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IRISH BUSINESS & HUMAN RIGHTS:

Benchmarking compliance with the UN Guiding Principles

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Abbreviations and Terms

BHR	Business and Human Rights
BHRRC	Business and Human Rights Resource Centre
CHRB	Corporate Human Rights Benchmark
HRC	Human Rights Council
HRDD	Human Rights Due Diligence
IFRS	International Financial Reporting Standard
ILO	International Labour Organization
NAP	National Action Plan
NGO	Non-governmental Organisation
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the High Commissioner for Human Rights
<i>Principles</i>	See UNGPs
SDGs	Sustainable Development Goals
UN	United Nations
UNGC	United Nations Global Compact
UNGPs	UN Guiding Principles on Business and Human Rights

1. Introduction

In December 2011, the United Nations Human Rights Council unanimously adopted the Guiding Principles on Business & Human Rights (UNGPs). The UNGPs set out to address some of the thorny questions of use and misuse of power and the issues arising from globalisation. Most particularly, they sought to tackle the governance gaps and potential for widespread human rights abuses attendant to the emergence of transnational corporations with global reach (Ruggie, 2013, pp. xvi-xvii). These principles were the first agreed statement by States following 40 years of attempts to clarify the relationship between business and human rights (BHR), marking a departure from the traditional conception of States as the sole duty-bearers with respect to human rights. Recognising that globalization has ‘brought into being transnational financial institutions and corporations whose economic power exceeds that of many states’ (Twiss, 2004, p. 23), the UNGPs sought to create baseline requirements for the behaviour of business around the globe. Since that time, a range of laws and ‘national action plans’ have been created by States seeking to embed these principles in company law and practice. However, progress has been slow, and there is still much to be done in the area of business and human rights.

The relationship between business and human rights is not purely an academic or policy alignment exercise. It is a relationship of life-changing import to many in the developing and developed world.



Berta Cáceres (UN Environment)

The unprecedented power of

companies has often resulted in

appalling working conditions, environmental damage, land-grabs and discrimination. In seeking justice, human rights defenders and their communities often experience threats, intimidation, violence and killings - with women facing particular gender-based violations.

Companies can cause harm either directly or by colluding with others who abuse human

rights. Victims affected by their operations are left powerless without the protection to which they are entitled or meaningful access to justice. While sadly not unique, the case of human rights defender Berta Cáceres is a particularly horrific. In November 2018, seven men and one woman were convicted of murdering Ms Cáceres. The court found that the murderers had been hired by executives within Desa – a construction company operating in the territory belonging to the Lenca people whose rights Ms Cáceres had been working to defend for 20 years.

Companies are increasingly vulnerable to the consequences of their behaviour. In the final days of October 2019, two major lawsuits against multinationals in Europe were announced: the first taken by Ugandan and French NGOs against the French energy company, Total, for failing to address the human rights risks of the Tilenga oil project and the second by human rights lawyers at Leigh Day against British American Tobacco on behalf of hundreds of children and their families paid poverty-level wages to work in the fields of Malawi. With the passing of ever more stringent laws against human rights abuses by companies, these cases are likely to increase in frequency and magnitude. Irish companies are not immune. In

October 2018, a formal complaint against San Leon Energy plc, an Irish based multinational oil and gas exploration company for violating the human rights of the people of Western Sahara was lodged by the Global Legal Action Network (GLAN) with Ireland's Organisation for Economic Cooperation and Development (OECD) National



(Western Sahara Resource Watch)

Contact Point for Responsible Business Conduct at the Department for Business, Enterprise and Innovation.

It is in the context of these moral and economic imperatives that we decided to look at the compliance of Irish companies with the UNGPs on business & human rights.

2. Background

Ireland provides an important context in which to examine the implementation of the UNGPs due to the confluence of its foreign and international development policies with its domestic industrial strategy. Ireland explicitly integrates human rights in its international development policy (Government of Ireland, 2019, pp. 1-3, 13-23), reflecting the fact that ‘advancing human rights’ is a ‘signature foreign policy’ of the Irish government (Government of Ireland, 2015, p. 27).

Since the turn to free trade by the Irish government in the mid-1950s, an industrial strategy designed to attract foreign capital flows has been a feature of Irish economic policy (Buckley and Ruane, 2006, p. 1613). These have included taxation measures, first in the form of a 15-20 year ‘tax holiday’ on exports (ibid, p. 1613), later replaced by a low corporate tax regime and various other tax policies (ibid, p. 1615). This regime has been subject to intense criticism from those who accuse Ireland of operating a tax haven within the EU (e.g. Simpson, 2005; Barrera and Bustamante, 2018) – a claim that is strongly rejected by the Irish Government.

The net effect of these policies has been the emergence of a strong multinational presence in the country. Locally based multinational corporations have grown in tandem with inward foreign direct investment (Central Statistics Office, 2019). This has been augmented by ‘corporate inversions’ - the re-domiciling of formerly non-Irish companies in Ireland – which some claim is a direct effect of Irish corporate tax policies (Mann, 2004). Thus, as a state both committed to the advancement of human rights through its foreign policy, and a supportive base for many multinationals, Ireland presents an important context for evaluating the UNGPs adoption.

In order to support the adoption of the UNGPs around the world, the Human Rights Council (HRC) has recommended that all States - and the EU has called upon its member States – to prepare National Action Plans on Business and Human Rights (NAPs), outlining their commitments with respect to the implementation of the UNGPs within their respective

spheres of influence (HRC, 2014). Ireland published its NAP in 2017 (WBCSD, 2018) to cover the period from 2017-2020. The Irish NAP recognises the need to, inter alia, ‘encourage’ companies to ‘develop human rights focused policies and reporting initiatives’, ‘conduct appropriate human rights due diligence’, and to consider a range of matters with respect to access to remedy (Government of Ireland, 2017, p. 18). It allocates responsibility for such work to the Business and Human Rights Implementation Group (‘Implementation Group’), which met for the first time in early 2019 (Dáil Debates, 2019). Prior to this first meeting, a consultancy firm was commissioned to do a ‘Baseline Assessment of the Legislative and Regulatory Framework’ in Ireland and identify any gaps in legislation and policy relating to the objectives of the NAP. This report was published in March 2019 (Ní Loinsigh, 2019).

