

Corporate Remediation of Human Rights Violations – A Restorative Justice Framework

Maximilian J. L. Schormair

University of Hamburg

Postdoctoral Research Associate

School of Business, Economics and Social Sciences | Department of Socioeconomics

Von-Melle-Park 9 | D-20146 Hamburg

Fon +49 40 42838-9472

Email: maximilian.schormair@uni-hamburg.de

LARA M. GERLACH

Hamburg, Germany

Email: laragerlach@gmx.net

Keywords: Business and Human Rights, Remedy, Restorative Justice, Company-based Grievance Mechanism, Stakeholder Engagement

Conflict of Interest: The authors declare that they have no conflict of interest.

Citation: Schormair, Maximilian J. L./Gerlach, Lara M. (2019): Corporate Remediation of Human Rights Violations - A Restorative Justice Framework, in: Journal of Business Ethics, forthcoming.

This is a post-peer-review, pre-copyedit version of this article to be published in Journal of Business Ethics. The final authenticated version will be available online soon at: <http://dx.doi.org/10.1007/s10551-019-04147-2>.

Abstract: In the absence of effective judicial remediation mechanisms after business-related human rights violations, companies themselves are expected to establish remediation procedures for affected victims and communities. This is a challenge for both companies and victims since comprehensive company-based grievance mechanisms (CGM) are currently missing. In this paper we explore how companies can provide effective remediation after human rights violations. Accordingly, we critically assess two different approaches to conflict resolution, Alternative Dispute Resolution (ADR) and Restorative Justice (RJ), for their potential to provide dialogue-based, non-judicial remediation. We argue that remedy through agreement-driven ADR mechanisms risks marginalizing the interests and concerns of victims and affected community members, particularly in weak institutional contexts. Hence, we develop a dialogue-driven framework for corporate remediation of human rights violations grounded on RJ principles. This restorative framework provides a comprehensive CGM that focuses on the harms and needs of victims and aims at restoring justice through restorative dialogue. Based on a prompt discovery and a thorough investigation of the grievance, companies should design and prepare the remediation process together with victims, offenders and affected community members. Through restorative dialogue with the affected parties about the circumstances and impacts of the wrongdoing, companies can repair the harm, regain legitimacy amongst stakeholders as well as transform their business practices to avoid future human rights violations.

Introduction

Over the past years, multinational corporations (MNCs) have increasingly been called upon to engage with human rights issues in a proactive manner (Baumann-Pauly et al. 2017; Baumann-Pauly and Nolan 2016). The UN Guiding Principles on Business and Human Rights (UNGPR) expect both states *and* businesses to address adverse human rights impacts on people and communities after they occur (United Nations 2011). Accordingly, a corporation's responsibility to respect human rights includes the provision of effective remedies in the aftermath of corporate wrongdoing. The demand for expanding responsibility in terms of remedy is echoed in the business ethics discourse (Muchlinski 2012; Wettstein 2015; Mena et al. 2010). If companies "fail to comply, the remedies need to be made available to the victims of illegal business practice" (Arnold 2010, p. 380). Companies are called upon to use their "managerial tools" (Cragg 2012, p. 20) as well as "power and influence" (Wettstein 2012, p. 39) in order to take the necessary steps in the aftermath of human rights violations.

The right to remedy after human rights violations is a core element of fundamental human rights instruments. However, there are no binding international human rights regimes making MNCs legally liable to remediate human rights violations—particularly in regions with a weak rule of law within the national governments (Schrempf-Stirling and Wettstein 2017). States frequently fall short on providing effective judicial remedies making "access to justice for victims exceptionally difficult and frequently impossible" (Skinner et al. 2013, p. 90). This leads to MNCs "turning a blind eye" (Muchlinski 2012, p. 157) and responding defensively when things go wrong. If provided at all, remedies are often insufficient and victims and communities struggle to access remedy and justice (OHCHR 2019; OECD Watch 2015). MNCs often avoid direct confrontations with victims and fail to listen to their concerns and needs (Murphy and Vives 2013; Balaton-Chrimes and Haines 2017).

Although the UNGP give the right to remedy more attention and substance than previous policy frameworks, it remains a general orientation with unspecific principles and much room for interpretation (Wettstein 2015). The vague language and the lack of clarity, in both content and scope, are especially apparent in the third part of the framework (McPhail and Ferguson 2016). Consequently, “access to remedy” is often described as the “forgotten pillar” (Rees and Davis 2016) or the “weak point in the Guiding Principles” (UN Forum on Business and Human Rights 2016, 2017) due to its immature implementation or even irrelevance in the business world. Therefore, the Office of the UN High Commissioner for Human Rights (OHCHR) recently launched the third phase of the so called “Accountability and Remedy Project” that focuses on the exploration of effective non-State-based grievance mechanisms (OHCHR 2018).

Currently, little is known about how MNCs can implement appropriate grievance mechanisms for human rights violations at the organizational level (Zagelmeyer et al. 2018). The few existing studies on remediation processes by companies in the context of human rights abuses stress the need for further research into more inclusive, just and empowering remediation mechanisms (Balaton-Chrimes and Haines 2015, 2017; Knuckey and Jenkin 2015). In addition, the database of corporate disclosures provided by the UNGP Reporting Framework (2018) shows a lack of comprehensive understanding on how to provide effective remedies across all industry sectors. Therefore, there is an urgent need for developing and implementing comprehensive and legitimate business processes that enable companies to take responsibility in providing remedy for human rights violations (Ruggie 2013).

This paper addresses this research gap by exploring how companies can provide effective remedies after human rights violations. Accordingly, two different non-judicial, dialogue-based resolution mechanisms, Alternative Dispute Resolution (ADR) and Restorative Justice (RJ), are discussed in terms of their suitability in the context of corporate-related human rights abuses.

Based on a critical analysis involving both normative and empirical insights, we argue that remedy through ADR risks trivializing the remedial dimension of human rights conflicts and falls short in building capacity and leverage for victims and communities as well as on finding long-term solutions to human rights issues. Hence, we propose RJ as a holistic and dialogue-based resolution mechanism that aims at restoring a situation of injustice (Goodstein and Butterfield 2010; Johnstone and van Ness 2011; Braithwaite 2002). Restorative remediation is a platform for communication, dialogue and participation with the aim to collectively handle the wrongdoing.

Furthermore, this paper provides a framework for corporate remediation that respects the UNGP's requirements for remedy through a four-stage procedure based on RJ principles. This framework provides guidance for a comprehensive resolution process integrated into an overall company-based grievance mechanism (CGM) of an MNC. Starting with the *discovery* of adverse human rights impacts through appropriate monitoring mechanisms, companies then investigate the circumstances of the harm by engaging with victims and alleged offenders as well as affected community members within the stage of *process design & preparation*. Having secured the willingness by the affected parties to participate as well as having appointed an independent and trained facilitator, companies then are able to proceed to the stage of *restorative dialogue*. In this stage, the affected parties engage in a joint dialogue about what happened, how it affected them and how amends can be made. Essential elements of this dialogue are sincere and open disclosure of important information, apology as an acknowledgement of the wrongdoing and finding an agreement regarding resolution that contains specific remedies, such as financial compensation, community service or a list of specific internal measures of the company to prevent future harm. On this basis, companies can then transition into the *reintegration* phase where they regain the trust of affected stakeholders over time through demonstrating that

the terms of the agreement have been implemented and lessons have been learnt by the company.

The RJ framework for corporate remediation contributes to more clarity in terms of possible remedial actions that can be taken by MNCs in the aftermath of corporate wrongdoing. Although remediation depends on the specific context of human rights abuses and cannot always be conducted comprehensively, RJ applied by companies can be seen as an important step in taking serious responsibility in the aftermath of human rights violations. It represents a promising approach in human rights conflicts enabling MNCs to take a proactive role when things go wrong. Hence, the restorative framework for corporate remediation contributes to the discourse about companies' positive duties to protect human rights (Kolstad 2012; Wettstein 2012, 2015), arguing that companies should take a proactive role in the reconstruction and improvement of justice (Goodstein and Butterfield 2010; Mena et al. 2010; Murphy and Vives 2013). Moreover, restorative remediation as an integral part of the overall CGM is a substantial approach to meet the UNGP effectiveness criteria for non-judicial grievance mechanisms (United Nations 2011; Thompson 2017).

This paper proceeds as follows. First, we elaborate on the responsibility of corporations to provide remedy for human rights violations. Then we describe and critically assess remediation through ADR as currently the most popular approach to remedy. On this basis, we then introduce the concept of RJ in detail by elucidating its principles and processes. Next, we develop a framework for restorative remediation of corporate human rights abuses by integrating theoretical insights on RJ and organizational reintegration with practical insights from two recently implemented company-based remediation mechanisms of the Canadian gold mining corporation Barrick Gold. We conclude our paper by discussing limitations, contributions and directions for future research that our framework provides.

Corporate Remediation of Human Rights Violations – The State of the Debate

The fact that MNCs are adversely involved in “the full range of human rights” (United Nations 2008b, p. 2) around the world has sparked a lively debate in the literature about the scope of responsibility of MNCs (Fasterling and Demuijnck 2013; Wettstein 2015). Although states have the primary obligation to protect human rights, companies should also be held accountable for infringing on and abusing human rights through direct as well as indirect involvement (Cragg et al. 2012; Wettstein 2012). Since the protection of individuals and communities against corporate-related human rights harm is not legally enforceable on a global scale (Schrempf-Stirling and Wettstein 2017; Skinner et al. 2013), the United Nations (UN) and other international organizations attempt to get human rights obligations into companies’ radar systems with the help of “soft law” instruments. These instruments are “not legally binding and do not have any enforcement mechanisms but (...) aim to establish principles and standards of good practice” (Pariotti 2009, p. 145). Through voluntary engagement and self-commitment, corporations should implement policies and processes to include human rights responsibilities in their daily business operations.

The policy framework with the “most substantial normative content” (Arnold 2010, p. 377) as well as the highest level of operational details are the UNGP. The framework elucidates the duty of states to protect against human rights abuses, corporations’ responsibility to respect human rights and the need for effective access to remedies after human rights violations through state-based as well as non-state based mechanisms (United Nations 2011). Companies

should implement a so called “operational-level grievance mechanism” which describes a routinized process combining a channel to raise concerns, investigate and evaluate harmful events and enable remediation to those who are impacted by adverse treatment of human rights. Hence, according to the UNGP, remedy is constituted by a process of providing access for grievances to be made regarding human rights abuses and by substantive outcomes that counteract and offer restorations for the harms done (United Nations 2012, p. 7).

