

Corporate Accountability for Human Rights: Evaluating Professional Accounting Bodies' Codes of Ethics in the Context of the United Nations 'Ruggie' Reports

Abstract

A series of recent reports (the 'Ruggie' Reports¹) presented to the United Nations Human Rights Council address the problematic issue of human rights observance by transnational corporations and other business enterprises.² The reports emphasize that in order to mitigate the 'social harms caused by markets',³ in particular 'corporate-related human rights abuses' deemed to result largely from increasing globalization, '[governments] need to be joined by *other social actors* and to utilize *other social institutions* to achieve this goal ... within their "*sphere of influence*"' (emphasis added)⁴. It has been inferred in this paper that the scope of the reports' term 'other social actors' can be implied to encompass the professional accounting bodies.

While traditional accounting epistemologies assert claims as to the discipline's moral and value neutrality, recent literature, drawing on the work of critical theorists including Jurgen Habermas, undermines such claims, posing instead that accounting acts both to reflect and shape the commercial milieu within which it operates, and is thereby a significant player in constructing the economic, political and cultural values of its wider social environment⁵. This places significant responsibility upon the accounting profession to ensure its hegemony is exercised within its 'sphere of influence' toward the attainment of a societally-accepted construct of ethical conduct applied in the public benefit, so as to ensure the maintenance of its social legitimacy.

This paper analyses the published texts of the major national and international professional accounting bodies' codes of ethics (or equivalents), and evaluates their interpretation of the concepts '*ethical conduct*' and '*public benefit*' in terms of their potential for effecting positive corporate human rights observance within their 'sphere of influence'. It concludes that these documents in their present form substantively fail in this objective, and should be redrawn so as to incorporate within their scope an obligation for professional accountants to adhere to and promote in their practice improved corporate human rights observance.

¹ John G. Ruggie, Special Representative of the UN Secretary-General for Business and Human Rights: Interim Report of the Special Representative to the Secretary General, 22 February 2006; 'Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts', 28 March 2007; 'Protect, Respect and Remedy: A Framework for Business and Human Rights', 7 April 2008.

² Ruggie (2007), Introduction, 3

³ Ibid, section 1.

⁴ Ibid section 4.

⁵ For example, Sudhir C. Lodh and Michael J. R. Gaffikin, 'Critical Studies in Accounting Research, Rationality and Habermas: A Methodological Reflection', in *Critical Perspectives on Accounting*, 8, 5, October 1997, 433-472.

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Introduction

The Universal Declaration of Human Rights (UDHR) was adopted by the General Assembly of the United Nations (UN) on 10 December 1948, with New Zealand and Australia among the 48 initial signatory nations and therefore party to its objectives and aspirations. The concept of specific and enforceable international human rights was established in the United Nations Charter, which is binding on all member states,⁶ and reinforced in subsequent decades in a range of international treaties, covenants and conventions. In 2000, the United Nations Global Compact (GC) was established with the aim of aligning corporate values with the GC’s policies of social and environmental responsibility, including its human rights principles.⁷

A series of recent reports commissioned by the United Nations Human Rights Council (the ‘Ruggie’ Reports, 2006, 2007, 2008)⁸, address the problematic issue of human rights observance by transnational corporations and other business enterprises.⁹ The first¹⁰ scoped the nature and extent of the problem, and established the reports’ terms of reference and methodologies. In March 2007 the second was presented to the Council’s General Assembly on the subject ‘Business and Human Rights’¹¹. A supplementary report in the following year¹² focused further on the establishment of an international policy framework for the achievement of such human rights goals.

The reports express concern as to the extent of ‘*social harms caused by markets*’¹³, in particular the ‘*costs [imposed] on people and communities – including corporate-related human rights abuses*’ resulting largely from increasing globalization. They assert inter alia that a framework of enforceable legal rules in a regulated society is an essential precondition for the efficient and sustainable operation of the market, both in a national and international context, and, further, that these rules include as an essential component those pertaining to global human rights observance.

⁶ Universal Declaration of Human Rights (UDHR); United Nations Charter.

⁷ UN Global Compact website.

⁸ John G. Ruggie, Special Representative of the UN Secretary-General for Business and Human Rights: Interim Report of the Special Representative to the Secretary General, 22 February 2006; ‘Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts’, 28 March 2007; ‘Protect, Respect and Remedy: A Framework for Business and Human Rights’, 7 April 2008.

⁹ Ruggie (2007), Introduction, p3.

¹⁰ Ruggie (2006).

¹¹ Ruggie (2007).

¹² Ruggie (2008).

¹³ Ruggie (2007), section 1.

The Reports emphasize that '[governments] *need to be joined by other social actors and to utilize other social institutions to achieve this goal ... within their "sphere of influence."*'¹⁴ (emphasis added).