Until now, however, there has been no analysis of the relationship between expected and actual compliance of Irish companies with the UNGPs. The Centre for Social Innovation in the Trinity Business School set out to create the first benchmark of Irish companies’ compliance with UNGPs. The Centre sought to contribute to the deliberations of the Implementation Group and to provide Irish companies with baseline information for their own strategy in relation to human rights. As Prof John Ruggie put it on the occasion of the UNGPs adoption, this is the ‘end of the beginning’. We hope and expect that Irish business and Irish policy-makers will seize the opportunity to understand where they are today and make clear where they expect to be in the future.

3. Benchmarking Process

3.1 What are we benchmarking against?

As noted above, the UNGPs had a long gestation period. En route to the guiding principles, Prof John Ruggie presented the ‘Protect, Respect, Remedy’ framework (‘Framework’) to the HRC in 2008 (HRC, 2008). The Framework provides a theoretical underpinning for Business & Human Rights and links states, companies and citizens into an interconnected system of duties and rights. It consists of three pillars, as outlined in Figure 3.1.

Figure 3.1 The Protect, Respect, Remedy framework

<p>1. The State Duty to Protect Human Rights</p> <p>States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms.</p>	<p>2. The Corporate Responsibility to Respect Human Rights</p> <p>The role of business enterprises as organs of society performing various functions, required to comply with all applicable laws and to respect human rights.</p>	<p>3. Access to Remedy</p> <p>The need for rights and obligations to be matched to appropriate and effective remedies when breached.</p>
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Source: Government of Ireland (2017, p.8)

The UNGPs seek to ‘operationalize’ this Framework (HRC, 2011, p. 4) by providing a set of principles and related commentary on the Framework’s pillars. The State ‘duty to protect’ pillar encompasses principles and duties that assign primary responsibility to States for ensuring compliance with the International Bill of Rights.¹ The ‘remedy’ pillar covers the legal and operational requirements necessary to ensure that victims of human rights abuses are recognized as rights holders and have recourse to an effective remedy, access to justice and corporate accountability. It requires States to take appropriate steps to prevent, investigate, punish and redress business related human rights abuses in their territories and/or

¹ The International Bill of Human Rights consists of the texts of (1) the Universal Declaration on Human Rights, (2) the International Covenant on Civil and Political Rights, and (3) the International Covenant on Economic, Social and Cultural Rights and their associated optional protocols.

jurisdictions (HRC, 2011).

This report is primarily concerned with the second pillar, the corporate responsibility to respect human rights. As with all three pillars of the Guiding Principles, the responsibility of corporations to respect human rights is divided into foundational and operational principles. The foundational principles are set out in sections 11-15, and the operational principles in sections 16-24 of the UNGP document. It is against these principles that the benchmarking of Irish companies was performed.

3.2 Choosing the Corporate Human Rights Benchmark methodology

In its first report to the UN General Assembly in 2012, the BHR Working Group suggested that ‘States and business enterprises should scale up and sustain efforts to implement the Guiding Principles...by establishing measurable and transparent indicators to assess their effective implementation’ (BHR Working Group, 2012, p. para 79). Ruggie has highlighted that while the UNGPs have ‘generated a wide array of implementation measures...no systematic assessment is available of overall results to date’ (Ruggie, 2014, pp. 2-3). As of today, there has been no considered assessment of UNGP adoption by Irish companies of which we are aware.

For a measure to provide a meaningful assessment of the state of Irish practice, a number of desired features were identified. First, the methodology should be grounded in the UNGPs; this is what we are attempting to assess. It should accordingly allow for an analysis of the various components of the corporate responsibility to respect human rights – specifically the 14 principles related to companies. Second, the methodology employed must produce comparable data which allows for performance to be tracked and compared across companies and over time. Ideally, it should allow for relative ranking of companies against one another, for such ‘ordinal and numeric scoring has established value...for documenting patterns’ (Salcito et al., 2015). Finally, the approach employed should be replicable and transparent, enabling companies and other interested parties to perform the same assessment and come up with the same score.

There are several extant methods for reporting and reviewing corporate human rights performance; none of which have previously been applied to the Irish context. Following an assessment of the available options, the Corporate Human Rights Benchmark (CHRB) Core UNGP Indicator Assessment (CHRB, 2019a) was identified as appropriate for this study.

The CHRB Core UNGP Indicator Assessment is drawn from the full CHRB benchmarking methodology, which was first applied in 2017 following a comprehensive development and piloting process (CHRB, 2018, p. 17). The full methodology was inductively developed over 2 years through a collaborative, multi-stakeholder approach. In common with other approaches examined, the indicators which form part of the assessment are focused on the UNGPs. Each indicator has a maximum of 2 points available, and there are clear criteria for what constitutes each aspect of the score (CHRB, 2019a). The available methodological notes were far more comprehensive than other options assessed, which included Shift (2018) and Salcito et al. (2015). Further, the CHRB was willing to share a draft version of its Core UNGP Indicator Assessment methodology with researchers in the Centre for Social Innovation, to provide training on its application, and to review initial stages of the benchmark results. In addition to having advantages from a research perspective, the CHRB draws on - and explicitly references - not only the UNGPs, but also leading sustainability reporting frameworks such as the GRI Standards and the UNGP Reporting Framework (CHRB, 2018; 2019a).²

3.3 Benchmarking indicators in the CHRB methodology

The CHRB Core Indicator methodology is broken down into three sets of indicators, covering the following themes:

- A. Governance and policy commitments;
- B. Embedding respect for human rights and HRDD; and
- C. Remedies and grievance mechanisms.

² These reporting frameworks are used by companies to structure their non-financial reporting.

According to Principle 15 of the UNGPs, ‘in order to meet their responsibility to respect human rights’, businesses should have policies and processes in place which correspond to these three themes. Table 3.1 provides a complete list of the indicators included in the methodology. Up to two points can be scored per indicator. Half points (0.5, 1.5) can be scored where it is possible to disaggregate part performance. For example, in relation to indicator A.1.1 (Commitment to respect human rights), it is not possible to score half points, as the indicator considers whether such a commitment exists or not: it is a binary choice. By contrast, for A.1.2 (Commitment to respect the human rights of workers), to score 1 a company must (a) commit to the ILO’s core labour standards, and (b) state that it expects its suppliers to honour the same commitment. It is possible to do one of these without the other, and accordingly half points may be awarded. There are gaps in the numbering, and this reflects the fact that these indicators are those considered to be ‘core’ to the UNGPs and are a subset of the indicators from the full CHRB benchmarking methodology.