Remediation through Alternative Dispute Resolution – Assessing the Status Quo

By attempting to provide an adequate reaction to human rights allegations, MNCs apply conflict resolution techniques that can be attributed to the generic concept of Alternative Dispute Resolution (ADR). ADR refers to various techniques for dispute settling that involve the active engagement of the disputing parties. ADR is an umbrella term for many different agreement-oriented alternative procedures to litigation that emerged in the last four decades. The most commonly practiced types are negotiation, mediation and arbitration. Negotiation is an unfacilitated form of dispute resolution. The opposed parties “directly and voluntarily exchange information forth and back, until the decision-maker makes his final decision” (Goltsman et al. 2009, p. 1398). Due to its flexible and informal character, negotiation is practiced at the individual, institutional, national and international level of dispute. In most cases, settling a dispute through negotiation is faster, more efficient and thus has lower transaction cost than going to court. The aim of every negotiation is to reach a solution that meets the expectations and goals of the negotiator. Mediation, in turn, can be described as a facilitated form of negotiation and is a possible option when private negotiation fails. In the context of ADR, it is the most commonly used process. Mediation is applied in conflict cases that are more comprehensive, multidimensional and entangled and thus need a more structured negotiation process (Berger 2009, p. 171). A

neutral third party, the mediator, provides support and guidance to catalyze the dispute settling process towards an appropriate solution for all participants. Arbitration, on the other hand, is mainly relevant in complex transnational business disputes that require legal certainty and a worldwide enforceability of the award. It can be clearly distinguished from other forms of ADR because the dispute between the parties is finally resolved in a process resembling a standard adjudicatory procedure by the arbitrators' binding decision and not by the conflicting parties themselves.

Today, ADR has become an internationally recognized approach and global trend in various fields of law such as family and employment law as well as a solution mechanism for many commercial disputes (Keeton 2015; Napley 2014). In the business world, ADR is recognized as a management tool that discloses the multiple facets of a complex dispute, enables engagement in early dialogue with stakeholders to prevent conflicts from escalating that are cost-and time-intensive and finds better decisions and outcomes (Sherman 2009; Rees 2010; Wilson and Blackmore 2013). ADR is successfully applied by companies to resolve various disputes with its internal and external stakeholders (Lampe 2001; Goodstein and Butterfield 2010), making it the prevailing mechanism for conflict resolution in the context of business and human rights violations (Calderón-Meza 2016). In particular, mediation is used to find solutions in complicated and perception-based conflicts between companies and stakeholder groups (Wilson and Blackmore 2013).

These ADR techniques are currently shaping the design of non-judicial company-based remediation mechanisms. Two particularly insightful case studies evaluate the CGMs of the Canadian gold mining company Barrick Gold Corporation (Barrick). The Porgera Joint Venture gold mine (Porgera mine) located in Porgera, Papua New Guinea was a Barrick majority-owned mine from 2006 to 2015. After numerous cases of physical and sexual abuse by security guards

against members of indigenous communities (particularly women) living near the mine over many years, Barrick responded with the implementation of a CGM in 2012 (Human Rights Clinics 2015). The second case refers to serious human rights violations including physical abuse and sexual violence against members of surrounding communities (Kuria villagers) of the North Mara Gold Mine (Mara Mine) in the Mara region of Tanzania by private and public security guards in 2009 and 2011. The mine is operated by Acacia Mining, which is 64% owned by Barrick. After legal pressure in 2012, Acacia Mining initiated a company-based grievance process, which was redesigned several times (MiningWatch Canada 2018).

The mine management invited human rights experts, external stakeholders and third-party facilitators for consultation during the design of the remediation mechanism. The victims were offered compensation payments, legal advice services and trainings. Furthermore, Barrick introduced new monitoring systems for mining personnel and provided human rights training for security guards at both mines (Human Rights Clinics 2015; MiningWatch Canada 2018). However, although there was a CGM in place—Barrick publicly acknowledged the wrongdoing and took steps for investigation—both remediation approaches are highly criticized, and many victims remain unsatisfied with the remediation effort made by the company. Both cases highlight some crucial shortcomings of ADR techniques as an adequate remediation tool in the context of human rights violations.

First, ADR can provide avenues for the exploitation of power imbalances by failing to build capacity and leverage for the weaker party (Knuckey and Jenkin 2015). ADR can lead to unfair and unsustainable “take it or leave it” (Human Rights Clinics 2015, p. 3) outcomes inconsistent with the human rights norms of the UNGP, since companies are better funded as well as more skilled and experienced in formal processes than community members. In both Barrick cases, victims faced serious challenges in understanding the remedy mechanism as well as in

making informed choices that advance their interests throughout the process (MiningWatch Canada 2018). Furthermore, firms are less vulnerable in the conflict, as they often have less to lose and are less dependent on the specific outcomes of a resolutions process.

Second, a “formalistic or top-down approach” (Human Rights Clinics 2015, p. 45) in the context of human rights remediation impedes necessary victim engagement at each step of a remediation process. Rights-holders’ interests need to take center stage from the design phase, to implementation and resolution. False expectations and many deficiencies and concerns in later steps of remediation are a direct result of insufficient engagement and participation of victims and supporting parties (MiningWatch Canada 2018). Engagement and consultation need to be understood as a continuous process element by all parties involved instead of regarding engagement as a mere “box-ticking exercise” (Human Rights Clinics 2015, p. 45).

Third, ADR cannot assure rights-compatibility and risks relativizing human rights and trivializing the remedial dimension of a conflict resolution after human rights violations. Defensive actions by Barrick, such as closing the door for alternative legal options at the Porgera mine (victims had to sign legal waivers in order to get compensated) and dissuading victims from seeking legal support at both mines, undermine the severity and complexity of the human rights violations (MiningWatch Canada 2018). ADR is a pragmatic approach involving a bargaining process seeking for various possible win-win solutions, “instead of addressing rights as an inalienable minimum standard” (Balaton-Chrimes and MacDonald 2016, p. 84). Questions are raised in terms of how an agreement can be effectively implemented rather than what is “right” and what constitutes an effective remedy for the harm done. The pragmatic and agreement-driven approach displayed by ADR risks failing to address the basic needs of the aggrieved people.

Aiming at a cost and time-efficient conflict resolution, ADR techniques become an increasingly attractive approach for companies to resolve human rights conflicts (Wilson and Blackmore 2013). However, as our analysis so far has shown, major drawbacks can be identified with regards to providing a comprehensive rights-based remedy for business-related human rights violations. The aforementioned empirical criticisms can be further substantiated from a normative perspective since remediation through ADR is a pragmatic model grounded on the logic of the “business case for respecting human rights” (Cragg 2012, p. 10). ADR advocates often highlight the advantages over court litigation in terms of cost-, time- and resource-efficiency. For instance, the widely known grievance mechanism toolkit of the Office of the Compliance Advisor/Ombudsman (CAO)—an accountability mechanism for selected finance projects of the World Bank Group—states: “when implemented effectively, grievance mechanisms offer the prospect of an efficient, immediate, and low-cost form of problem solving and remedy for both companies and communities” (CAO 2017). Hence, an ADR approach to remedy aims at finding an uncomplicated solution that ensures the further pursuit of the company’s interests and values. However, such a focus risks ignoring the underlying causes and surrounding conditions of a conflict concerning human rights violations.

Remediation of human rights violations fails if it is not understood as a “joint effort between the company and the affected community, in which they both have sufficient power to contribute to and influence the process” (Human Rights Clinics 2015, p. 51). Accordingly, practitioners and scholars alike call for remediation processes that prioritize victim engagement and rights-holder centrality through a remedy mechanism that strictly focuses on meeting the human rights standards as set out in the UNGP (Knuckey and Jenkin 2015; Zagelmeyer et al. 2018).

Restorative Justice as Theoretical Basis for Corporate Remediation of Human Rights Violations

An approach that addresses the aforementioned issues is Restorative Justice (RJ). In contrast to the agreement-driven approach of ADR, RJ primarily aims at defending and promoting the rights and values of the participants through a dialogue-driven resolution process. RJ is a principle-based approach that does not serve the purpose of minimizing the conflict and maximizing corporate interests, but it rather accepts the situation of conflict and extensively deals with the negative consequences for the people involved. The counteraction and restoration of adverse impacts in the past is a central element of restorative processes and outcomes. In the remainder of this paper, RJ is introduced as a more effective and just approach for the corporate remediation of human rights violations.

Conceptual Fundamentals of Restorative Justice

Known world-wide, RJ is an approach that is very well received in academic research as well as at different levels of dispute resolution beyond the justice system (Braithwaite 2002). RJ is successfully applied in many kinds of situations of dispute settlements, inter alia, in school settings, neighborhoods, faith communities or the workplace (Johnstone and van Ness 2011, p. 6; Goodstein and Butterfield 2010). Moreover, it made valuable contributions in the realm of deeply-entrenched political violence. National and international peace building missions conducted by so called Truth and Reconciliation Commissions (TRCs) in post-conflict societies (e.g., in South Africa, Rwanda, Liberia) applied RJ as processes to “move more peacefully through political, racial, ethnic, and civil wars and transitions to more peaceful, democratic, and just states” (Menkel-Meadow 2007, p. 164).

Definition and Principles

According to Zehr (1990, p. 179, 2002), RJ represents a new paradigm that “seeks to reframe the way we conventionally think about wrongdoing and justice”. Originating in the scientific disciplines of criminology and victimology, RJ developed into a multidisciplinary research subject which has a strong appeal also in the fields of sociology, philosophy, psychology and gender studies (Menkel-Meadow 2007). A comprehensive, non-ideological definition is proposed by Cormier (2002, p. 1):

“Restorative justice is an approach to justice that focuses on repairing the harm caused by crime while holding the offender responsible for his or her actions, by providing an opportunity for the parties directly affected by the crime - victim(s), offender and community - to identify and address their needs in the aftermath of a crime, and seek a resolution that affords healing, reparation and reintegration, and prevents future harm”.

This definition entails four fundamental principles of RJ: First, RJ focuses on harms and needs. Wrongdoing is “first and foremost a violation of people and their relationships, rather than merely a violation of law” (Roche 2003, p. 26). The needs and concerns of the harmed parties stay in the center of the conflict resolution instead of the conventional focus on how to punish the offender. The harm for victimized individuals and communities should be restored, repaired or compensated.

The second principle refers to the responsibility of the offender to make amends and redress the wrongful behavior. According to Van Ness and Strong (2014, p. 100) amends can be made “through apology, changed behavior, restitution, and generosity”. Whereas retributive justice makes the offender accountable through punishment, RJ seeks to encourage offenders to acknowledge the guilt, commit to victim compensation, change values and behavior and voluntarily offer further services to the victim and the community. Hence, doing harm results in direct obligations.