Professional accounting bodies, as such important and influential 'social actors' within the milieu of business and commercial activity both nationally and internationally, exert significant authority over an extensive 'sphere of influence'.¹⁵ All overtly exhort their members to uphold a high level of ethical conduct in their practice and mandate a requirement to '*serve the public interest*', as proclaimed in their various published documents including codes of ethics and rules of professional conduct.¹⁶

An analysis of the text of these publicly available documents, however, reveals that there exists in their scope significant lacunae as to the responsibilities of the accounting profession regarding its wider obligations towards the wellbeing of the society within which it operates, particularly as to its relationship of influence over the ethical conduct of major corporate clients. Within these documents the term '*public interest*' commonly limits members' responsibility only to specific stakeholder blocs within a narrow aegis of commercial interests, so as to exclude any obligation of accountability towards wider societal classes. The documents also very narrowly define the concept '*ethical conduct*', remaining entirely silent regarding members' responsibilities towards promoting observance of human rights or other issues of public good, such as sustainability of the natural environment. Some accounting bodies, at most, impose upon their members only a minimal obligation to comply with '*relevant laws and regulations and avoid any action that may bring discredit to the profession*'.¹⁷

Traditional accounting epistemology consistently asserts claims as to the discipline's moral and value neutrality, averring its praxis to epitomise qualities of objectivity, freedom from bias, 'representational faithfulness', apoliticism, ahistoricism, and independence from the partialities of its wider social context.¹⁸ Recent literature,

¹⁴ Ibid, section 4.

¹⁵ Ibid px.

¹⁶ These include IFAC, NZICA, CPA, ICAA, ACCA, NIA, GAA, AICPA, ACAUS, CICA, SAICA, ICAS, ICAEW. The scope of this paper was 'eurocentric' in its analysis, and did not extend to a review of the equivalent documents of the accounting bodies of nations beyond this range, which may have revealed differences in perspective on the key issues that are the subject of this paper.

¹⁷ The particular behaviours included among those deemed to 'bring discredit to the profession' are similarly not specified, but outlined as including 'actions which a reasonable and informed third party, having knowledge of all relevant information, would conclude negatively affects the good reputation of the profession': IFAC Code of Ethics for Professional Accountants, Section 150.

¹⁸ For a critique of positivist accounting ontology, see, for example, Chua, W.F. (1986) 'Radical Developments in accounting thought', *The Accounting Review*, 61 (4), pp 601-32. For a general history and outline of a range of current influential accounting

however, drawing on the work of critical theorists including Jurgen Habermas, undermines such claims for the social, cultural and political neutrality of professions including accounting, positing instead an emphasis on the indissoluble linkages between organized social practices and the ethical conduct of the particular societal, cultural, economic and political structures within which they operate.¹⁹

The conclusion of this paper is that in their present form, the codes of ethics (and similar documents mandating ethical conduct for members) of the national and international professional accounting bodies are inadequate in that they fail to meet the expectations of 'social actors' established in the 'Ruggie Reports' in their required role of influencing the behaviours of corporations and other organizations towards positive achievement of the UN's human rights objectives. Further, it is considered that these bodies should substantively redraw the parameters of their codes of ethics, in line with the more socially and environmentally prescriptive principles espoused in equivalent publications of some other professions, so that they sponsor a more proactive role in achieving the global standards of corporate human rights observance that are advocated by the UN, including a commitment to observance of the rights of indigenous peoples.

The methodology utilized in this paper is that of discourse analysis, whereby the published texts of the codes of ethics or equivalent documents of thirteen major national and international accounting bodies have been critically analysed and evaluated in terms of their relevance to meeting the requirements for global human rights observance in terms of the United Nations 'Ruggie Reports'. The paper is informed by a normative theoretical stance.

Global Business and the Human Rights Problem: The UN 'Ruggie Reports'

Since the affirmation in 1948 of the United Nations Universal Declaration of Human Rights (UDHR) and the subsequent adoption of an array of other international treaties and conventions focused on issues of human rights and sustainability of the natural environment, there has been a growing acceptance among nations and civil society groups of a range of legally enforceable standards for individual accountability in regard to these globally important ethical issues. Over recent decades this development has extended further into expectations of higher standards of ethical conduct in regard to corporate responsibility and greater business accountability in relation to national and international crimes and civil violations,²⁰ including those of complicity²¹.

theoretical models, see also Michael Gaffikin (2008), *Accounting Theory: Research, regulation and Accounting Practice*, NSW: Pearson Education Australia.

¹⁹ For example, Sudhir C. Lodh and Michael J.R. Gaffikin, 'Critical Studies in Accounting, Research, Rationality and Habermas: A Methodological Reflection', in *Critical Perspectives on Accounting*, 8, 5, October 1997, 433-472; Ruth Hines, 'Financial Accounting: In Communicating Reality, We Construct Reality', in *Accounting, Organizations and Society*, 13, 1988.

²⁰ Ruggie (2007), section 33.