Table 3.1 CHRB Core UNGP Indicators

Indicator	Title	Available Points				
Theme A: Governance and Policy Commitments						
A.1.1	Commitment to respect human rights	0	-	1	-	2
A.1.2	Commitment to respect the human rights of workers	0	0.5	1	1.5	2
A.1.4	Commitment to engage with stakeholders	0	-	1	-	2
A.1.5	Commitment to remedy	0	-	1	1.5	2
Theme B: Embedding Respect and Human Rights Due Diligence (HRDD)						
B.1.1	Embedding - Responsibility and resources for day-to-day human rights functions.	0	-	1	1.5	2
B.2.1	HRDD - Identifying: Processes and triggers for identifying human rights risks and impacts	0	0.5	1	1.5	2
B.2.2	HRDD - Assessing: Assessment of risks and impacts identified (salient risks and key industry risks)	0	-	1	-	2
B.2.3	HRDD - Integrating and Acting: Integrating assessment findings internally and taking appropriate action	0	-	1	-	2
B.2.4	HRDD - Tracking: Monitoring and evaluating the effectiveness of actions to respond to human rights risks and impacts	0	-	1	-	2

Theme C: Remedies and Grievance Mechanisms						
C.1	Grievance channels/mechanisms to receive complaints or concerns from workers	0	-	1	1.5	2
C.2	Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities	0	-	1	1.5	2
C.7	Remedying adverse impacts and incorporating lessons learned	0	-	1	1.5	2

Source: CHRB (2019a)

3.4 Selecting a sample of Irish companies

In order to ensure appropriate data would be publicly available for the companies selected, it was decided to narrow the population to those Irish-domiciled companies who met the reporting requirements of Directive 2014/95/EU as transposed into Irish Law by 2017 Regulations.³ Such companies must satisfy two of the three criteria set out in Table 3.2 for two successive accounting periods (GRI et al., 2017).

Table 3.2 Directive 2014/95/EU reporting criteria

1. Large Undertaking (must satisfy <i>two of three</i> sub-criteria for the past 2 accounting periods)
• a minimum balance sheet total of EUR 20 million, or
• a minimum net turnover of EUR 40 million, or
• average number of employees of 250 or more.
2. Public Interest Entity (must satisfy <i>any</i> of the sub-criteria)
• Trading transferable securities on the regulated market of any Member State, or
• A credit institution, or
• An insurance undertaking, or
• Designated by a Member States as a public interest entity.
3. Have an average number of employees exceeding 500 during the financial year

Source: GRI et al. (2017)

³ European Union (Disclosure of non-financial and diversity information by certain large undertakings and groups) Regulations 2017 as amended by the European Union (Disclosure of non-financial and diversity information by certain large undertakings and groups) (Amendment) Regulations 2018. Implementing this directive was a commitment of Ireland's 2017 NAP (Government of Ireland, 2017, p. 20). Under the Irish transposition, applicable companies must produce a non-financial statement which should *inter alia*, 'contain information, to the extent necessary for an understanding of the development, performance, position and impact of its activity relating to...respect for human rights'. The regulations further requires the disclosure of policies implemented and a description of principal risks.

A search of the FAME database of British and Irish companies (FAME, 2019) revealed 69 such companies. To ensure that the population captured only trading multinationals, Investment Funds (6) were excluded,⁴ as were companies that earned less than 50% of revenues from overseas sales.⁵ This step led to the exclusion of 16 companies, predominantly Real Estate Investment Trusts and financial institutions, whose business is typically conducted almost entirely within the Irish State. Those companies who reported no further revenue breakdown beyond ‘UK & Ireland’ (7) were also excluded, as it was not possible to ascertain whether they were earning more or less than 50% of their revenues outside the State.

Of the 40 companies that remained following the selection process above, time allowed for just over half (22) to be analysed. The research team discussed how best to narrow down the companies to a manageable number given the time available and decided to select all companies that were in sectors already benchmarked by the CHRB to enable comparability between the Irish exercise and the ones already done by the CHRB itself. This resulted in 11 out of 40 companies being selected. Another 11 out of the remaining 29 were selected randomly and the final list of 22 companies for which the analysis was conducted are listed in Table 3.3.

⁴ Investment funds do have human rights impacts particularly with respect to the companies and countries in which they choose to invest. However as the CHRB methodology was developed with an initial focus on operating companies i.e. those who produce and/or sell goods) it was decided to limit the scope of the present study to a similar sample.

⁵ As outlined under the IFRS 8 (Operating Segments) reporting requirement in their annual report.

Table 3.3 Companies in the sample

Company	GICS Sub-Industry	Selection Basis
Linde plc*	Industrial Gases	CHRB relevance
CRH plc	Construction Materials	CHRB relevance
Grafton Group plc	Home Improvement Retail	CHRB relevance
James Hardie Industries plc	Construction Materials	CHRB relevance
Kingspan Group plc	Building Products	CHRB relevance
Glanbia plc	Packaged Foods and Meats	CHRB relevance
Greencore plc	Packaged Foods and Meats	CHRB relevance
Kerry Group plc	Packaged Foods and Meats	CHRB relevance
Total Produce plc	Food Distributors	CHRB relevance
Kenmare Resources plc	Diversified Metals & Mining	CHRB relevance
Weatherford International plc	Oil & Gas Equipment & Services	Random sample
UDG Healthcare plc	Health Care Services	Random sample
Icon plc	Life Sciences Tools & Services	Random sample
Medtronic plc	Health Care Equipment	Random sample
Trinity Biotech plc	Health Care Equipment	Random sample
Smurfit Kappa Group plc	Paper Packaging	Random sample
Allergan plc	Pharmaceuticals	Random sample
Alkermes plc	Biotechnology	Random sample
Horizon Pharma plc	Pharmaceuticals	Random sample
Perrigo Company plc	Pharmaceuticals	Random sample
Seagate Technology plc	Technology Hardware, Storage & Peripherals	Random sample
Ryanair Holdings plc	Airlines	Random sample

**Linde AG merged with Praxair plc in a "Merger of Equals" at the end of 2018, forming Linde plc, which is domiciled in Ireland.*

GICS Sub-Industry refers to the Global Industry Classification Standard's classification of the company.

3.5 Data collection

Data was collected over a two month period in March and April 2019. The corporate website of each company in the sample was visited, and the sitemap was consulted to locate relevant documentation. Table 3.4 details the documentation that was sought. Any document which could be classed as a policy or report of the company was considered to be within the scope of the review. For a document to be included in the assessment, it was necessary for it to appear on the company’s main corporate website, or on the website of the UN Global Compact, whose membership database was consulted.