Third, RJ promotes engagement and participation by bringing together all relevant stakeholders to engage in a dialogue with each other. Together, they directly share information, views and stories, ask questions and integrate the perspectives and needs of all participants. Unlike in court, the different stakeholders are empowered to decide on their own how to restore the imbalance of justice (Zehr 2002; Larson Sawin and Zehr 2011). This dialogue should include not only the perspective of “the most powerful and the influential, but also of (...) the slower thinkers, the shy, the disenfranchised and the weak” (Kaner et al. 2014, p. 24).

Fourth, RJ aims at transformation by building new relationships and changing the behavior of participants. Transformative dialogues and reconciliation are a crucial part of a long-term conflict resolution and trust building process. The RJ process “enhances participatory and deliberative democracy and can promote community building, political legitimacy, and the development of new social and legal norms” (Menkel-Meadow 2007, p. 165). Therefore, RJ includes renewing the commitment to shared social norms as well as preventing the reoccurrence of the conflict and increasing awareness of participants as to the structural nature of many conflicts.

Restorative Justice in Action: The Restorative Dialogue

At its core, RJ is a “method of bringing together all stakeholders in an undominated dialogue about the consequences of an injustice and what is to be done to put them right” (Braithwaite 2002, p. 12). A state of wrong should be rebalanced through a restorative process that focuses on a restorative dialogue between the offender, the victim of the wrongdoing and the affected community members (Raye and Warner Roberts 2011). Due to different societal traditions and cultural diversity, various restorative processes have evolved and are practiced around the world. Although there are differences in managing the dialogue, in how the process is facilitated, in the degree of encouragement for participation and the eligibility of issues to be addressed, the

basic RJ principles and the generic process scheme remain the same (Roche 2006). In fact, practitioners recommend seeing RJ as one single concept that can vary in its design due to the context. Even during the process, changes could be made by the participants depending on the situation (Raye and Warner Roberts 2011).

The three typical sub-steps of a restorative dialogue are characterized by the aforementioned RJ principles addressing in sequence the information about the harm, the impact of the harm and the resolution (Umbreit and Lewis 2015). The resolution process starts with questions about what happened. Information about the negative event and findings of investigations are shared. Questions of who and what caused the harm are central in the first stage of the RJ process. The main objective of the first part is to achieve high levels of transparency and a common understanding about the wrongdoing to minimize information asymmetries as well as to enhance trust between the parties. Restorative dialogues are open for community members such as family, friends, colleagues or neighbors. Community members can be “anyone who feels connected emotionally, physically or in other ways to the victim(s), the offender(s) or the event itself” (Schiff 2011, p. 235).

In the second step, the participants of the restorative dialogue concentrate on the concrete impacts of the harm. The victim explains how they have been affected by the negative events. This stage aims at establishing a mutual understanding as well as at deepening the focus on the negative impacts that result from certain decisions made in the past. The offender takes responsibility through admitting his or her own guilt, making an apology and offering amends. It is important to signalize to the victim that they are seen as a person of equal moral worth and that the offense was wrong and will not happen again. Moreover, the offender must be willing to listen and be receptive to the concerns of the victim. The offender should sincerely apologize and show remorse for the negative impacts caused. RJ demands a self-reflection of the offender

triggering a process of personal reformation to regain trust and enable the other to forgive (Radzik 2011).

On this basis, the restorative dialogue enters into the resolution stage, which focuses on how the harm can be repaired. All parties involved make suggestions on options for repair. A common consensual agreement should be reached within this phase (Johnstone and van Ness 2011). The agreed items (e.g., financial restitution or community service) are listed and ways to engage victims in the follow-up of the remediation are discussed. This is a protocol of the outcomes of the restorative dialogue as well as a plan on how to sustain the achievements in the future. Community members have a major role to play in ensuring reintegration and a safe environment for all participants over the long term. This could be achieved, e.g. through a mentorship for the offender, further ongoing support for the victim and a follow-up of all reparative actions. Most RJ agents stress the healing aspect of a restorative dialogue enabling closure through releasing both the victim and offender from the wrongdoing as well as guaranteeing a common roadmap for the future (Schiff 2011; Centre for Justice & Reconciliation 2017).

Although a direct dialogue between victim and offender is a crucial component of RJ, the main goal of RJ is “to help parties to move forward in life” (Umbreit and Lewis 2015, p. 20). Therefore, the process of restorative remediation can adapt to circumstances that make a direct dialogue difficult. In some cases, the victim might be too traumatized to be willing to encounter the offender or the offender might refuse to enter into a dialogue because he or she feels too much shame and guilt. In these cases, indirect forms of restorative dialogue can be used such as, for example, a facilitated exchange of written communications between the parties or the designation of a surrogate victim (i.e., family member or close friend of the victim) that participates in the dialogue with the offender and relates back to the victim. Another option can be to place the parties in separate rooms with the facilitator going back and forth between victim and

offender. However, it is also important to accept that in some cases, a restorative dialogue is simply not feasible as, for example, the offender does not take responsibility for the wrongdoing or both parties still have too strong negative emotions. Even in these cases, though, a restorative engagement with victim and offender can contribute to mutual healing, as being able to express one's perspective and being listened to by a neutral facilitator within the required separate pre-dialogue meetings helps the affected parties to deal with the aftermath of a wrongdoing.

Restorative Justice in the Corporate Context

So far, RJ has been especially relevant in criminal cases of domestic law or in the realm of TRCs and peace-building. However, recent research within the transitional justice literature points to the importance of restorative approaches to corporate accountability in conflict zones, stressing the need to further operationalize frameworks such as the UNGP (Michalowski 2013). In the corporate context, Braithwaite (2002) has shown that a restorative approach to wrongdoing at work is superior to a punitive approach as, for example, nursing homes significantly improved their care performance after inspectors engaged in restorative dialogues with victims and offenders about the wrongdoing. Kidder (2007), in turn, argues that workplace relationships after a wrongdoing can be healed more effectively through RJ, since the traditional "due process organizational justice" fails to emphasize the personal accountability of the offender as well as neglects the victim's perspective. Furthermore, engaging in restorative remediation fosters organizational learning and change. Accordingly, RJ becomes increasingly relevant as a tool to resolve workplace conflicts at both the individual and organizational level (Goodstein and Butterfield 2010; Goodstein et al. 2014; Goodstein and Aquino 2010).

Focusing on the organizational level of analysis, Pfarrer et al. (2008) discuss how organizations can regain legitimacy amongst their stakeholders after a wrongdoing. They propose that

organizations need to have appropriate processes in place to discover transgressions. After a transgression has been identified, organizations need to provide proper explanations to relevant stakeholders concerning the wrongdoing and need to accept reasonable punishment. Then, organizations can expect to be reintegrated into the group of legitimate actors after their management has credibly shown that substantial internal changes have been made to avoid future transgressions. Reintegration, therefore, represents an important objective for companies when engaging in remediation processes after a wrongdoing.

Reintegration is defined as a process “emphasizing the repair of relationships damaged by various acts of individual and organizational wrongdoing and regaining support such as legitimacy, trust, and respect, from key internal and external stakeholders” (Goodstein et al. 2014, p. 316). Bertels et al. (2014) stress that regaining legitimacy amongst stakeholders after a wrongdoing is based on prior acts of rehabilitation indicating that permanent and adequate corrective actions have been made to prevent the reoccurrence of the harmful event. In their case study of the UK based utility company Severn Trent Water, Gillespie et al. (2014) show that an open, cooperative and inclusive approach by the management fostered the reintegration of the company after protracted fraud and data manipulation. By acknowledging the wrongdoing publicly, making amends with regulators and affected community members as well as implementing substantial internal changes to management practices and personnel, the company managed to gain reacceptance from key stakeholders, as manifested by being named “Utility of the Year” by their industry peers the year after pleading guilty to all charges in court.

The benefits of adopting a restorative approach to corporate wrongdoing also become evident in the case of hospitals that are among the most advanced organizations in terms of implementing comprehensive programs to redress harmful actions. Several hospitals in the USA implement patient-centered approaches that encourage the participants to communicate more

openly about certain errors and mistakes and disclose more information about the harmful event. The program “Communicate, Apology, and Resolution” (CARE) initiated by the Massachusetts Alliance for Communication and Resolution following Medical Injury (MACRMI), for example, defines principles and values, sets common goals and provides a procedure for implementing and conducting a comprehensive approach to adverse events in hospitals. The principles contain quick and fair compensation as well as the support of caregivers and aim at establishing a learning process to reduce patient injuries in the future (Evan and Sands 2014; MACRMI 2013). Well-designed and well-managed programs can lead to a significant reduction of litigation cases and costs, increased patient and physician satisfaction and fiscal savings due to process improvements and new safety regimes to avoid future recurrence (The Risk Authority Stanford 2015).

A Framework for Restorative Remediation of Corporate Human Rights Abuses

Leveraging practical insights into designing and operationalizing remediation processes from the aforementioned gold mine cases as well as taking into account the RJ fundamentals as outlined above, we develop a comprehensive framework that enables companies to provide remedy to adverse human rights impacts in accordance with the UNGP. Each of the four stages of our framework will be described by combining conceptual details on key questions, victims’ needs, characteristics and outcomes with both negative (i.e., how Barrick responded) and positive (i.e., how Barrick should have responded) illustrations from the gold mine cases. The framework is depicted in Figure 1 and will be outlined in the following.

Insert Figure 1 about here

Based on the UNGP as well as established theoretical models for organizational reintegration (Pfarrer et al. 2008; Bertels et al. 2014; Gillespie et al. 2014), we embed restorative remediation into an overall CGM by conceptualizing four distinct stages. The first stage *Discovery* starts when a company receives an external grievance via a “point of access” (e.g., worker hotlines) or detects adverse human rights impacts via its own monitoring system (e.g., the human rights due diligence process, risk assessment or environmental and social impact assessment). Before the actual remediation process begins, the company determines if the grievance is serious and needs to be further investigated or if a grievance can be rejected due to, e.g., its frivolous or vexatious nature. In the former case, the company should acknowledge the grievance and contact the complainant via a representative (e.g., an independent investigator) to get a first-hand understanding of the nature of the grievance. This must be followed by deeper internal and external investigations of the grievance, which should already engage the victim/complainant, the alleged offender and the affected communities as well other stakeholders (e.g., local NGOs, trade unions, involved business departments, senior management).

Since companies can be involved in violations of manifold fundamental human rights, such as labor rights, social and political rights as well as the right to health and a clean environment, it is necessary to judge the severity and seriousness of the human rights impact more precisely in terms of scale (gravity of impact), scope (individuals that are affected) and irremediable character (limits on the ability to restore the affected parties) (United Nations 2011, 2012). Several key questions need to be addressed with all parties (see figure 1), such as: Which human rights grievance has occurred? Who was adversely affected? Who is the alleged offender? The gold mine cases have revealed several shortcomings from the beginning of remediation. The gold mine management failed in both cases to initiate a prompt discovery process

after allegations of serious human rights violations occurred. It took several years to investigate and acknowledge the harmful events (Human Rights Clinics 2015, p. 3). Moreover, the mine failed to provide sufficient capacity for victims to be able to address the grievance and to participate in the mine grievance process (MiningWatch Canada 2018, p. 3). Both cases showed failures to observe victims' needs and concerns right from the beginning.