In response to increasing public concern regarding the extent of human rights abuses by business entities, and to new complexities confronting states in regard to their 'duty to protect',²² resulting largely from a substantial increase of globalized business operations, the UN Human Rights Council commissioned a series of reports to assess the scope of the problem and to propose potential solutions. The reports²³, authored by Professor John Ruggie of Harvard University in his role as Special Representative of the Secretary-General, address the issue of 'human rights and transnational corporations and other business enterprises'.²⁴

The reports *inter alia* assert that a framework of enforceable legal rules in a regulated society is an essential precondition for the efficient and sustainable operation of the market, both in a national and international context, and, further, that these rules include as an essential component those pertaining to observance of human rights²⁵. Whilst acknowledging that in order to achieve such conditions globally key roles must be played by state governments representing the public interest, the reports emphasized that '[governments] need to be joined by *other social actors* and to utilize *other social institutions* to achieve this goal,'²⁶ (emphasis added).

An interim report, which scopes the nature of the problem and outlines the methodologies that would be used to further research the issue was presented to the UN Secretary General on 22 February 2006.²⁷ On 28 March 2007 a report²⁸ entitled 'Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts' was submitted to the UNHRC after extensive consultation with governments, NGOs, corporations, human rights groups and other interested organizations. The general scope of the report is to '*provide a comprehensive mapping of current international standards and practices regarding business and human rights ... of evolving standards, practices, gaps and trends*'.²⁹

A further report, presented to the UNHRC on 7 April 2008, entitled 'Protect, Respect and Remedy: a Framework for Business and Human Rights'³⁰ (Ruggie 2008), addresses the issue of establishing a conceptual and policy framework providing guidance to the 'relevant actors' engaged in addressing the issue of improving corporate observance of human rights globally. Included among the report's core principles is the edict of

²¹ As defined in Ruggie (2008), sections 73-81.

²² Ruggie (2007), section 10.

²³ Ruggie (2006, (2007), and (2008).

²⁴ Ruggie (2007), Introduction, 3.

²⁵ *Ibid.*

²⁶ *Ibid.*, section 4.

²⁷ Ruggie (2006), 'Interim Report of the Special Representative to the Secretary General', 22 February 2006.

²⁸ Ruggie (2007).

²⁹ *Ibid.*, Introduction, 3.

³⁰ Ruggie (2008).

fundamental corporate responsibility to *'respect human rights ... because it is the basic expectation society has of business'*.³¹ The report attributes *'governance gaps created by globalization, because they permit corporate-related human rights harm to occur ...'*,³² as being a critical contributory factor to the incidence of human rights abuses.

The reports emphasize the view that a framework of enforceable legal rules in a regulated society is an essential precondition for the efficient and sustainable operation of the globalized market (*'sustainable globalization'*), an ordering which the reports assume to be a positive contributor 'overall' in the public good. They assert that the institutional parameters generally assumed essential for the operation of a successful market include: *'the protection of property rights, the enforceability of contracts, competition, and the smooth flow of information'*. However, the reports stress the necessity of *'curtailing individual and social harms imposed by markets'* in part because this will lead to inefficiencies in the market, which may become *'socially unsustainable'* in the long-term³³.

In his 2007 report, Ruggie evaluates, inter alia, the *'standards and practices governing corporate "responsibility" (the legal, social, or moral obligations imposed on companies) and "accountability" (the mechanisms holding them to these obligations).'* He considers the effectiveness of existing structures for constraining business behaviour, from *'the most deeply rooted international legal obligations [to] voluntary business standards'*. The particular areas under examination include inter alia, *'corporate responsibility and accountability for international crimes'*, and *'corporate responsibility for other human rights violations under international law'*.³⁴ The analysis includes within its scope small, locally operated, and state-owned companies, as well as major transnational corporations and private enterprises.³⁵

A significant general observation is made that, regardless of the nature of particular business entities, their governance and ownership structures, or the geographical location of their operations, there is a

*fundamental institutional misalignment ... present: between the scope and impact of economic forces and actors, on the one hand, and the capacity of societies to manage their adverse consequences on the other. This misalignment creates the permissive environment within which blameworthy acts by corporations may occur without adequate sanctioning or reparation. For the sake of the victims of abuse, and to sustain globalization as a positive force, this must be fixed.*³⁶

³¹ Ibid, section 9.

³² Ibid, section 11.

³³ Ruggie (2007), Introduction, 3.

³⁴ Ibid, p4.

³⁵ Ibid, section 3.

³⁶ Ibid, section 3.

Whilst espousing the general view that globalization and the development of transnational corporations have produced in some areas considerable economic benefits and ‘*contributed to impressive poverty reduction in major emerging market countries and overall welfare in the industrialized world*’, Ruggie observes that such economic activity also ‘*imposes costs on people and communities – including corporate-related human rights abuses ...*’³⁷ In order to counteract such abuse (which form a threat to the sustainability of the global market) ‘*governments representing the public interest must play key roles, [but] they need to be joined by other social actors and to utilize other social institutions to achieve this goal, including market mechanisms themselves*’.³⁸

Ruggie asserts, in a consideration of the nature and extent of corporate accountability for their human rights practices, and of a general duty to comply with the UN’s directives in this regard, that ‘*the baseline responsibility of companies is to respect human rights ... [i]n addition to compliance with national laws*’.³⁹ Further, ‘*the broader scope of the responsibility to respect is defined by social expectations – as part of ... a company’s social licence to operate ... [and] exists independently of States’ duties*’.⁴⁰