Table 3.4 Documentation considered

From Company Websites
Annual Report (10-K/20-F in the case of US-listed companies)
Sustainability Report or Corporate (Social) Responsibility Report
Code of Business Conduct
Supplier Code of Conduct
Modern Slavery Act Statement (or California Transparency in Supply Chains Act Statement)
Policy Statements: <i>Human Rights; Anti-Corruption/Ethics/Whistleblower; Diversity and Inclusion; Conflict Minerals; Environment; Health & Safety (or Environment, Health & Safety (EHS))</i>
From unglobalcompact.org
Communication on Progress (COP)

Each document was then reviewed against the 12 CHRB core indicators. Where information was not found in any document, or where the information unearthed failed to meet the requirements of the score, a site-specific search of the corporate website was conducted for relevant key words. For example, in respect to indicator A.1.4 *Commitment to engage with stakeholders*, if no reference to stakeholders was uncovered in the downloaded documentation, the company website would be searched for this key word, and any results analysed.

3.6 Quality assurance

Although the CHRB guidelines are extremely clear, the interpretation of which score to assign will always involve some subjectivity on the part of the researcher. To increase the reliability and repeatability of the scoring process, it was agreed at the outset that the CHRB would cross-check the initial two applications of the methodology by the researcher to ensure consistency of approach with the CHRB's research process.

To further ensure consistency and comparability, the entire dataset was subsequently reviewed by a CHRB researcher. Any discrepancies were discussed and scores were adjusted as necessary. This process mirrors the internal CHRB approach.

Finally, the scores for each indicator were tabulated in an Excel spreadsheet on a company-by-company basis. The characteristics of the sample companies were also included in the spreadsheet. This allowed for the production of pivot tables and graphs, alongside general statistical analysis of the data. The spreadsheet was imported into the *R* statistical package, where the dataset was compared against the results of the larger CHRB UNGP dataset for both quality control and comparison purposes.

3.7 Constraints and limitations

The public data approach that underlies the CHRB is a distinguishing feature from related sustainability benchmarks, which often rely on companies to complete questionnaires which can provide access to previously unreleased information (De Felice, 2015). The CHRB contends that the use of public information drives greater transparency, but cautions that such information can only provide a proxy for corporate human rights performance (CHRB, 2019c).

As the CHRB core indicator benchmark tracks policy and public commitments—and not actual behaviour—it can yield results which may not reveal the reality on the ground at the company's operations. This point is evidenced by the high score achieved by Vale, a multinational extractives company, in the 2018 CHRB rankings (CHRB, 2019b). Vale's claims to have learned from its mistakes which led to a dam collapse in 2015 were

demonstrated to be false when, in early 2019, a second dam collapse occurred (CHRB, 2019b). Accordingly, the findings drawn from the present research must be interpreted with a degree of caution: they are limited by the scope of their data.

Finally, it should be noted that, owing to the nature of the sample, the findings cannot be generalised to the entire population of Irish companies.

4. Findings

4.1 Descriptive statistics

The results of the benchmarking process provide a snapshot of the current state of policy and practice within the sample. The sample contains a diverse set of companies in terms of turnover and number of employees. The largest company by turnover is Linde plc, with €26,896 million in the last financial year. The largest company by employees is Medtronic plc, with 98,463. By contrast the smallest company in the sample as measured by these two metrics is Trinity Biotech, with a turnover of €82 million and 556 employees. Table 4.1 outlines these statistics for the sample.

As shown in Table 4.2, of the twenty-two companies included in the sample, six have their main listing on the Irish Stock Exchange (Euronext Dublin). Five each have their primary listings on the London Stock Exchange, NASDAQ and the NYSE. One company is listed on the Australian Stock Exchange (FAME, 2019).

Table 4.2 further highlights the companies who have operational headquarters outside of Ireland, despite being legally domiciled there. Five companies have their principal offices located outside the state, while a further two divide operational responsibilities between a Dublin site and a U.S. office. All of the NYSE-listed companies in the sample had their operational headquarters elsewhere. In the case of James Hardie Industries, it was unclear whether the Irish ‘principal offices’ are in fact the locus of operational control (James Hardie Industries plc, 2018). Fourteen of the corporations in the sample have sole operational headquarters in Ireland.

Table 4.1 Sample company profiles

Company name	GICS Sub-Industry	Turnover (€m)	Number of employees
Linde plc	Industrial Gases	€26,896	57,605
CRH plc	Construction Materials	€25,220	85,363
Medtronic plc	Health Care Equipment	€24,804	98,463
Allergan plc	Pharmaceuticals	€13,987	17,560
Seagate Technology plc	Technology Hardware, Storage & Peripherals	€9,438	43,000
Smurfit Kappa Group plc	Paper Packaging	€8,562	46,350
Ryanair Holdings plc	Airlines	€7,151	13,803
Kerry Group plc	Packaged Foods and Meats	€6,408	23,969
Weatherford International plc	Oil & Gas Equipment & Services	€4,741	29,677
Perrigo Company plc	Pharmaceuticals	€4,115	10,913
Total Produce plc	Food Distributors	€3,674	5,574
Kingspan Group plc	Building Products	€3,668	11,133
Grafton Group plc	Home Improvement Retail	€3,056	12,222
Glanbia plc	Packaged Foods and Meats	€2,387	3,975
Greencore plc	Packaged Foods and Meats	€1,683	11,680
James Hardie Industries plc	Construction Materials	€1,668	3,960
Icon plc	Life Sciences Tools & Services	€1,463	12,755
UDG Healthcare plc	Health Care Services	€1,131	8,055
Horizon Pharma plc	Pharmaceuticals	€879	1,030
Alkermes plc	Biotechnology	€793	1,864
Kenmare Resources plc	Diversified Metals & Mining	€173	1,365
Trinity Biotech plc	Health Care Equipment	€82	556

Source: FAME database; Bloomberg. Turnover and employee figures relate to the last year for which data was available. GICS Sub-Industry refers to the Global Industry Classification Standard sub-industry classification of the company.