With a restorative CGM, Barrick would have been able to respond in a more direct and substantial way to human rights abuses maintaining a sharp and persistent focus on the victims' needs. After receiving grievances, Barrick could have started immediately with investigating the underlying facts of the incident involving relevant parties (victims, community members, security personnel, NGOs). Already in the discovery stage, it would have been revealed that many of the affected community members were not able to address the grievances due to a lack of capability and knowledge. Barrick could have directly started to promote various opportunities for victims and community members to address the grievances, by, e.g., conducting systematic visits to the villages and interviewing village people. A transparent and context-sensitive communication concerning the remediation approach would have encouraged victims and community members to engage and speak out about measures needed. This would have contributed to avoiding the "lack of information from reliable and direct sources" (Human Rights Clinics 2015, p. 63), which led to distrust and unsatisfying decisions for the victims. Furthermore, Barrick could have involved independent parties (e.g., experts on human rights conflicts) in the investigation to enhance the legitimacy of the process. Table 1 summarizes the key insights from our case analysis by depicting both the shortcomings of Barrick's remediation mechanisms as well as the essential elements of a restorative corporate response to the human rights violations in Porgera and North Mara.

Insert Table 1 about here

The second stage *Process Design & Preparation* represents an essential step before entering the restorative dialogue stage since it determines the appropriate design of the following remedial steps. The participants need to find out if a restorative proceeding is suitable or if victims are better served by a legal or alternative proceeding. The willingness and ability of victims and supporters to participate in a restorative process needs to be secured. All further remedial steps need to be designed in close coordination with the affected parties (through separate meetings with victims, offenders and community members) to ensure that their interests are taken into account. Victims need sufficient support to participate and engage in the process (e.g., translator, legal counsel, family and community members). Furthermore, the offender also needs to be willing to participate in the remediation process. The offender must acknowledge the wrongdoing and must be prepared to take account for what happened. Moreover, an independent and trained facilitator needs to be appointed by the company that is able to gain the trust of the conflicting parties. This facilitator needs to engage with the affected parties in several preparatory meetings to build trust as well as to establish the next steps in accordance with the needs and interests of the affected parties. Should a direct meeting between the parties be not feasible for example, the facilitator can advance indirect dialogue options, as outlined above.

Concerning the gold mine cases, researchers observed several shortcomings in the preparation and design stage (see table 1). At both mining locations, Barrick did not adequately engage victims and key stakeholders in designing the remediation process. Information about the grievance mechanism were insufficiently spread to the concerned parties and the accessibility of the mechanism was locally and timely restricted. These shortcomings led to a limited scope of harms considered later in the process, a lack of understanding of the full remedy approach

and false expectations of the participants. At the Porgera mine, the practices of requiring legal waivers in exchange for compensation packages and of concealing legal alternatives for victims delegitimized Barrick's remediation effort even further (Human Rights Clinics 2015).

After getting a clearer picture about all persons affected by the harmful events and their concrete needs, Barrick could have integrated these findings into the second stage of the restorative remediation process more effectively. Especially at this stage, a victim-centered approach is key to designing and executing the remediation process. Victims need to be informed about all possible options for remediation, including legal and alternative avenues for redress. To reduce the power imbalance between Barrick and the affected parties, Barrick should have engaged victims and communities more directly to determine what is needed to come to an adequate remediation. In addition, Barrick should have tried to integrate the offenders (i.e., security guards) in the design phase. Offenders should get the chance to contribute to designing the next remediation steps, as every party involved in the harmful event deserves a respectful treatment and the right to participate.

A company-centric and purely unilateral approach would be inadequate, as this step substantially impacts decisions about the appropriate resolution process and the selection of the considered settlement options. Hence, the appropriate contextualization of the conflict and the preparation of the resolution process both rest on engaging directly with all affected parties in separate meetings. Further insights and information are required as well as important choices need to be made affecting all parties in the following steps of remediation. A restorative meeting requires finding the right language, getting support from a trained facilitator, opening the communication pathways and signaling earnestness, trustworthiness and a sense of responsibility.

After the process design is clarified and all necessary decisions are made, the *Restorative Dialogue* stage is reached, which should follow the three main restorative dialogue phases as

outlined above. First, all relevant information should be disclosed in a transparent, truthful and understandable way. Information about the harm done and the failures made are shared openly to get a communal understanding of what happened and minimize information asymmetries. The company should respond honestly to all questions about its cause of actions, responsible actors, system failures and other questions by the victims, community members or other parties. A neutral facilitator tries to minimize the power imbalance between the parties by equalizing speaking times and ensuring a victim-centered discussion.

Second, the impacts of the harm caused are shared and analyzed in detail. The aim is to get an understanding of the specific impacts of the harms for all parties involved and to accept full accountability for the diverse and multi-layered impacts (e.g., physical impacts, psychological impacts, changing living conditions). Furthermore, at this stage, apologies need to be made for the harm caused by expressing regret and remorse for what has happened and by acknowledging guilt. The apologetic stance contains speaking carefully with the victims and their families and supporters as well as listening to them and all other stakeholders.

Third, resolution should be discussed and offered in a responsible manner. This involves offering a certain kind of reparation, financial or nonfinancial compensation as well as proposing specific changes and corrective actions. Following the RJ approach, a “right” outcome derives from a restorative process and first of all represents the specific needs of the person that was harmed. The outcome of a restorative conflict resolution is a plan stipulating what has already been done and what are the next steps of providing remedy. In general, a restorative plan for corporate remedy should clearly formulate how a victim is compensated, how the company takes responsibility and how the relationship can be healed. This entails specific measures for rehabilitation and the development of stable and sustainable long-term relationships.

The CGM of Barrick did not provide such a profound remediation process in both cases (see table 1). Instead of intense dialogues between all parties, few selected victims were visited at home and had to answer questions about their economic situation and their needs for compensation. Almost all decisions on the level of impact and remedy were based on internal investigations, evidence and documents, which were not aligned with the views of victims and other stakeholders. Changes on agreed procedures were made in a non-transparent and unpredictable manner. Barrick was not able to provide full and effective remedy as the individual needs of the victims and communities were not sufficiently considered. The calculation of payments for the victims was unequally determined. Many victims were not able to read and/or understand the remediation plan, which negatively influenced the amount of remedy they received from Barrick (MiningWatch Canada 2018; Human Rights Clinics 2015). Furthermore, victims at the Mara mine voiced concerns that the “long term impacts of their injuries, losses, or harm on themselves and dependents were either not reflected in their remedy or were undervalued” (MiningWatch Canada 2018, p. 9).

Concerning the restorative dialogue stage, Barrick should have taken the time to provide a forum for facilitated dialogues and meetings between victims and offenders to come to joint agreements on how to remediate the wrongdoing and on how to proceed in the future. The restorative dialogue sub-steps could have promoted awareness and could have induced the process of understanding and lessons learned. Involving neutral facilitators would have reduced the power imbalance and would have supported a fair and equal sharing of information and interests. This, in turn, would have enhanced the chance to agree on a legitimate compensation scheme and a just remediation plan with a long-term perspective.

The fourth stage *Reintegration* describes the on-going responsibility of the offender after the core remediation process ended. A resolution plan includes a long-term perspective as human rights violations are events with long-term consequences for a person or community. The outcome of a restorative process should contain a strategy to shape or change future behavior and relationships (Umbreit and Lewis 2015). Victims and communities might need further rehabilitation support and remedy for longer periods. Measures for continuous improvements, changes of business processes and revised CGMs are crucial long-term tasks for the offender. Trust needs to be restored and the chance for the reoccurrence of human right violations minimized. Thus, the parties need to agree on how to evaluate, report and communicate further remedy steps after the core restorative remediation process ended. This is part of the overall “communication by businesses on how they address their human rights impacts” (United Nations 2008a, p. 6) and the “internal reporting processes” (ibid.: 23) for tracking performance, learning and improvements. In this step, companies should consider including indicators on how to evaluate the effectiveness of remedial actions, such as, e.g., the satisfaction level of victim and offender or the reduction in reoccurrence of grievances. If possible, victims and communities can be integrated in the post-conflict processes to share further useful information and lessons learnt.

In the Porgera mine case, for example, Barrick failed to integrate key stakeholders in analyzing necessary tasks to implement agreed changes and further steps for continuous improvement after the remediation process (see table 1). Furthermore, reviews of the remedial actions were not conducted independently and “key local stakeholders played no role in setting up the review, the design and establishment of the review” (Human Rights Clinics 2015, pp. 107–108). Since Barrick faces manifold criticisms for their remedy mechanisms at both mining locations, the company could not restore its legitimacy with key local and international stakeholders. In order to regain societal legitimacy, a relationship of trust with the affected parties is essential.

Barrick should have found solutions together with the victims and community members on how to build a long-term relationship, which is built on trust, understanding of needs and supporting interactions.

As this critical account of the Barrick case emphasizes, the restorative remediation process of business-related human rights abuses cannot be formulated in a “one-size-fits-all” approach. Restorative remediation rather must be managed as an adaptable approach, grounded in a corporation’s willingness to react and adapt to situational expectations and circumstances. Essential reference points of restorative remediation are the RJ principles and processes as outlined above. Companies should adhere to these principles in each step of the process to ensure a holistic resolution to a human rights conflict.

Discussion and Contributions

As our framework indicates, remediation in the context of business-related human rights violations is a complex and challenging undertaking. We developed our framework with the aim to provide a theoretically grounded normative process translating the third pillar of the UNGP into operational business requirements. In the following, we critically discuss three main challenges that our framework is likely to encounter in practice before we conclude by elucidating the main contributions of our paper.

Identifying harms and needs of victims and communities

To begin with, the initial stages of discovery and process design & preparation rely heavily on companies’ ability to clearly identify the harms and needs of victims and affected communities. This situation might pose a challenge for several reasons: First, it can be difficult to establish

clarity about the victim(s) of a harmful human rights incident, since a lack of opportunity and capability to raise one's voice, attract attention and seek recognition are common barriers for victims in the context of human rights abuses (Wilson and Blackmore 2013). These barriers are particularly relevant in remote areas of developing countries, where grievance points and contact persons for victims are missing. Second, the number of victims and affected community members might be difficult to deal with. In such situations, it might not be feasible to talk with every single victim to enable a satisfying and healing conflict resolution, since a restorative dialogue can only be effectively conducted with a limited number of people. All three sub-steps of a restorative dialogue can be hampered when victims and supporting community members are missing. It might be very challenging to provide everyone involved with the necessary information and disclosure materials. Furthermore, offering certain remedies could also be inadequate as not every victim gets a chance to raise concerns and have a say in the discussions about appropriate remedies.

