impacts of their choices of products and services on their well being and on the environment” (6.7.5.2)
- “consider partnering with other organizations, including government, business or NGOs to maximise synergies and make use of complementary resources, knowledge and skills” (6.8.9.2).

In summary, while there may be room to dispute the characterization of specific passages, ISO 26000 does not restrict itself to impact-based, negative responsibility of the type found in the

corporate responsibility to respect human rights, but contemplates the possibility of leverage-based as well as positive responsibilities.

### G. DISCOURAGING STRATEGIC GAMING

The SRSG's final criticism of assigning responsibility on the basis of leverage was that it encourages strategic gaming. ISO 26000 addresses this concern in three ways. Firstly, insofar as it endorses an impact-based theory of social responsibility, it avoids the problem identified by the SRSG. This is only a partial solution, since some parts of ISO 26000 reflect a leverage-based theory of responsibility. Secondly, then, the Guide offers a partial defence against strategic manipulation in these situations by insisting that organizational SR "cannot replace, alter or in any way change" the State's duty to protect human rights and to act in the public interest (clause 3.4). Thirdly, ISO 26000 lays down clear expectations regarding responsible political involvement (clause 6.6.4). If one of the main dangers of gaming is the risk of saddling non-accountable, private actors with the responsibilities of government in the absence of democratic legitimacy, ISO 26000's guidance on responsible political involvement provides a defence against this danger at least at the level of normative principle. Of course such normative exhortations do not by themselves change actors' material incentives, but they are one source of pressure on States and organizations when deciding how to act.

## V. CONCLUSION

Sphere of influence plays a prominent role in ISO 26000 notwithstanding the objections of critics including the SRSG. ISO 26000 responds to the criticism of conceptual ambiguity and imprecision by defining SOI in terms of "influence as leverage" and by avoiding the potentially misleading criterion of "proximity". It gives a partial answer to the problem of strategic gaming. On the thorniest questions, however—whether social responsibility should be based on impact or leverage and whether it is negative or positive in character—it gives a mixed and sometimes inconsistent answer.

This paper proposed a four-part typology of varieties of influence-based responsibility to decipher this issue. In its targeted guidance on SOI and on human rights, ISO 26000 favours a negative, impact-based conception of social responsibility, but there are numerous passages that appear to advance the view that an organization has a responsibility to use its leverage to avoid or minimize the negative social and environmental impacts of other actors with whom it has relationships regardless of whether it contributes to such impacts. While it may be argued that ISO 26000 calls for these passages to be read differently, on their face they stand as a rebuke to the view that social responsibility can only arise from contribution to negative impacts. Moreover, the Guide puts as much emphasis on positive responsibility as it does on negative, calling on organizations to contribute to social and environmental advancement in myriad ways both in their own decisions and activities, and by exercising leverage over others with whom they have relationships.

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