Table 4.2 Main stock exchange listings and operational headquarters

Company	Operational HQ	Company	Operational HQ
Australian Stock Exchange (ASX)			
James Hardie Industries plc	Unclear		
Irish Stock Exchange (Euronext Dublin)			
Glanbia plc	Ireland	Kingspan Group plc	Ireland
Kenmare Resources plc	Ireland	Ryanair Holdings plc	Ireland
Kerry Group plc	Ireland	Total Produce plc	Ireland
London Stock Exchange (LSE)			
CRH plc	Ireland	Smurfit Kappa Group plc	Ireland
Grafton Group plc	Ireland	UDG Healthcare plc	Ireland
Greencore Group plc	Ireland		
NASDAQ			
Alkermes plc	Ireland	Seagate Technology plc	California, USA
Horizon Pharma plc	Illinois, USA [†]	Trinity Biotech plc	Ireland
Icon plc	Ireland		
New York Stock Exchange (NYSE)			
Allergan plc	New Jersey, USA	Perrigo Company plc	Michigan, USA [†]
Linde plc	Surrey, UK	Weatherford International plc	Baar, Switzerland
Medtronic plc	Minnesota, USA		

[†] Perrigo Company plc and Horizon Pharma plc split their operational headquarters between Dublin and another location outside the State.

Source: FAME Database; Company Annual Reports and Websites.

4.2 Process

As detailed in chapter four, the data for this research comes from publicly accessible sources. Table 4.3 provides an overview of the documents consulted. In total, 123 documents were examined, in addition to the corporate website of each company. Membership of the UN Global Compact (UNGC) was verified at unglobalcompact.org. If the company published a UNGC Communication on Progress, this was considered.

Table 4.3 Downloaded content

From Company Websites	Number of companies	% of Sample
Annual Report (10-K/20-F in the case of US-listed companies)	22	100%
Standalone Sustainability Report or Corporate (Social) Responsibility Report	10	45.45%
Code of Business Conduct	18	81.82%
Supplier Code of Conduct	7	31.82%
Modern Slavery Act Statement (or California Transparency in Supply Chains Act Statement)	16	72.73%
Policy Statements*	16	72.73%
— of which companies with Human Rights Policies	6	27.23%
From unglobalcompact.org		
Communication on Progress (COP)	5	22.73%

* Human Rights; Anti-Corruption/Ethics/Whistleblower; Diversity and Inclusion; Conflict Minerals; Environment; Health & Safety (or Environment, Health & Safety (EHS))

The prevalence of codes of conduct and policy statements demonstrates that there is sufficient data being produced in a majority of the sample companies to conduct an analysis using the CHRB core indicator methodology. Their availability on corporate websites makes it easy to access this data.

Each company was assessed in turn, with the average company requiring approximately 1 working day of research to complete the analysis. The findings were cross-checked by a CHRB researcher. These cross-checked results were sent to companies included in the sample. Companies were given the opportunity to contest the findings, and to point the researcher to any additional public information that may not have been identified. Three companies responded, their comments resulted in no material changes to the benchmark scores.

4.3 Scores by measurement theme

4.3.1 Theme A: Governance and policy commitments

Theme A consists of four indicators, which consider specific commitments made by companies to:

- **A.1.1** - respect human rights across their activities;
- **A.1.2** - respect the human rights of workers;
- **A.1.4** - engage with stakeholders; and
- **A.1.5** - remedy for adverse impacts caused for individuals, workers, and communities.

Table 4.4 Scores in measurement theme A

Highest Score	Average Score	Lowest Score
68.8% (5.5/8)	19.9% (1.591/8)	0% (0/8)

45% (10/22) of companies in the sample scored a one or greater on ‘Commitment to respect human rights’ (A.1.1), which typically means that they included some form of declaration affirming their commitment to human rights within publicly available information.

In relation to the human rights of workers (A.1.2), 32% (7/22) scored 1 or above, although notably a further 7 companies [32% (7/22)] scored 0.5 on this indicator.

23% (5/22) of companies had some level of commitment to engage with stakeholders.

Notably no company included an explicit commitment to remedy human rights breaches within the publicly available information available (A.1.5).

4.3.2 Theme B: Embedding respect and human rights due diligence

There are five indicators within theme B. Four of the indicators address the various facets of HRDD, identifying, assessing, integrating and acting, and tracking:

- **B.2.1** - processes and triggers for *identifying* human rights risks and impacts;
- **B.2.2** - *assessment* of risks and impacts identified (salient risks and key industry risks);

- **B.2.3** - *integrating* assessment findings internally and taking appropriate action; and
- **B.2.4** - *monitoring* and *evaluating* the effectiveness of actions to respond to human rights risks and impacts.

The fifth indicator addresses ‘embedding respect’, by ascertaining whether responsibility for Human Rights issues is assigned within the company:

- **B.1.1** - Responsibility and resources for day-to-day human rights functions.

Table 4.5 Scores in measurement theme B

Highest Score	Average Score	Lowest Score
25% (2.5/10)	4.1% (0.409/10)	0% (0/10)

This theme had the lowest scores of the three themes, with 15 companies scoring a zero overall. Just two companies scored a 1 on B.2.3 (integrating/taking appropriate action). In both cases the point was scored on the basis of an isolated example, and there was no evidence of a systematic approach to HRDD. No company scored points with respect to B.2.2 (assessment) or B.2.4 (monitoring and evaluating).

With relation to B.1.1 (embedding respect), just 4 companies were found to have achieved a score of 1 or above.

Human rights due diligence performance

Scores in relation to the HRDD indicators were lower than the theme average when B.1.1 is excluded: The average score on these four indicators was just 0.15/8 [2%] compared to 0.41/10 [4%] when B.1.1 is included. This shows that HRDD is either not occurring, or at least is not being disclosed, within Irish companies included in the sample.

4.3.3 Theme C: Remedies and grievance mechanisms

Finally, theme C tracks company policies (or lack thereof) in relation to remedies and grievance mechanisms. There are three indicators used for this:

- **C.1** - Grievance channels/mechanisms to receive complaints or concerns from workers;

- **C.2** - Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities; and
- **C.7** - Remediating adverse impacts and incorporating lessons learned.

Table 4.6 Scores in measurement theme C

Highest Score	Average Score	Lowest Score
50% (3/6)	23.1% (1.386/6)	0% (0/6)

The highest scores on any metric were achieved with respect to indicator C.1, with 77% (17/22) scoring 1 or above. Conversely, just 5 companies (23%) had a grievance channel/mechanism for external individuals and communities, while no company addressed remedy of adverse impacts and the subsequent incorporation of lessons learned in its publicly available policies or reports.