Identifying obligations of offenders

Restorative remediation not only focuses on the harms and needs of the victim but also urges the offender to take responsibility for the harm done. Therefore, it is crucial that the offender can be identified as well as that the offender acknowledges the wrongdoing and is willing to participate in the process. However, in the context of corporate human rights violations, a clear assignment of responsibilities might often be difficult. First, MNCs are characterized by widespread intra-organizational networks, many hierarchical levels, powerful subsidiaries abroad and globalized allocations of tasks and responsibilities. Finding and holding responsible a concrete offender of a MNC that caused the wrongdoing and should be part of restorative remediation

tion might prove to be challenging. Furthermore, MNCs do business abroad with other companies (e.g., in a joint venture), with the local government and with different kinds of NGOs. In this business environment, often more than one decision-maker can be identified in the decision-making process (OHCHR 2019). Hence, remediation becomes not only a cross-border or cross-functional responsibility but also a cross-institutional one.

In addition, companies can have direct, indirect and/or beneficial complicity in human rights issues. Active involvement as well as the avoidance of involvement while directly or indirectly benefiting from human rights abuses can lead to adverse human rights impacts (Wettstein 2012). Hence, a major challenge of restorative remediation exists already at the beginning of the process. Without identifying the responsible offender of the wrongdoing or without seeing the obligation to provide actions to seek justice and healing, the chance for appropriate remediation by a company is thwarted. If remediation is conducted without the main responsible person or department participating, the process and its outcome might be ineffective. Furthermore, this situation could impede the learning process as the offender may not recognize the negative consequence of the wrongdoing and the urgency for change.

Ensuring equal engagement and participation of stakeholders

Direct engagement with and inclusive participation of affected stakeholders are cornerstones of the restorative remediation framework of this paper. However, power imbalances between companies and victims risk constraining these cornerstones, as each CGM has to balance diverging interests: While companies seek to minimize reputational damages and costs, victims and affected communities aim for recognition, justice and fair restitution. Since a CGM puts a company in the dominant position regarding the organization and execution of the remedy mechanism, victims risk being patronized (Knuckey and Jenkin 2015). Therefore, the restorative

framework of this paper stresses the importance of appointing independent investigators and facilitators, who conduct the remediation process together with the affected parties. However, this provision might prove to be difficult to adopt for companies, as it might be perceived as a loss of control by the management.

Furthermore, the cultural context of human rights violations and its implications for the process of providing restorative remedy is a further key challenge for companies. This refers, *inter alia*, to aspects of socioeconomic status, imbalances of power and knowledge, discourse culture, gender orientation, language, relation of dependence and beliefs and values of the parties involved. As our case analysis has shown, restorative remediation cannot be conducted in a company-centric, top-down approach (Goodstein and Butterfield 2010; Gillespie et al. 2014). Instead, each step needs to be sensitively analyzed concerning the cultural context and its social acceptance, since a company's mindset might be inconsistent with the cultural context in which the human rights violations occurred. This is especially important in the direct communication with victims and communities.

Moreover, critics of RJ point to the potential negative consequences of a privatization of conflict resolution through RJ. In the absence of legal provisions, participants run the risk of unfair treatment and manipulation (Thompson 2017; Knuckey and Jenkin 2015). For example, the facilitator could follow the interests of his or her principal (i.e., the company) and could influence the process in a way that is against the victim's interests and needs. RJ requires well-intentioned and non-manipulative participants. Otherwise, it could be the case that victims are coerced to forgive, or offenders must accept a harsh outcome. The proceeding, as well as the outcome, could be insufficient, which may result in great inequalities.

The Case for Restorative Remediation of Corporate Human Rights Abuses

However, we contend that besides posing challenges restorative remediation also provides significant benefits for corporations. Early and direct remediation of wrongdoing in the context of human rights can contribute to the prevention of further escalation of a conflict. Signaling the willingness to actively come in contact and cooperate with the harmed people and communities from the beginning, strengthens the commitment of affected parties to participate. A relationship of trust can be restored, which increases the chance for a successful restorative remediation. The prevention of further conflict escalations and the reoccurrence of harmful incidents as well as the demonstration of accountability, in turn, helps to avoid major reputational damages for MNCs. Although restorative remediation is resource- and cost-intensive for a company in the short term, it can save costs in the long run such as, legal fees for court proceedings or settlements, staff time spend on the conflict as well as operational delays and lost opportunities due to a protracted human rights conflict (Wilson and Blackmore 2013; Davis and Franks 2011). In addition, a company can benefit from restorative remediation as a valuable learning tool. In a complex environment with opaque interdependencies, cause-effect relationships are easier to examine with the affected parties involved. A direct confrontation with the stories and feelings of victims and supportive participants leads to a deeper understanding and awareness of the connection between a company's decisions (e.g., by the responsible manager) and its negative human rights impacts. New insights in this regard affect future decisions and contribute to avoiding corporate activities that undermine human rights.

Our framework also shows that the feasibility of a restorative remediation process depends upon several conditions: First, the human rights violation needs to be clearly connected to a wrongdoing by a company. Second, both victim and offender have to be willing to participate in the process. This also implies that agreement on at least the basic facts concerning the wrongdoing has to be reached between the parties before the actual remediation meeting can take

place. Third, the scale and scope of the wrongdoing has to be such as to enable a direct and meaningful dialogue between the affected parties. This makes RJ particularly suitable for smaller scale wrongdoing, such as workplace transgressions, where a very limited number of people is directly involved. Fourth, power imbalances have to be actively addressed at all stages during the process in order to facilitate a fair restorative outcome. As the Barrick case suggests, this process can be challenging in contexts where victims have low educational backgrounds and only very limited financial resources. Finally, the quality and strength of the relevant legal system have to be considered, when a corporate human rights violation has occurred, as contexts with weak legal systems leave victims with little alternatives to a company-based remediation mechanism.

However, it is important to consider that RJ, in the broader context of human rights violations, has already a proven practical track record since it was successfully institutionalized in various fields of international conflict resolution. International peace commissions, like the TRC supporting the pacification process of post-Apartheid South Africa, recognized the RJ principles especially with regard to victim participation. Victims should be restored “by granting them an opportunity to relate their own accounts of the violations of which they are the victim” (Gade 2013, p. 21). The reparation process was seen as a societal and political transition involving the testimony of app. 22,000 victims by focusing on restoring the victims and relationships, integrating all relevant community members and drawing from implications of the offense to shape the future. Integrating RJ in the complex peace process shifted the focus to “determining what happened and why” from a victim’s perspective leading to “the commitment to create a new society mindful of the lessons of the past” (Llewellyn and Howse 1999, 356, 397). Thus, RJ proved to be an effective resolution mechanism even in highly complex and protracted conflicts (Weitekamp et al. 2006).

Accordingly, we argue that our RJ framework for corporate remediation of human rights abuses provides a useful and substantive starting point for corporations to fulfill their obligations to provide remedy, as codified in the UNGP. As stated above, ADR entails the risk of trivializing human rights and undermining the affected parties' interests and concerns. In contrast, restorative remediation enables companies to take substantive steps in the aftermath of a human rights violation in accordance with the UNGP. As a tool for free and open dialogue, participation and empowerment of participants, a RJ approach represents a suitable starting point for a deeper investigation of the conflict and a constructive confrontation with victims and affected communities. Basic questions concerning how to deal with a victimized person, how to acknowledge guilt or how to move forward are an inherent part of RJ and thus provide guidance for companies to address the challenges of conflict resolution step by step. Hence, our framework contributes to the discourse about companies' positive duties to protect human rights (Kolstad 2012; Wettstein 2012). MNCs can become a force of "protection and realization of human rights" applying their "unique capacities and capabilities" (Wettstein 2015, p. 175) in a restorative remediation process. This process enables companies to play an important role in the reconstruction and improvement of justice (Goodstein and Butterfield 2010; Mena et al. 2010; Murphy and Vives 2013). The RJ framework as developed in this paper describes specific measures that MNCs can take to remediate human rights violations, initiating a transformative process that moves corporate human rights practices beyond a narrow focus on non-infringement.

Moreover, restorative remediation, as an inherent part of a CGM, is a substantial approach to meet the effectiveness criteria for non-judicial grievance mechanisms of the UNGP (Thompson 2017). The normative foundation of RJ ensures the legitimacy of the restorative remediation framework since empowerment of stakeholders increases the legitimacy and accountability of the infringer (Mena et al. 2010). Furthermore, restorative remediation increases transparency

and accessibility in the aftermath of corporate wrongdoing through disclosure, open dialogues and the participation of different community members. Restorative remediation enables an equitable exchange of facts and feelings and generates an atmosphere of respect and trust. This paves the way for continuous learning and a general commitment to engagement and dialogue, making restorative remediation a valuable part of the human rights due diligence process.

Directions for Further Research

To conclude, we provide several avenues for further research. First, more empirical research is needed concerning the effectiveness of restorative CGMs. We need a better understanding of the contextual factors that either make restorative remediation processes by companies successful or contribute to their failure. For example, it would be interesting to explore in more detail, which type of human rights violations qualify the most or the least for corporate restorative remediation. In addition, institutional factors such as, the local political system or the education and cultural systems (Matten and Moon 2008) might prove conducive to or prohibitive for, the implementation of restorative remediation mechanisms. Therefore, case study research would be particularly promising for comparing remediation mechanisms in different institutional contexts in order to gain a better understanding of this issue. At the company level, future research could analyze how existing internal grievance mechanisms for, e.g., workplace conflicts, can be adapted and built upon to create comprehensive CGMs for human rights abuses. Moreover, it needs to be investigated how MNCs can implement CGM's within globalized supply chains as well as within complex parent-subsidiary constellations.