In considering the political, social and cultural complexities confronting policies to regulate corporate human right observance in a transnational context, Ruggie outlines the concept of corporate responsibility within its ‘*sphere of influence*’, and identifies how this (corporate) ‘sphere’ is understood ‘*vis a vis those of governments*’, so as to identify ‘*the boundaries of their respective responsibilities*’.⁴¹ In an assessment of the range of potential initiatives available to coerce corporate behaviour towards compliance with established human rights policies, the report acknowledges the existing structures of national and international ‘*hard law*’ (legislature and the judiciary), but goes further to consider the nature and effectiveness of ‘*soft laws*’ (a range of social ‘powers’ and ‘imperatives’ which are potentially coercive but lack legal force). Soft law mechanisms have been based ‘*on the notion of “shared responsibility” for “global structural inequalities” that cannot be resolved by individual liability regimes alone*’ and include corporate self-regulation among its spectrum of potential initiatives.⁴² The reports consider the range of ‘*standards and practices governing corporate “responsibility” (the legal, social or moral obligations imposed on companies)*’, which form a ‘*continuum*’ along the range from compulsion to voluntarism, extending from ‘*the most deeply rooted international legal obligations [to] voluntary business standards*’.⁴³

The accounting bodies’ professional status: a duty to serve the ‘public interest’

³⁷ Ibid, section 2.

³⁸ Ibid, section 4.

³⁹ Ibid, 2007, 55.

⁴⁰ Ruggie (2008), section 54.

⁴¹ Ruggie (2007), section 87.

⁴² Ibid.

⁴³ Ibid, section 6.

The claim to professional status asserted by accounting bodies internationally has an extensive and significant history, linked to the ongoing development of economic and commercial systems over more than half a millennium. As such it is indissolubly linked to its societal context, which forms the source of its authority and legal powers. The etymology of the concept “*profession*” reveals its medieval origins in commitment and service to a religious body, and its evolution into its present sense of ‘*a body of persons engaged in [a] vocation*’, or a ‘*calling ... that involves some branch of learning*’ (The Concise Oxford English Dictionary). Gaffikin (2008) reflects that a ‘*profession [such as that of accounting] is defined in terms of its **public service***’ (emphasis added).⁴⁴

In the analysis of critical accounting theory the history of the professionalization of accounting identifies its ontological status as being socially constructed, indivisible from its context within the history of wider political, economic, institutional, legal, cultural, and other social developments.⁴⁵ The accounting profession is historically, socially and culturally located, both reflecting and supporting dominant economic ideologies and hegemonies.⁴⁶

In the epistemology of traditional accounting, however, its political and social context remains entirely unacknowledged, whilst consistent claims are asserted for the case that the discipline’s praxis reflects value neutrality (‘*objectivity*’ and ‘*representational faithfulness*’). These claims are explicitly or by inference embodied in the concepts manifested within the International Accounting Standards Board *Framework for the Preparation and Presentation of Financial Statements*, and in the various national equivalent versions of this document. Instead, as Gaffikin (2008) observes, the discipline of accounting

*‘[a]s it is concerned with human activity ... [can] never be a completely objective, value-free body ...: Accountants must not hide behind the misguided mantle of merely being there as neutral representors of economic reality. Such economic “reality” has been created by many societal and political forces ... accounting ... affects society through its processes and the enabling of the technologies of economic control ... by its very nature and appearance, accounting imparts power to those with the knowledge and skill to employ it...: Accounting influences decisions made in a great many areas [including those on broader social policy decisions]’.*⁴⁷

⁴⁴ Gaffikin (2008), Preface, xi.

⁴⁵ See, for example, Lodh and Gaffikin (1997), ‘Critical Studies in Accounting Research, Rationality and Habermas: A Methodological Reflection’, in *Critical Perspectives on Accounting*, 8, 5, October 1997, 433-472.

⁴⁶ Gaffikin (2008), 26.

⁴⁷ Gaffikin (2008) 21; Preface, xi.

The professional status of such bodies as accounting institutions accords them significant and extensive powers of control and direction over their members, supported by legal⁴⁸ (and by inference political) as well as social authority. This provides such bodies with a prodigious tool carrying the potential to be utilized in shaping the nature, control and direction of business activities,. In order to retain their social legitimacy, the accounting bodies must themselves demonstrate their accountability to society: *'accountants must use their power judiciously...'* and further, *'accountants must take a broader perspective of their profession to advance it beyond simply reflecting economic considerations ...'*⁴⁹

It could be considered that accountants, due to their pervasive, legally-mandated and highly influential role within almost all of society's institutions at all levels, have a greater obligation to demonstrate essential qualities of professionalism than other such groups. The New Zealand Institute of Chartered Accountants (NZICA) itself asserts publicly that its members *'are recognized as trusted expert business professionals, probably more so than any other professional group. Ask someone what sets an **Institute** member apart from other "professional" groups that provide services to business and the community, and the responses you will get will likely include competence, integrity, objectivity, quality and professionalism. ... it is a positive "point of difference" in a competitive marketplace'* (original emphasis).⁵⁰