4.3.4 Comparing Theme Scores

Breaking down the results by measurement theme, it is evident that performance is weak across the board. However, there are notably low scores identified in Theme B: Embedding Respect and HRDD (Table 4.7).

Table 4.7 Average scores, by measurement theme

Measurement Theme	Average Score	Max Possible Score	% of Maximum
A. Governance and Policy Commitments	1.591	8	20%
B. Embedding Respect and HRDD	0.409	10	4%
C. Remedies and Grievance Mechanisms	1.386	6	23%
Total	3.386	24	14%

It is also notable that a number of companies scored zero on one or several indicators, including 15 companies in relation to Theme B (Table 4.8). On four indicators, no company achieved a score (Table 4.9). Two of these related to remedy (A.1.5, commitment to remedy adverse impacts, and C.7, which deals with actually remediating adverse impacts). A further two were HRDD indicators (B.2.2 and B.2.4).

Table 4.8 Companies scoring zero on all indicators, by measurement theme

	A	B	C	Zero overall
# Companies scoring 0	6	15	5	2

Table 4.9 Scores by indicator, showing the frequency of scoring 1 or more

Indicator	Scored 0	Scored 0.5	Scored 1	Scored 1.5	Scored 2	Frequency 1+
A.1.1	12	-	7	-	3	45%
A.1.2	8	7	0	5	2	32%
A.1.4	17	-	3	-	2	23%
A.1.5	22	-	0	0	0	0%
B.1.1	18	-	3	1	0	18%
B.2.1	19	2	0	1	0	5%
B.2.2	22	-	0	-	0	0%
B.2.3	20	-	2	-	0	9%
B.2.4	22	-	0	-	0	0%
C.1	5	-	4	13	0	77%
C.2	17	-	1	4	0	23%
C.7	22	-	0	0	0	0%

4.4 Overall scores

Figure 4.1 and Table 4.10 show the overall results of the benchmark. Just five companies had a total score of greater than 20%, where all three measurement themes were combined. A further seven scored between 10-20%, while ten companies scored less than 10%. The results are broken down by measurement theme in Figure 4.2.

Figure 4.1 Number of companies in each 10% scoring band

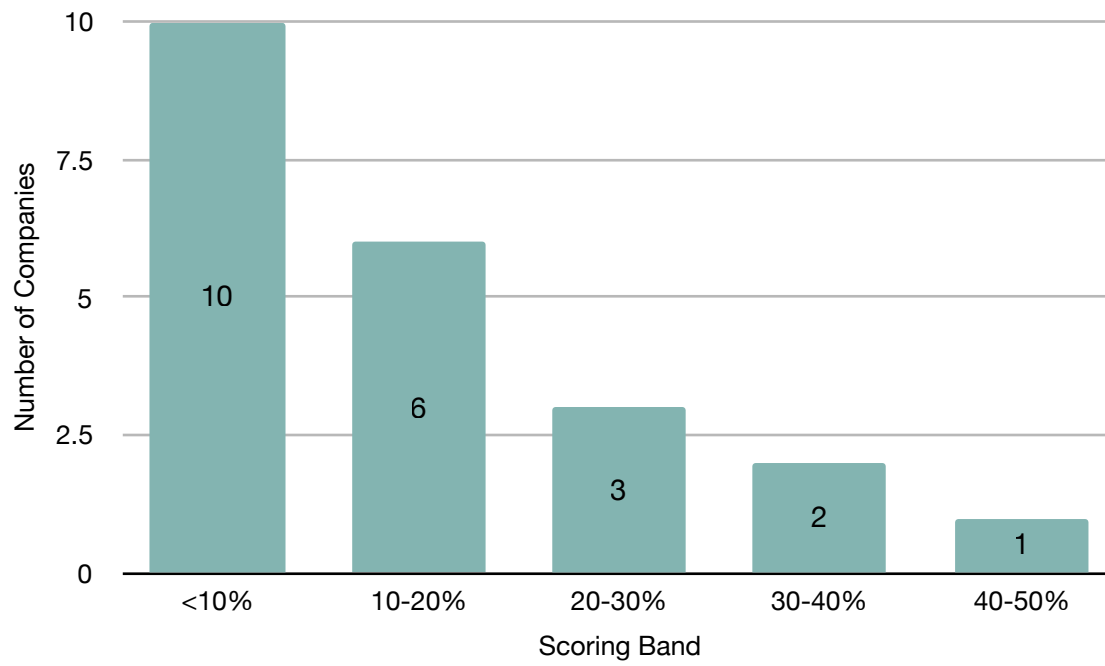
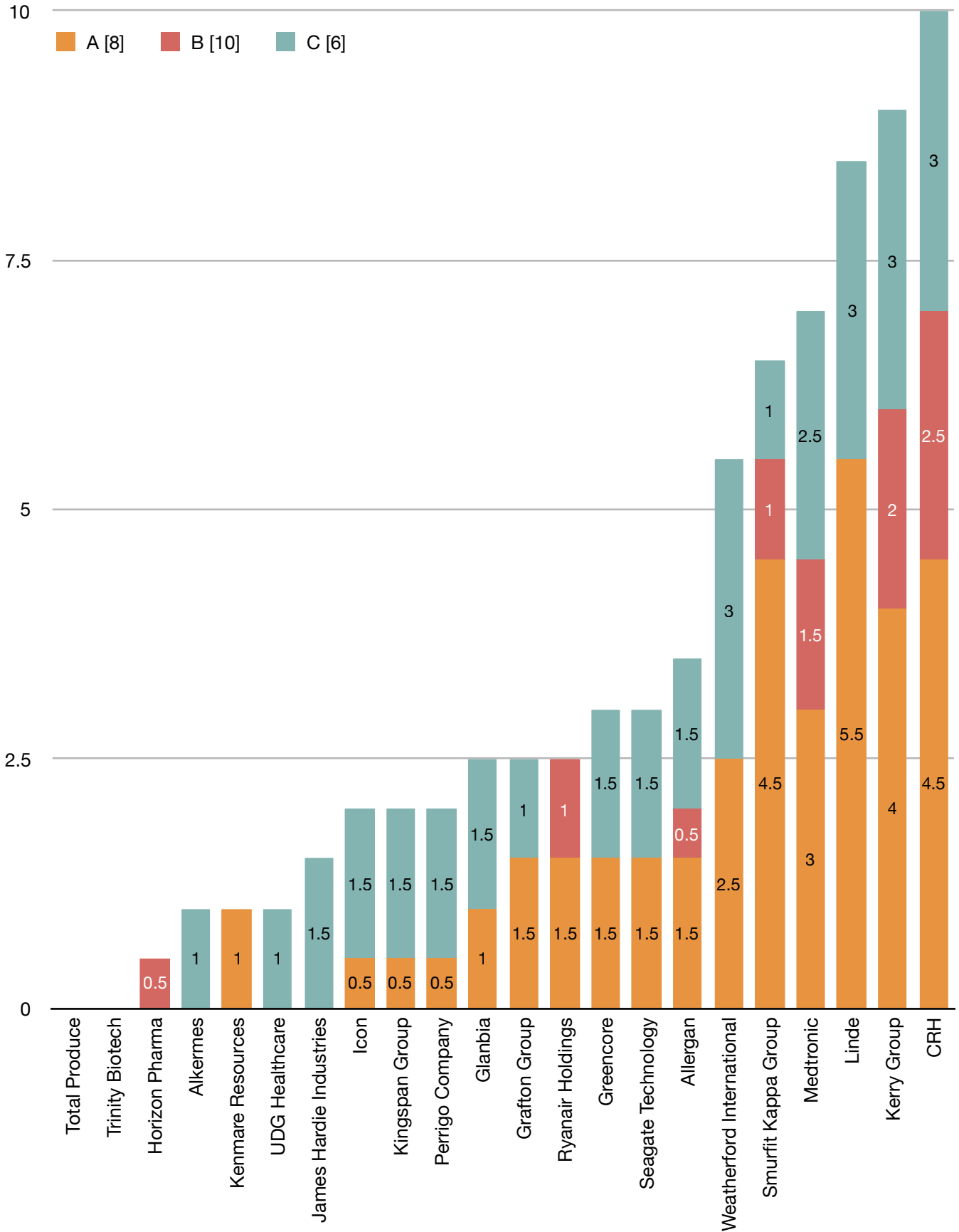