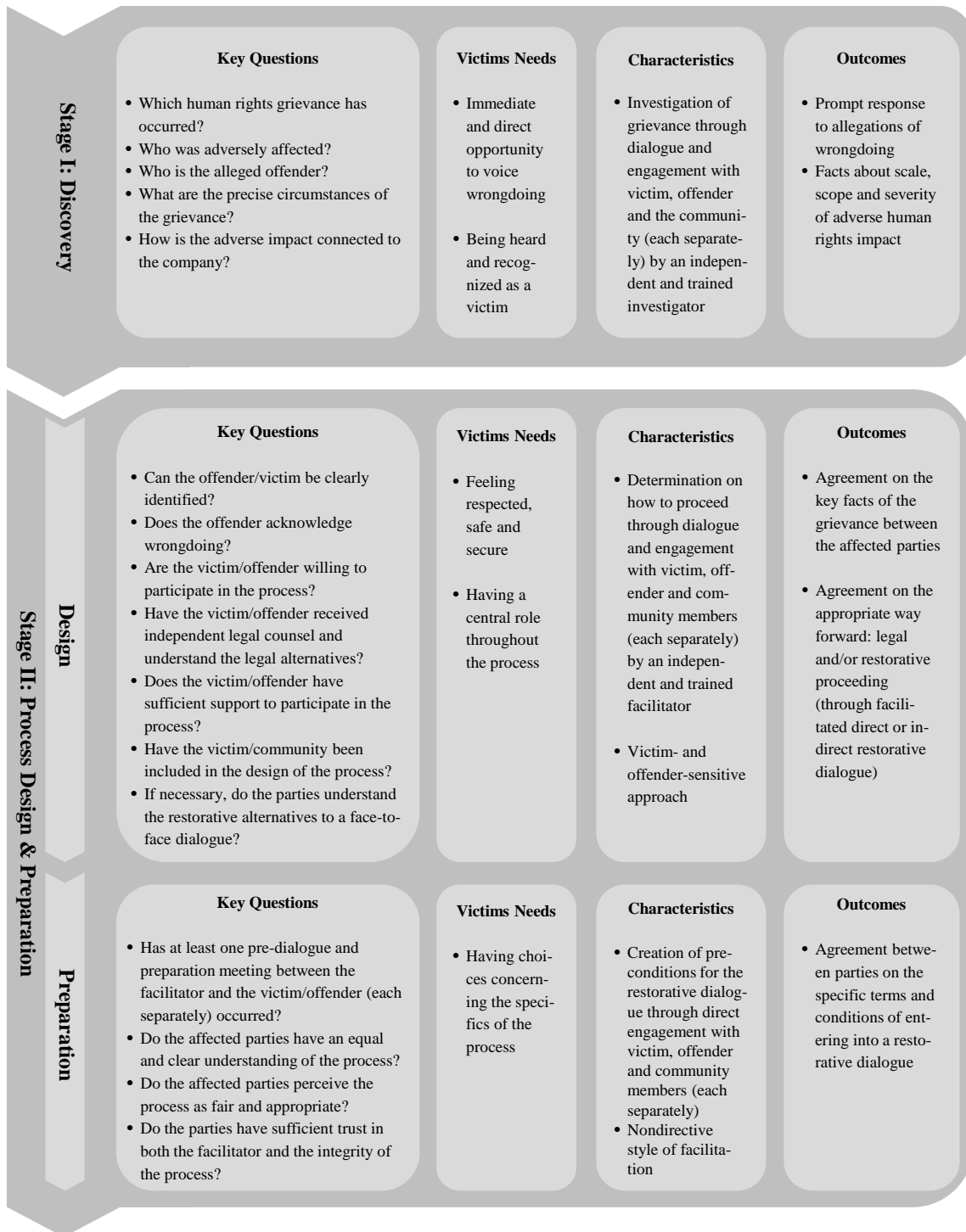
Second, more research is called for that explores specific measures and processes for companies to mitigate power imbalances. As suggested by Baumann-Pauly et al. (2017) in the context of international labor standards, one promising measure in this regard could be the industry-

specific standardization of restorative CGMs through multi-stakeholder initiatives. These initiatives could engage companies, NGOs and community representatives to establish minimum requirements and best practices for CGMs. Power imbalances could be mitigated by providing a joint infrastructure for CGMs that would guarantee independence from specific companies and enables high standards of transparency. In addition, the role of the Internet as well as information and communication technologies for reducing power imbalances needs to be better understood as digital communication technologies hold the promise to facilitate direct dialogues between affected stakeholders.

Third, future research could focus on the interplay between legal and restorative pathways to redress for corporate human rights violations. As suggested by Braithwaite (2002) and Bertels et al. (2014), restorative justice can be integrated into the conventional justice system by institutionalizing a “responsive” approach to regulation. Minor or isolated transgressions can be resolved through a restorative proceeding while systemic and severe misconduct is handled through the regular punitive legal system. However, it remains unclear how such an approach could be implemented at the international level. Therefore, future research should explore how states can support the implementation of restorative CGMs and should clarify the roles and responsibilities of private and public actors. Most importantly, more research is needed as to how private remedy mechanisms can strengthen rather than undermine already vulnerable legal institutions in weak states, where many of the most severe human rights violations occur.

Figures and Tables

Figure 1: Corporate remediation of human rights abuses through restorative justice: A framework



(continued)

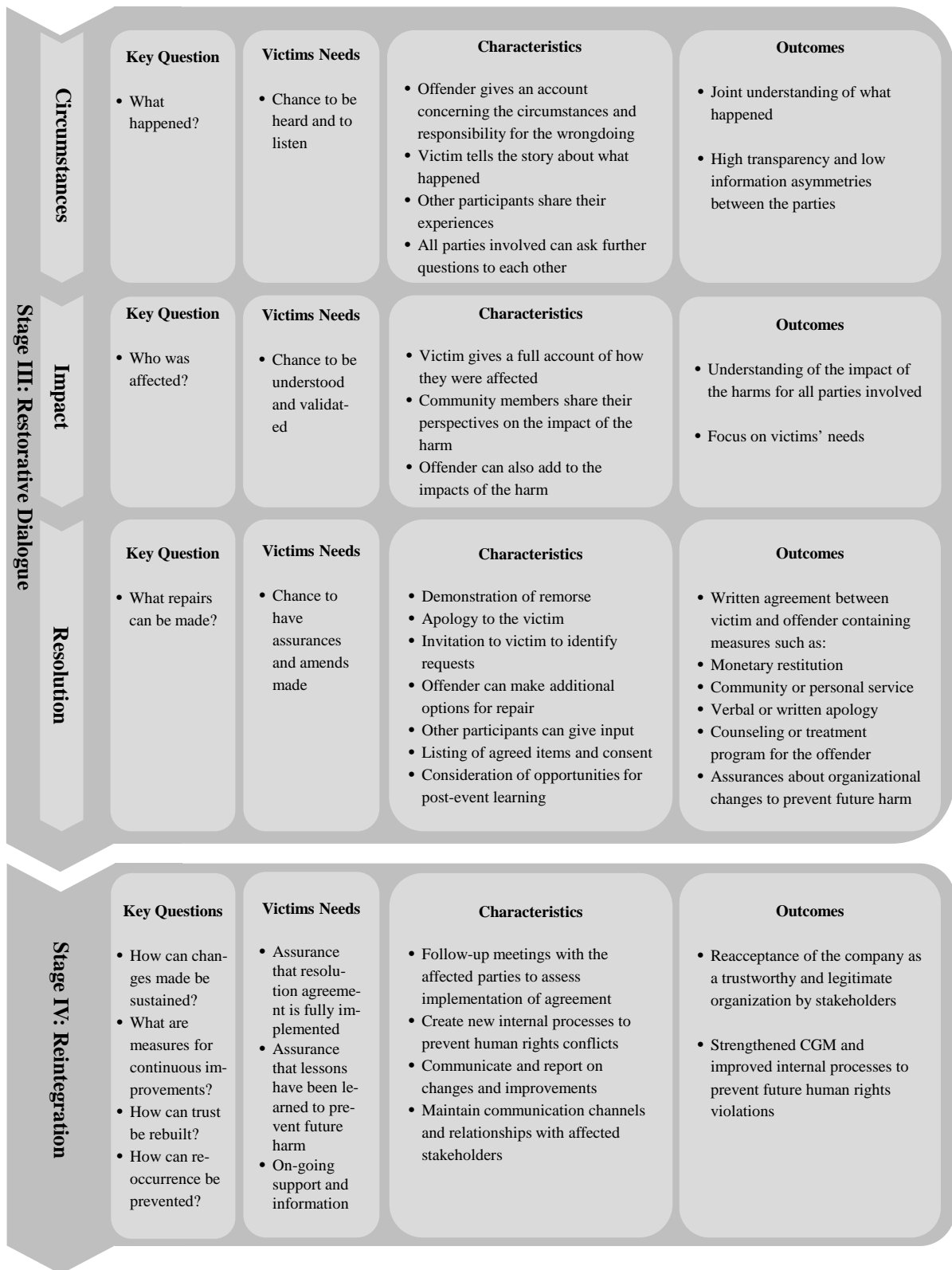


Table 1: Overview of case analysis: Scrutinizing Barrick Gold’s remediation mechanisms in Porgera and North Mara through the lens of restorative justice

Stage	Shortcomings of Barrick Gold’s remediation mechanisms	Essentials of a restorative corporate response by Barrick Gold
I: Discovery	<ul style="list-style-type: none"> • It took Barrick several years and external pressure to acknowledge and investigate severe physical and sexual abuse of women by security personnel at the Porgera and North Mara mines. • The scope of the harms addressed was limited: “only” sexual assaults at the Porgera mine as well as only directly affected grievants at the Mara mine. • Many victims were ignored because the grievance mechanism was not widely known. • Barrick consulted with independent experts before the mechanism started, but relied on local mine staff for its execution. • Barrick failed to communicate openly with the community leading to distrust and unsatisfying decisions for the victims. 	<ul style="list-style-type: none"> • Barrick should have responded in a more direct and substantial way to human rights abuses maintaining a sharp and persistent focus on victims’ needs. • Barrick could have appointed an independent and trained investigator, who started immediately investigating the underlying facts of the incidents by involving relevant parties (e.g., victims, community members, alleged offenders, NGOs). • Barrick could have directly started to promote various opportunities for victims and community members to address the grievance, by, e.g., visiting the villages and interviewing village people. • A transparent and context-sensitive communication about the remediation mechanism would have encouraged victims and community members to engage and speak out for measures needed.
II: Process design & preparation	<ul style="list-style-type: none"> • Barrick did not adequately engage and consult with victims, offenders and community members: victims were perceived as “passive recipients” and the remedy mechanism was designed and administered by local employees. Community members played only a peripheral role and offenders were not included in the process at all. • The resolution mechanism was limited in time and space and did not provide a sufficiently safe space for many victims. • Barrick delegitimized its remediation efforts through concealing legal avenues for remedy and requiring legal waivers in exchange for compensation packages (at the Porgera mine). 	<ul style="list-style-type: none"> • An independent facilitator should have been appointed to handle the delicate and complex processes of stages II and III through direct dialogue and engagement with the affected parties. • Victims should have been informed about all possible options for remediation, including legal and alternative avenues for redress. • Barrick should have engaged and consulted victims and communities more directly to determine what is needed to design a fair and needs-based remediation process. • Barrick should have tried to integrate the offenders (i.e., security personnel) into the process by inquiring about their willingness to participate and their acknowledgement of the wrongdoing. • Barrick should have engaged in further preparations for the restorative dialogue through several separate meetings with the affected parties.