An appropriate medium through which the professional accounting bodies could effect an enhanced appreciation of the nature of human rights and the necessity for their extended observation globally is by means of a substantive revision or extension to the existing requirements of their Codes of Ethics, the observation of which is mandatory for members. The highly influential promulgations of the International Federation of Accountants (IFAC) include an assertion that: *'[a] distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore a professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. In acting in the public interest, a professional accountant shall observe and comply with the ethical requirements of this Code'*.⁵¹

Prescribing accountants' social responsibilities: the Codes of Ethics of the professional accounting bodies

It can be implied, given the scale and nature of their relationship with, and extent of their potential influence over, corporate behaviour, that the inclusion of the professional accounting organizations falls within the compass of the Ruggie reports' terms *'other social actors'*, *'other social institutions'*, or *'other social players'*. From this it could be further inferred that the reports place expectations on such organizational players as the

⁴⁸ For example, legislative force is accorded to the formal promulgations of the New Zealand Institute of Chartered Accountants in regard to its members pursuant to section 7 of the Institute of Chartered Accountants of New Zealand Act 1996.

⁴⁹ Gaffikin (2008), xi.

⁵⁰ NZICA, Code of Conduct, sections 2, 3.

⁵¹ IFAC Code of Ethics for Professional Accountants, Preface, s100.

national and international accounting bodies to undertake an increasingly proactive role in promoting the UN's agenda of human rights observance locally and globally, in particular through the medium of their members' influence over client corporations and other entities. This acknowledges the significant agency powers that the accounting bodies possess, through the aegis of their regulatory and professional status as well as their social authority, in influencing corporate behaviour by mandating minimum standards of ethical conduct for their membership through obligatory compliance with their codes of ethics, (or equivalent documents establishing minimum standards for members' professional conduct) .

Accounting bodies, wielding the forces of law and of social approbation, enable, control and endorse the activities of its members through a range of mechanisms, including the application of technical and other standards, but also through their codes of ethics (which assume the role of guiding rules of professional conduct). Given their mandatory status for members, it could be expected that these codes would encompass the ideals of the profession, as reflected the ethical values and social morality that the professional bodies assert to the public they serve. In the current climate of social concerns, these expectations would include a concern with important national and global anxieties in regard to human rights as well as a consideration of issues regarding the physical environment and sustainability.

However, an analysis of the publicly-available codes of ethics of all the major (European-oriented⁵²) accounting bodies internationally reveals a significant lacuna in the doctrines encompassed within the codes, in that they are entirely silent as to human rights issues, including members' obligations and responsibilities in regard to promoting human rights observance by their client entities. In every case the codes evidence within their texts only a very narrowly-defined interpretation of ethical concepts, and specify only a very limited group of stakeholders towards whom responsibility and accountability are requisite.

A common feature of the public assertions of professional accounting bodies internationally is the uniformity in their proclamations as to their adherence to and promotion of high ethical status, evidencing this with a codified set of ethical requirements to which adherence is mandatory for their membership, and which are publicly available (now in electronic form) as an integral part of their promotional literature.⁵³ All provide details of disciplinary procedures which may be invoked for breaches of the conduct standards specified in the codes. Whilst most of the national accounting bodies have aligned the content of their own codes of conduct (or equivalent documents) with that promulgated in the IFAC Code, there are a number of subtle but significant variations in sections of some documents that have altered the scope and extent of the responsibilities of members.

⁵² Refer to the IFAC website, listing member and affiliated accounting bodies.

⁵³ See for example the websites of ACCA, NZICA, CPA, et al.

An analysis of the Codes of Ethics of all the major accounting bodies internationally, including that of IFAC, reveals, however, that, none includes within its description of specifications for compliance with the requirements for ethical conduct of its members *any* reference whatsoever to human rights obligations (nor towards other matters of international ethical concerns such as environmental issues). In addition, none refers to any matter of ethical obligation to society *in general* in its list of relevant stakeholder groups. These lacunae evident in the codes of ethics of accounting bodies are in marked contrast to those of a number of other professional bodies, including, for example, those of New Zealand engineering and architecture, which are in general much more extensive in their requirements of their members regarding these considerations, and in some cases, particularly broad-ranging in their scope.⁵⁴

IFAC's Code of Ethics for Professional Accountants

The International Federation of Accountants (IFAC) asserts itself to be ‘the global organization for the accountancy profession ... [that] works with its 157 members and associates in 122 countries and jurisdictions to protect the public interest by encouraging high quality practices by the world’s accountants. ... IFAC members and associates ... represent 2.5 million accountants’. Its stated mission, as outlined in its constitution, is to foster ‘the worldwide development and enhancement of an accountancy profession with harmonized standards, able to provide services of consistently high quality in the public interest’. All the professional accounting bodies in this study acknowledged the authority of IFAC upon the principles encompassed within the contents of their own codes of ethics or equivalent documents.