Table 4.10 Number of companies in each scoring band

Band	Company	Score (out of 24)	Percentage
40-50%	CRH plc	10	42%
30-40%	Kerry Group plc	9	38%
	Linde plc*	8.5	35%
20-30%	Medtronic plc	7	29%
	Smurfit Kappa Group plc	6.5	27%
	Weatherford International plc	5.5	23%
10-20%	Allergan plc	3.5	15%
	Greencore plc	3	13%
	Seagate Technology plc	3	13%
	Glanbia plc	2.5	10%
	Grafton Group plc	2.5	10%
	Ryanair Holdings plc	2.5	10%
<10%	Icon plc	2	8%
	Perrigo Company plc	2	8%
	Kingspan Group plc	2	8%
	James Hardie Industries plc	1.5	6%
	Alkermes plc	1	4%
	Kenmare Resources plc	1	4%
	UDG Healthcare plc	1	4%
	Horizon Pharma plc	0.5	2%
	Total Produce plc	0	0%
	Trinity Biotech plc	0	0%

Figure 4.2 Results by measurement theme



4.5 Contextualising the findings

Within the sample, larger companies have better scores, as measured by both employee numbers and by turnover. However, there is no significant difference observed between US and UK/Ireland-listed firms, nor between Manufacturing firms and Services/Retail/Wholesale firms (Table 4.11).

Table 4.11 Scores by number of employees, turnover, listing and activity

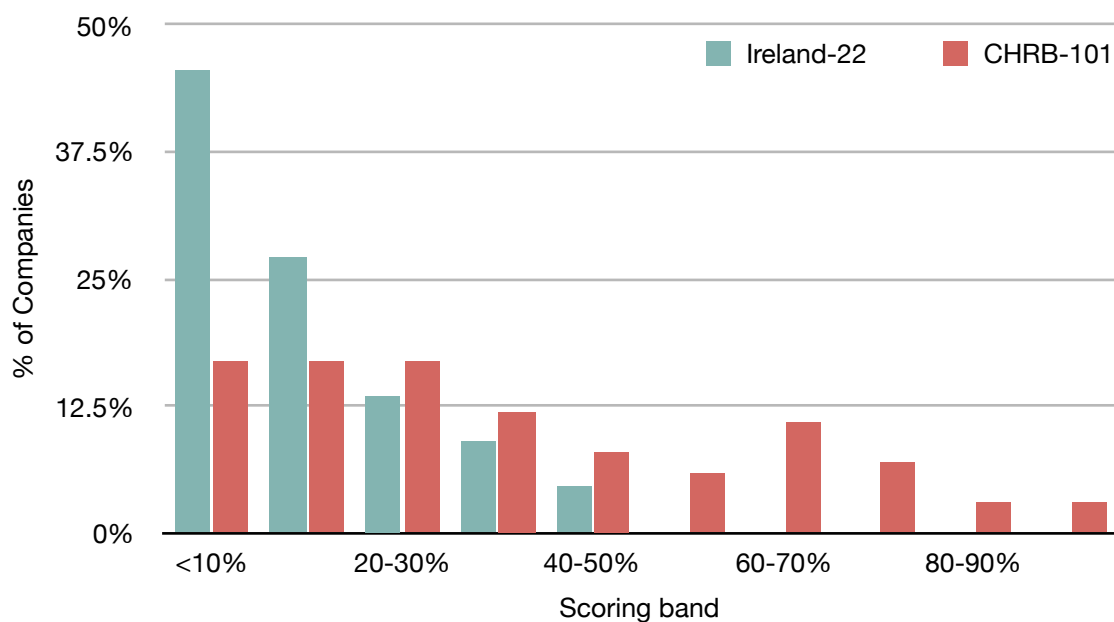
	A [8]	B [10]	C [6]	Total [24]
1. Average score by number of employees				
0-10k	0.250	0.063	0.625	0.938
10-25k	1.438	0.438	1.438	3.313
25k+	3.583	0.833	2.333	6.750
2. Average score by turnover				
<€2bn	0.375	0.063	0.813	1.250
€2-5bn	1.429	0.286	1.643	3.357
>€5bn	3.143	0.929	1.786	5.857
3. Average score by listing location - UK/Ireland v US (21 firms)				
UK/IE	1.818	0.591	1.227	3.636
US (NYSE/NASDAQ)	1.500	0.250	1.550	3.300
4. Average score by main activity				
Manufacturing	1.462	0.500	1.308	3.269
Services/Wholesale/Retail	1.778	0.278	1.500	3.556

4.5.1 Comparisons to the CHRB application of the methodology

The CHRB application of the methodology to the firms in its sample revealed that 36 (of 101) companies received a higher score than the highest-ranked Irish company, CRH.⁶ Notably in the Irish sample, no company scored above the 40-50% band, while 29.7% of the CHRB sample did (Figure 4.3). With the caveat that the samples are vastly different in size and scale, Figure 4.3 demonstrates the difference in aggregate scores between the two studies.