<p>III: Restorative dialogue</p>	<ul style="list-style-type: none"> • Dialogues to determine the remedy were conducted in an agreement-driven and directive manner with a frequently tight schedule. • Barrick failed to disclose key aspects of the harmful event such as, e.g., medical records. • Decisions on the level of impact and remedy were based on internal investigations, evidence and documents, which were poorly aligned with the views of victims and other stakeholders. • At the Porgera mine, Barrick acknowledged the wrongdoing, but failed to provide an explicit and direct apology to the victims. • Barrick was not able to provide full and effective remedy as individual needs of the victims and communities were not sufficiently considered. • The financial restitution was perceived as unfair and insufficient by many victims. • Barrick ignored that many victims were unable to read and/or understand the remediation plan and thus were unable to validate and agree on the final plan. 	<ul style="list-style-type: none"> • Barrick should have followed a dialogue-driven and nondirective approach by taking the time and expense to conduct facilitated dialogues (direct or indirect) between victims and offenders to come to joint agreements on how to remediate the wrongdoing and on how to proceed in the future. • Involving neutral facilitators would have contributed to reducing the power imbalance and would have supported an equal exchange of information and needs. • Although providing an apology and showing remorse cannot be mandated, these elements would have enhanced the chance to come to a truly restorative outcome. • Restorative dialogue would have ensured that all parties involved understand each detail of remediation and provide their consent to each decision throughout the process. • Adequate financial and non-financial restitutions would have been part of an agreement reached between the affected parties at the end of a successful restorative dialogue.
<p>IV: Reintegration</p>	<ul style="list-style-type: none"> • Barrick could not restore its legitimacy with key local and international stakeholders. • Barrick left victims unsatisfied with the outcomes of the process. • Barrick failed to integrate key stakeholders to independently support and review reintegration. • Barrick did not engage in sufficient follow-up communication with stakeholders about adopted measures and subsequent developments, such as lawsuits or decisions concerning personnel. 	<ul style="list-style-type: none"> • Barrick should have found shared solutions with victims, offenders and community members that are based on the recognition of needs and mutual respect. • Barrick should have conducted follow-up meetings with the affected parties to jointly evaluate the steps taken to prevent future harm. • Barrick should have communicated openly with affected stakeholders about internal lessons learnt. • Barrick should have embedded its CGM in a broader local stakeholder engagement program to strengthen its relation to the local community in the long term.

Acknowledgements

We would like to thank the associate editor as well as two anonymous reviewers for their helpful comments and suggestions. In addition, we thank the participants of the Society for Business Ethics Annual Conference in Chicago where an earlier version of this paper was presented in 2018.

Compliance with Ethical Standards

Disclosure of potential conflicts of interest:

The authors declare that they have no conflict of interest.

Research involving Human Participants and/or Animals:

This article does not contain any studies with human participants or animals performed by any of the authors.

Informed consent:

Informed consent was obtained from all individual participants included in the study.

References

- Arnold, D. G. (2010). Transnational corporations and the duty to respect basic human rights. *Business Ethics Quarterly*, 20, 371–399. <https://doi.org/10.5840/beq201020327>.
- Balaton-Chrimes, S., & Haines, F. (2015). The depoliticisation of accountability processes for land-based grievances, and the IFC CAO. *Global Policy*, 6, 446–454. <https://doi.org/10.1111/1758-5899.12275>.
- Balaton-Chrimes, S., & Haines, F. (2017). Redress and corporate human rights harms: An analysis of new governance and the POSCO Odisha project. *Globalizations*, 14, 596–610. <https://doi.org/10.1080/14747731.2016.1223958>.
- Balaton-Chrimes, S., & MacDonald, K. (2016). Wilmar and Palm Oil Grievances: The Promise and Pitfalls of Problem Solving. Corporate Accountability Research. http://corporateaccountabilityresearch.net/s/NJM08_wilmar-tx4y.pdf. Accessed 22 March 2017.
- Baumann-Pauly, D., & Nolan, J. (Eds.). (2016). *Business and human rights: From principles to practice*. New York: Taylor and Francis.
- Baumann-Pauly, D., Nolan, J., van Heerden, A., & Samway, M. (2017). Industry-specific multi-stakeholder initiatives that govern corporate human rights standards: Legitimacy assessments of the Fair Labor Association and the Global Network Initiative. *Journal of Business Ethics*, 143, 771–787. <https://doi.org/10.1007/s10551-016-3076-z>.
- Berger, K. P. (2009). *Private dispute resolution in international business: Negotiation, mediation, arbitration* (2nd ed.). Alphen aan den Rijn: Kluwer Law International.
- Bertels, S., Cody, M., & Pek, S. (2014). A responsive approach to organizational misconduct: Rehabilitation, reintegration, and the reduction of reoffense. *Business Ethics Quarterly*, 24, 343–370. <https://doi.org/10.5840/beq20147212>.
- Braithwaite, J. (2002). *Restorative justice & responsive regulation*. Oxford, New York: Oxford University Press.
- Calderón-Meza, P. (2016). Arbitration for human rights: Seeking civil redress for corporate atrocity crimes. Harvard International Law Journal Online. http://www.harvardilj.org/wp-content/uploads/Calderon-Meza_0615.pdf. Accessed 26 February 2019.

- CAO. (2017). Purpose, design & implementation: The purpose and goals of this toolkit. Compliance Advisor Ombudsman. <https://www.cao-grm.org/purpose-design-and-implementation#section-4>. Accessed 11 February 2017.
- Centre for Justice & Reconciliation. (2017). Lesson 1: What is restorative justice: Amends. <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/amends/>. Accessed 31 January 2017.
- Cormier, R. B. (2002). Restorative justice: Directions and principles – Developments in Canada. Department of the Solicitor General Canada. <http://publications.gc.ca/collections/Collection/JS42-107-2002E.pdf>. Accessed 26 February 2019.
- Cragg, W. (2012). Ethics, enlightened self-interest, and the corporate responsibility to respect human rights: A critical look at the justificatory foundations of the UN framework. *Business Ethics Quarterly*, 22, 9–36. <https://doi.org/10.5840/beq20122213>.
- Cragg, W., Arnold, D. G., & Muchlinski, P. (2012). Guest editors' introduction: Human rights and business. *Business Ethics Quarterly*, 22, 1–7. <https://doi.org/10.5840/beq20122212>.
- Davis, R., & Franks, D. M. (2011). The costs of conflict with local communities in the extractive industry. https://commdev.org/userfiles/Davis%20&%20Franks_Costs%20of%20Conflict_SRM.pdf. Accessed 3 March 2019.
- Evan, B., & Sands, K. (2014). CARE processes and the pilot experience. http://www.macrmi.info/files/9314/0207/3052/Forum_2014_-CARE_Processes_and_the_Pilot_Experience.pdf. Accessed 26 May 2017.
- Fasterling, B., & Demuijnck, G. (2013). Human Rights in the Void?: Due diligence in the UN guiding principles on business and human rights. *Journal of Business Ethics*, 116, 799–814. <https://doi.org/10.1007/s10551-013-1822-z>.
- Gade, C. B.N. (2013). Restorative justice and the South African truth and reconciliation process. *South African Journal of Philosophy*, 32, 10–35. <https://doi.org/10.1080/02580136.2013.810412>.
- Gillespie, N., Dietz, G., & Lockey, S. (2014). Organizational reintegration and trust repair after an integrity violation: A case study. *Business Ethics Quarterly*, 24, 371–410. <https://doi.org/10.5840/beq2014437>.

- Goltsman, M., Hörner, J., Pavlov, G., & Squintani, F. (2009). Mediation, arbitration and negotiation. *Journal of Economic Theory*, *144*, 1397–1420.
<https://doi.org/10.1016/j.jet.2008.08.010>.
- Goodstein, J., & Aquino, K. (2010). And restorative justice for all: Redemption, forgiveness, and reintegration in organizations. *Journal of Organizational Behavior*, *31*, 624–628.
<https://doi.org/10.1002/job.632>.
- Goodstein, J., & Butterfield, K. D. (2010). Extending the horizon of business ethics: Restorative justice and the aftermath of unethical behavior. *Business Ethics Quarterly*, *20*, 453–480. <https://doi.org/10.5840/beq201020330>.
- Goodstein, J., Butterfield, K. D., Pfarrer, M. D., & Wicks, A. C. (2014). Individual and organizational reintegration after ethical or legal transgressions: Challenges and Opportunities. *Business Ethics Quarterly*, *24*, 315–342. <https://doi.org/10.5840/beq201471716>.
- Human Rights Clinics. (2015). Righting wrongs?: Barrick Gold’s remedy mechanism for sexual violence in Papua New Guinea: Key concerns and lessons learned. Columbia Law School Human Rights Clinic & Harvard Law School International Human Rights Clinic. <http://hrp.law.harvard.edu/wp-content/uploads/2015/11/FINALBARRICK.pdf>. Accessed 21 February 2018.
- Johnstone, G., & van Ness, D. W. (2011). The meaning of restorative justice. In G. Johnstone & D. W. van Ness (Eds.), *Handbook of restorative justice* (pp. 5–23). London, New York: Routledge.
- Kaner, S., Toldi, C., Berger, D., Lind, L., & Fisk, S. (2014). *Facilitator’s guide to participatory decision-making*. San Francisco, CA: Jossey-Bass a Wiley Brand.
- Keeton, R. B. (2015). Crime victims and offenders face to face: An overview of the Texas department of criminal justice victim offender mediation/dialogue program. *Resolved: Journal of Alternative Dispute Resolution*, *5*, 26.
- Kidder, D. L. (2007). Restorative justice: not “rights”, but the right way to heal relationships at work. *International Journal of Conflict Management*, *18*, 4–22.
<https://doi.org/10.1108/10444060710759291>.
- Knuckey, S., & Jenkin, E. (2015). Company-created remedy mechanisms for serious human rights abuses: a promising new frontier for the right to remedy? *The International Journal of Human Rights*, *19*, 801–827. <https://doi.org/10.1080/13642987.2015.1048645>.