IFAC’s stated ‘mission and strategy’ is to ‘serve the public interest’ by means of continuing to ‘strengthen the worldwide accountancy profession and contribute to the development of strong international economies by establishing and promoting adherence to high-quality professional standards, furthering the international convergence of such standards and speaking out on public issues where the profession’s expertise is most relevant’. One of its key commitments is ‘protecting the public interest’ by means, among others, of ‘promoting strong ethical values’. In accordance with these aims, IFAC’s independent standard-setting boards, among other roles, produces a range of promulgations for application by accounting bodies worldwide, including those on ethical issues, and includes the function of developing ‘international standards on ethics’.

IFAC’s Public Interest Oversight Board (PIOB) was formally established in February 2005, with the aspiration ‘to ensure that international auditing and assurance, ethics and education standards for the accountancy profession are set in a transparent manner that reflects the public interest’. A responsibility of the PIOB (among others) is the oversight of the International Ethics Standards Board for Accountants (IESBA).

⁵⁴ For example, the Code of Ethics of the Institution of Professional Engineers New Zealand (IPENZ).

The IFAC Ethics Committee, established under the aegis of the IFAC Board, produced its revised *Code of Ethics for Professional Accountants* in 2005, and the New Zealand Institute of Chartered Accountants (NZICA) as a foundation member of IFAC, has complied with its obligation to harmonise its own code with that of the international body. The IFAC Code of Ethics for Professional Accountants was developed by the International Ethics Standards Board for Accountants (IESBA) and effective from July 2006 under the aegis of IFAC, and published in the Handbook of International Auditing, Assurance and Ethics pronouncements. In July 2008, IESBA issued an exposure draft with proposed revisions for the Code, which are currently under consideration.

The proposed revision of the IFAC Code, which is substantively similar in general to the existing version, except in specific areas, ‘establishes ethical requirements for professional accountants’. It mandates that any ‘member body ... shall not apply less stringent standards than those stated in this Code’, unless ‘prohibited from complying from certain parts ... by law or regulation’ [IFAC Code Preface p131]. The ‘Introduction and Fundamental Principles’ of the Code asserts [Section 100.1] that ‘*[a] distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore a professional accountant’s responsibility is not exclusively to satisfy the needs of an individual client or employer.* In acting in the public interest, a professional accountant shall observe and comply with the ethical requirements of this Code.’

The code establishes a number of ‘Fundamental Principles’, comprising ‘Integrity, Objectivity, Professional Competence and Due Care, Confidentiality, and Professional Behaviour’. The quality of ‘Integrity’ (section 110) requires inter alia that a professional accountant ‘*shall be straightforward and honest in professional and business relationships. Integrity also implies fair dealing and truthfulness*’; whereas ‘Professional Behaviour’ (section 150) requires the accountant to ‘*comply with relevant laws and regulations and avoid any action that the professional accountant knows or should know may discredit the profession. This includes actions that ... would be likely to [affect] the good reputation of the profession in a negative manner*’.

While the IFAC Code does not separately define the scope of its term ‘public interest’, its meaning is alluded to in section 100.1, in its assertion regarding the accountant’s responsibility towards consideration of the ‘public interest’, that it ‘*is not exclusively to satisfy the needs of an individual client or employer*’. However, the scope of this proviso is not further elaborated.

NZICA’s Code of Ethics

The currently applicable Code of Ethics of the New Zealand Institute of Chartered Accountants, which was effective from 1 July 2003 (with amendments effective from October 2006 in accordance with revisions to the IFAC Code), is prescribed by the Institute’s Council as being binding on all its members. The Code has legislative force pursuant to section 7 of the Institute of Chartered Accountants of New Zealand Act 1996,

and contains within its parameters specifications for the enforcement of its observation, and disciplinary procedures for non-compliance.

The New Zealand code confirms that it is based closely upon the promulgations of the *Code of Ethics for Professional Accountants* promulgated by the International Federation of Accountants (the IFAC Code), and is comparable also with the Australian CPA Code of Professional Conduct (CPC), so that *'[t]he fundamental principles in all three codes are identical'*. The New Zealand Code therefore *'is consistent in all material respects with the IFAC Code and the CPC'*, and it is further asserted (ibid) that while the New Zealand Code *'is substantially different in structure but not content ...'*⁵⁵ Common to all the Codes is that they *'outline the objectives of the accountancy profession and the four basic needs (credibility, professionalism, quality of services and confidence) to be met by the accountancy profession in order to meet the objectives identified'*⁵⁶. While the NZICA Code specifies and delimits in its Section 16 the particular groups that fall within its purview of those comprising the *'public interest'*, the IFAC Code does not.

The NZICA Code states inter alia that it is *'based on a number of Fundamental Principles that express the basic tenets of ethical and professional behaviour and conduct' to which all members must abide 'at all times'*. The code avers that *'[o]bservance of these Fundamental Principles is central to the **public interest**'*⁵⁷ (emphasis added). In regard to the concept *'public interest'*, the claim is asserted in section 14 that

(m)embers of the Institute have an important role and position in society. Members can remain in this role only if they are seen to be regulated, and demonstrate that their services are provided to high levels of performance in accordance with ethical standards designed to maintain public confidence that the accountancy profession will act in the public interest.