⁶ Data provided by Dan Neale, Corporate Human Rights Benchmark, 28 February 2019.

Figure 4.3 Companies in each band: Ireland-22 v CHR-101



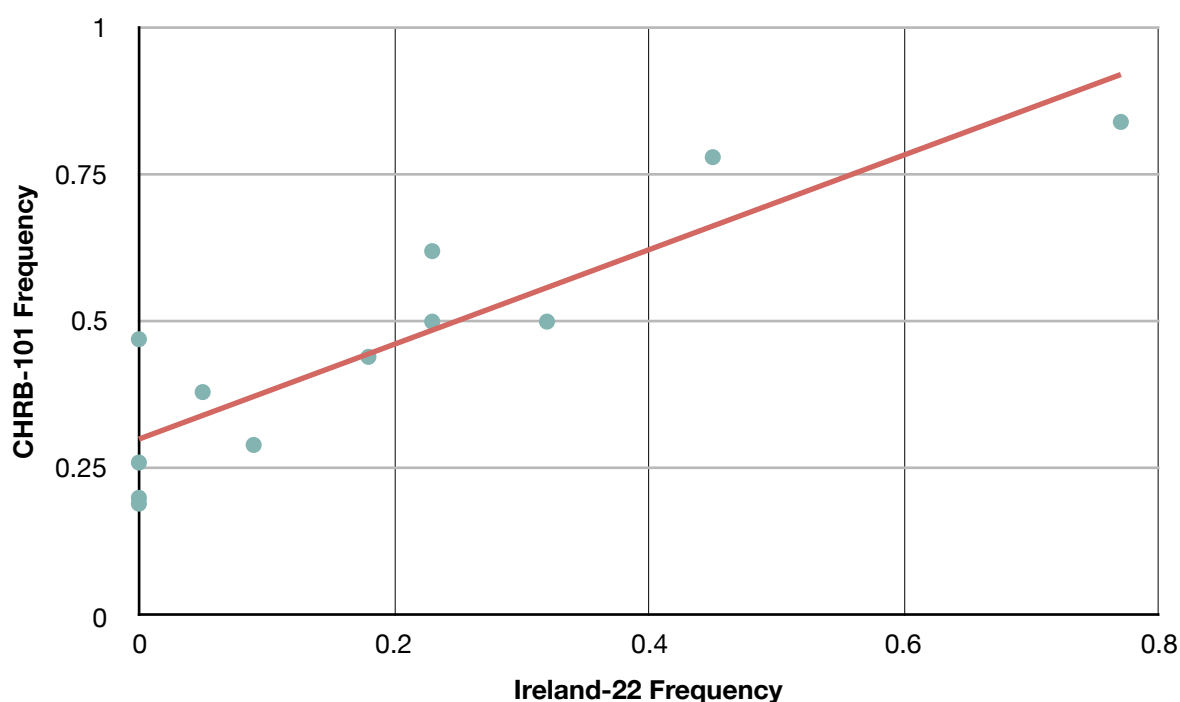
A frequency table showing the frequency of scoring a 1 or greater on a given indicator (Table 4.12) demonstrates that while the scores of this study are lower across the board, the particular gap in Theme B is also reflected as the lowest scoring theme in the CHR-101 study. Similarly, low scores were obtained for the remedy indicators A.1.5 and C.7 in both studies. Overall, the frequency of scoring 1+ in the present sample correlates positively with the corresponding frequency in the CHR-101 study ($r = 0.889$, Figure 5.4).

Table 4.12 Comparison of Frequency of Scoring Greater than 1

	Frequency of Scoring 1+	
	Ireland-22	CHRB-101
A.1.1 - Commitment to respect human rights	45%	78%
A.1.2 - Commitment to respect the human rights of workers	32%	50%
A.1.4 - Commitment to engage with stakeholders	23%	62%
A.1.5 - Commitment to remedy	0%	26%
B.1.1 - Embedding	18%	44%
B.2.1 - HRDD - Identifying	5%	38%
B.2.2 - HRDD - Assessing	0%	47%
B.2.3 - HRDD - Integrating and Acting	9%	29%
B.2.4 - HRDD - Tracking	0%	20%
C.1 - Grievance channels/mechanisms - workers	77%	84%
C.2 - Grievance channels/mechanisms - external	23%	50%
C.7 - Remedying adverse impacts, lessons learned	0%	19%

Colour scale is relative to other scores in the same study, from high (teal) to low (off-white).

Figure 4.4 Comparison of Frequency of Scoring Greater than 1



5. Conclusion & Next Steps

Ireland is a key base for multinationals. These companies are key actors in economic globalisation, which in turn has had profound social effects on individuals and their human rights around the globe. This context has justified an analysis of the level of implementation by Irish-domiciled companies of the current BHR standard, the UNGPs, which are recognised as part of the constellation of efforts required to deliver the Sustainable Development Goals.

The findings from the application of the CHRB Core Indicators Benchmark to the 22 Irish companies in the study suggest that:

- There is a lack of awareness among Irish companies of the UN Guiding Principles on Business & Human Rights and/or a lack of explicit compliance with these as evidenced by the low scores in the CHRB index;
- The particular weakness appears to be in the area of ‘embedding respect and human rights due diligence’ in their policies and public declarations – although companies are weak in all areas examined;
- If the Irish Government wishes to achieve the objectives of their National Plan, there will need to be serious efforts at human rights consciousness-raising among businesses, alongside training and national guidance on how to ensure compliance with the UNGPs;
- Ongoing benchmarking will provide some objective measures of improvement (or not) of compliance, however the CHRB Core UNGP Indicator methodology does not include any monitoring of operational practices – which could result in a mismatch between public declarations and actual practice.

The last observation – and the record of human rights abuse in the past - leads us to conclude that there needs to be something beyond the ‘soft law’ of national action plans, guidance, and the public approbation that may arise from benchmarking if companies are truly going to be incentivised to embed a respect for human rights into their policies and practices. As other States move towards mandatory human rights due diligence, Ireland should not be left behind.

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