- Kolstad, I. (2012). Human rights and positive corporate duties: The importance of corporate-state interaction. *Business Ethics: A European Review*, 21, 276–285. <https://doi.org/10.1111/j.1467-8608.2012.01654.x>.
- Lampe, M. (2001). Mediation as an ethical adjunct of stakeholder theory. *Journal of Business Ethics*, 31, 165–173. <https://doi.org/10.1023/A:1010749313936>.
- Larson Sawin, J., & Zehr, H. (2011). The ideas of engagement and empowerment. In G. Johnstone & D. W. van Ness (Eds.), *Handbook of restorative justice* (pp. 41–58). London, New York: Routledge.
- Llewellyn, J. J., & Howse, R. (1999). Institutions for restorative justice: The South African truth and reconciliation commission. *The University of Toronto Law Journal*, 49, 355. <https://doi.org/10.2307/826003>.
- MACRMI. (2013). Sample CARE procedure: Communication, apology and resolution (CARE) procedure for determination and use. Massachusetts Alliance for Communication and Resolution following Medical Injury. http://www.macrmi.info/files/4113/8359/5740/Sample_CARE_Procedure.pdf. Accessed 4 March 2019.
- Matten, D., & Moon, J. (2008). “Implicit” and “Explicit” CSR: A Conceptual Framework for a Comparative Understanding of Corporate Social Responsibility. *Academy of Management Review*, 33, 404–424. <https://doi.org/10.5465/amr.2008.31193458>.
- McPhail, K., & Ferguson, J. (2016). The past, the present and the future of accounting for human rights. *Accounting, Auditing & Accountability Journal*, 29, 526–541. <https://doi.org/10.1108/AAAJ-03-2016-2441>.
- Mena, S., Leede, M. de, Baumann, D., Black, N., Lindeman, S., & McShane, L. (2010). Advancing the business and human rights agenda: Dialogue, empowerment, and constructive engagement. *Journal of Business Ethics*, 93, 161–188. <https://doi.org/10.1007/s10551-009-0188-8>.
- Menkel-Meadow, C. (2007). Restorative justice: What is it and does it work? *Annual Review of Law and Social Science*, 3, 161–187.
- Michalowski, S. (Ed.). (2013). *Corporate accountability in the context of transitional justice*. Abingdon [etc.]: Routledge.
- MiningWatch Canada. (2018). Inequality of Arms: A summary of concerns raised by victims of violence by private and public mine security at Barrick Gold’s North Mara Gold Mine

- in Tanzania regarding the mine's new Operation-level Grievance Mechanism. <https://miningwatch.ca/publications/2018/9/4/inequality-arms-summary-concerns-raised-victims-violence-private-and-public>. Accessed 18 November 2018.
- Muchlinski, P. (2012). Implementing the new UN corporate human rights framework: Implications for corporate law, governance, and regulation. *Business Ethics Quarterly*, 22, 145–177. <https://doi.org/10.5840/beq20122218>.
- Murphy, M., & Vives, J. (2013). Perceptions of justice and the human rights protect, respect, and remedy framework. *Journal of Business Ethics*, 116(4), 781–797.
- Napley, K. (2014). A global trend towards mediation: views from lawyers in 13 countries. <http://www.lexology.com/library/detail.aspx?g=141327c6-452b-4f69-a6b1-a834c0453c90>. Accessed 14 March 2017.
- OECD Watch. (2015). Remedy remains rare: An analysis of 15 years of NCP cases and their contribution to improve access to remedy for victims of corporate misconduct. https://www.oecdwatch.org/publications-en/Publication_4201/@@download/fullfile/Remedy%20Remains%20Rare.pdf. Accessed 21 February 2018.
- OHCHR. (2018). Phase III: Enhancing the effectiveness of non-State-based grievance mechanisms: Scope and programme of work. Office of the UN High Commissioner for Human Rights. <https://www.ohchr.org/Documents/Issues/Business/ARP/ARPIII-PoW.pdf>. Accessed 3 March 2019.
- OHCHR. (2019). OHCHR Accountability and remedy project: improving accountability and access to remedy in cases of business involvement in human rights abuses. Office of the UN High Commissioner for Human Rights. <https://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx>. Accessed 26 February 2019.
- Pariotti, E. (2009). International soft law, human rights and non-state actors: Towards the accountability of transnational corporations? *Human Rights Review*, 10, 139–155. <https://doi.org/10.1007/s12142-008-0104-0>.
- Pfarrer, M. D., Decelles, K. A., Smith, K. G., & Taylor, M. S. (2008). After the fall: Reintegrating the corrupt organization. *Academy of Management Review*, 33, 730–749. <https://doi.org/10.5465/amr.2008.32465757>.

- Radzik, L. (2011). Offenders, the making of amends and the state. In G. Johnstone & D. W. van Ness (Eds.), *Handbook of restorative justice* (pp. 192–207). London, New York: Routledge.
- Raye, B. E., & Warner Roberts, A. (2011). Restorative processes. In G. Johnstone & D. W. van Ness (Eds.), *Handbook of restorative justice*. London, New York: Routledge.
- Rees, C. (2010). Mediation in business-related human rights disputes: Objections, opportunities and challenges: Working Paper No. 56. Corporate Social Responsibility Initiative John F. Kennedy School of Government Harvard University. <http://accessfacility.org/sites/default/files/Rees%20-%20Mediation%20in%20Business-Related%20Human%20Rights%20Disputes.pdf>. Accessed 26 February 2019.
- Rees, C., & Davis, R. (2016). Where we're at: Taking stock of progress on business and human rights. Shift. <http://www.shiftproject.org/resources/viewpoints/taking-stock-progress-guiding-principles/>. Accessed 14 January 2017.
- Roche, D. (2003). *Accountability in restorative justice* (Clarendon studies in criminology). Oxford: Oxford University Press.
- Roche, D. (2006). Dimensions of restorative justice. *Journal of Social Issues*, 62, 217–238. <https://doi.org/10.1111/j.1540-4560.2006.00448.x>.
- Ruggie, J. G. (2013). *Just business: Multinational corporations and human rights*. New York, N.Y.: W.W. Norton & Co.
- Schiff, M. (2011). Satisfying the needs and interests of stakeholders. In G. Johnstone & D. W. van Ness (Eds.), *Handbook of restorative justice* (pp. 228–246). London, New York: Routledge.
- Schrempf-Stirling, J., & Wettstein, F. (2017). Beyond guilty verdicts: Human rights litigation and its impact on corporations' human rights policies. *Journal of Business Ethics*, 145, 545–562. <https://doi.org/10.1007/s10551-015-2889-5>.
- Sherman, J. (2009). Embedding rights compatible grievance processes for external stakeholders within business culture: Report No. 36. Corporate Social Responsibility Initiative John F. Kennedy School of Government Harvard University. http://www.socialimpactassessment.com/documents/report_36_sherman_grievance.pdf. Accessed 26 February 2019.

- Skinner, G., McCorquodale, R., & Schutter, O. de. (2013). The third pillar: Access to judicial remedies for human rights violations by transnational business. http://corporatejustice.org/documents/publications/eccj/the_third_pillar_-_access_to_judicial_remedies_for_human_rights_violation.-1-2.pdf. Accessed 3 March 2019.
- The Risk Authority Stanford. (2015). The promise of risk management: The Risk Authority Stanford's duty to lead, vow to protect, and future to deliver. <http://2lqlcl3xk1mm2ddadq3qg9bx.wpengine.netdna-cdn.com/wp-content/uploads/TRA%E2%80%9393Promise-of-risk-management.pdf>. Accessed 26 February 2019.
- Thompson, B. (2017). Determining criteria to evaluate outcomes of businesses' provision of remedy: Applying a human rights-based approach. *Business and Human Rights Journal*, 2, 55–85. <https://doi.org/10.1017/bhj.2016.30>.
- Umbreit, M. S., & Lewis, T. (2015). Dialogue-driven victim offender mediation training manual: A composite collection of training resource materials. <https://nicic.gov/dialogue-driven-victim-offender-mediation-training-manual-composite-collection-training-resource>. Accessed 26 July 2018.
- UN Forum on Business and Human Rights. (2016). UNEP FI takeaways. <http://www.unepfi.org/wordpress/wp-content/uploads/2016/10/UNEP-FI-Takeaways-from-the-UN-Business-and-Human-Rights-Forum-2016.pdf>. Accessed 14 March 2017.
- UN Forum on Business and Human Rights. (2017). Realizing access to effective remedy. <http://www.ohchr.org/EN/Issues/Business/Forum/Pages/2017ForumBHR.aspx>. Accessed 21 February 2018.
- UN Guiding Principles Reporting Framework. (2018). Database & analysis of company reporting. <https://www.ungpreporting.org/database-analysis/>. Accessed 26 February 2018.
- United Nations. (2008a). Protect, respect and remedy: A framework for business and human rights: Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. A/HRC/8/5. <https://daccess-ods.un.org/TMP/9759994.14920807.html>. Accessed 26 February 2019.
- United Nations. (2008b). Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises: Addendum - Corporations and human rights: a survey of the scope and patterns of alleged

- corporate-related human rights abuse. A/HRC/8/5/Add.2. <https://daccess-ods.un.org/TMP/6660941.24317169.html>. Accessed 26 February 2019.
- United Nations. (2011). Guiding principles on business and human rights: Implementing the United Nations “Protect, Respect and Remedy” framework. HR/PUB/11/04. https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf. Accessed 26 February 2019.
- United Nations. (2012). The corporate responsibility to respect human rights: An interpretive guide. HR/PUB/12/02. https://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf. Accessed 26 February 2019.
- van Ness, D. W., & Strong, K. H. (2014). *Restoring justice: An introduction to restorative justice* (5th ed.). Waltham, MA: Anderson Publishing.
- Weitekamp, E., Parmentier, S., Vanspauwen, K., Valiñas, M., & Gerits, R. (2006). How to deal with mass victimization and gross human rights violations. A restorative justice approach. *NATO Security through Science Series – E: Human and Societal Dynamics*, 13.
- Wettstein, F. (2012). Silence as complicity: Elements of a corporate duty to speak out against the violation of human rights. *Business Ethics Quarterly*, 22, 37–61. <https://doi.org/10.5840/beq20122214>.
- Wettstein, F. (2015). Normativity, ethics, and the UN guiding principles on business and human rights: A Critical Assessment. *Journal of Human Rights*, 14, 162–182. <https://doi.org/10.1080/14754835.2015.1005733>.
- Wilson, E., & Blackmore, E. (2013). Dispute or dialogue?: Community perspectives on company-led grievance mechanisms. International Institute for Environment and Development (UK). <http://pubs.iied.org/pdfs/16529IIED.pdf>. Accessed 26 February 2019.
- Zagelmeyer, S., Bianchi, L., & Shemberg, A. R. (2018). Non-state based non-judicial grievance mechanisms (NSBGM): An exploratory analysis. <https://www.ohchr.org/Documents/Issues/Business/ARP/ManchesterStudy.pdf>. Accessed 3 March 2019.
- Zehr, H. (1990). *Changing lenses: A new focus for crime and justice*. Scottsdale, PA: Herald Press.
- Zehr, H. (2002). *The little book of restorative justice*. Intercourse, PA: Good Books.