Section 15 of the code further defines *'the public interest'* as comprising *'the collective wellbeing of the community of people and institutions the profession serves'*. However, the code then delimits the scope of this section by defining the *'accountancy profession's public'* as being restricted to that group encompassed within *'clients, governments, employers, employees, investors, creditors, the business and financial community, and others who rely on the Objectivity and Integrity of members for sound financial accounting and reporting, effective financial management and competent advice on a variety of business and taxations matters'*. The code, therefore, requires of accountants no general obligation in regard to ethical conduct, including human rights observance, that is extended towards the wider social environment within which the profession and its client or employing organizations operate.

⁵⁵ NZ Institute of Chartered Accountants, Code of Ethics, Appendix 3, page 55.

⁵⁶ Ibid.

⁵⁷ Ibid, 3.

The five Fundamental Principles of the NZICA code are specified as those that ‘*express the basic tenets of ethical and professional behaviour and conduct*’ for accountants, comprising qualities of ‘Integrity’, ‘Objectivity and Independence’, ‘Competence’, ‘Quality Performance’, and ‘Professional Behaviour’.⁵⁸ These qualities are further defined, so that beyond the mere application of essential skills and professional competence, ‘integrity’ is required in ‘all professional and business relationships’, and this ‘implies not merely honesty but fair dealing and truthfulness’; members must at all times be ‘fair impartial and intellectually honest, and must not allow prejudice or bias, conflict of interest or influence of others to override Objectivity’; further, members’ duty to demonstrate ‘professional behaviour’ requires that they must ‘*act in a manner consistent with the good reputation of the profession and refrain from any conduct which might bring discredit to the profession*’. While leaving open a definition of what activities may constitute ‘discredit’ in this context, the code does acknowledge in section 7 that ‘*public opinion*’ may be a contributory factor. This requirement falls well short of any requirement for members to proactively influence and support ethical conduct, including human rights observance, in their client entities.

The code asserts that ‘*Integrity*’ is a ‘*quality of overriding importance for all members*’ and ‘implies not merely honesty but fair dealing and truthfulness’; it is this quality of ‘integrity’ that ‘allows the public to derive their trust in the accountancy profession’. In addition to proscribing dishonesty and ‘deceit’, the quality of integrity ‘cannot accommodate ... subordination of principles, values and standards’. Essentially, ‘Integrity is measured in terms of *what is right or just*’⁵⁹ [emphasis added]. However, the observance of this quality of ‘integrity’ in the accountant’s professional dealings is restricted⁶⁰ in scope so as to demarcate its applicability only towards those specified within the code’s limited definition of ‘public interest’, and not beyond those interest groups, suggesting that members have no further accountability towards others upon whom the activities of the member or the member’s client organization might impact.

The code suggests only a minor extension of this restriction pertaining to ‘*professional conduct*’, in its Rule 14 edict that members ‘*must conduct themselves with courtesy and consideration towards all they come into contact with during their professional work, including clients, other members, employers, staff, third parties and the **general public***’ [emphasis added], although again the code does not define the extent of those to be included in this latter group. When considering the ‘*application of the rules*’, the code’s section 23 directs that members ‘*do not lend their names or their professional status to an enterprise which ... may bring discredit to those associated with the enterprise.*’

In the outline of the ‘*applicability of the code of ethics*’ set out in its Appendix 1, there is some consideration of ‘*members’ responsibility for the conduct of others*’. However, this responsibility is limited to ‘*persons associated with the member in the practice of*

⁵⁸ Ibid, 3.

⁵⁹ Ibid, section 16.

⁶⁰ Ibid, section 15.

Chartered Accountancy, who are either under the member's supervision or are the member's partners or fellow directors in a corporate practice' ⁶¹ and to no further parties. With regard to a member's obligations for ethical conduct for 'services outside New Zealand', the member is required to observe at the 'strictest' level, the 'relevant ethical requirements' of '(a) the International Federation of Accountants' (IFAC) Code of Ethics; ,(b) the ethical requirements of the country in which the work is being performed; and {c} the Institute's Code of Ethics.'⁶²

In the case where a member is unable to comply with the code's requirements to uphold its required standards of ethical conduct, the accountant is required to disengage from the client entity. The provides that where a member is confronted with 'threats to compliance with the Fundamental Principles' emanating from 'the nature of engagements and work assignments', so that the member's ability to act with 'Integrity' may be compromised, the member 'should decline or discontinue the specific professional service involved, or ... resign from the client or the employing organization'.⁶³

There is extant no reference in the text of the Institute's Code to any responsibility on the part of its members towards human rights obligations generally, nor to any commitment towards members' obligations regarding the rights of New Zealand's indigenous (Maori) people encompassed within the scope of the Treaty of Waitangi. These rights were initially established in 1840 in the text of the Treaty signed between representatives of the major Maori tribes and of the British Crown, and subsequently ratified in the Treaty of Waitangi Act 1975.⁶⁴

Code of Ethics for Australian Accountants

In Australia, members of the two major organizations of professional accountants, Certified Practising Accountants (CPA) Australia and the Institute of Chartered Accountants in Australia (ICAA), are bound by the *Code of Ethics for Professional Accountants* (APES 110), which replaced in 2006 the Code of Professional Conduct. The Code was issued by the Accounting Professional and Ethical Standards Board (APESB), which was established in February 2006 as an independent body by CPA and the Institute, with the National Institute of Accountants (NIA) as an adjunct member.

Effective upon members from 1 July 2006 and with amendments, from 15 February 2008, APES 110 is based on the IFAC Code of Ethics for Professional Accountants. It is 'materially consistent' with the IFAC Code (a list of the major differences between APES 110 and the IFAC Code, which are largely immaterial in application, are included

⁶¹ Ibid, Appendix 1, section 4.

⁶² Ibid, Appendix 1, section 6.

⁶³ Ibid, section 10A.

⁶⁴ A copy of the texts (in English and Maori) of the Treaty of Waitangi, and a description of its scope, legal effects and application, is located at the Waitangi Tribunal website [op cit](#).

on page 96 of the former document). Compliance with the Code is *'mandatory for all members'*.⁶⁵ The Preface to the Code requires that *'Members should be guided, not merely by the terms, but also by the spirit of this Code [and] ... should be prepared to justify to their professional body ... any apparent departure from any of the provisions and spirit of this Code'* ⁶⁶. (While the NZICA Code refers to members being bound to the Code's *'principles'*, APES 110 requires adherence to its *'spirit'*.)

APES 110 specifies its Fundamental Principles⁶⁷ as being those of *Integrity, Objectivity, Professional competence and due care, Confidentiality, and Professional Behaviour*. Section 110.7 requires, inter alia, that in the case where the fundamental principles cannot be complied with, *'the Member should decline or discontinue the specific professional service involved, or ... resign from the Client ... or the employing organization'*. Section 110 further defines the principle of 'Integrity' to that of imposing *'an obligation on all Members to be straightforward and honest in professional and business relationships. Integrity also implies fair dealing and truthfulness'*. Section 110.2 elaborates on the quality of *'truthfulness'* as being relevant to information provided in accounting-related communications. Section 150, dealing with the topic *'Professional Behaviour'*, states that this principle *'imposes an obligation on Members to comply with relevant laws and regulations and avoid any actions or omissions which a reasonable and informed third party, having knowledge of all relevant information, would conclude negatively affects the good reputation of the profession'*.

As in the IFAC Code, with which APES 110 is materially identical, the latter in its section 100: 'Introduction and Fundamental Principles', identifies and outlines the *'Public Interest'* as a separate principle: *'[a] distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore a professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. In acting in the public interest, a Member should observe and comply with the ethical requirements of this Code.'*

Section 100 1.1 of the Australian code, which is materially identical to the corresponding section 15 in the NZICA Code, further defines *'the public interest'* as comprising *'the collective wellbeing of the community of people and institutions the Members serve.'* However, the code then delimits the scope of this section by defining the *'accountancy profession's public'* as being restricted to that group encompassed within accountants' *'[c]lients, credit providers, governments, employers, employees, investors, creditors, the business and financial community, and others who rely on the objectivity and integrity of Members to assist in maintaining the orderly functioning of commerce'*.

The Australian Code, in common with its IFAC and NZICA counterparts, requires of its member accountants no general obligation in regard to ethical conduct, including human rights observance, towards the wider social environment within which the profession and

⁶⁵ APES 110, Part A, Preface, p4).

⁶⁶ Ibid.

⁶⁷ Ibid, section 110.4.

its client organizations nor employers operate. As in the case of the IFAC code, and in the equivalent documents of all the other national and international accounting bodies included in this analysis⁶⁸, no reference is made in the Australian code to any ethical responsibility or obligation, including those regarding human rights observance or a requirement to undertake sustainable environmental practices, towards any societal group other than those specifically identified within the code's terms.

The Codes of Ethics of other professions – a requirement for extended social obligations

While all the accounting bodies overtly exhort their members to maintain a high level of ethical conduct in their practice and mandate a requirement to 'serve the public interest', as proclaimed in their published codes of ethics or rules of professional conduct, an analysis of these publicly available documents reveals that the term 'public interest' is commonly limited to specific stakeholders, so as to exclude any accountability towards wider societal groups. The documents also very narrowly define the concept 'ethical conduct', remaining entirely silent regarding members' responsibilities towards promoting observance of human rights or other issues of public good such as sustainability of the natural environment. At most, the accounting bodies impose the minimum obligation on their members to comply with 'relevant laws and regulations and avoid any action that may bring discredit to the profession'⁶⁹.

This very constrained interpretation of ethical responsibilities strongly contrasts with that of some other professional bodies, which promote a much wider perspective of their obligations towards the society within which they operate, and a significantly more extensive set of accountabilities for their members. For example in the Code of Ethics for the Institute of Professional Engineers of New Zealand (IPENZ), it is asserted that:

*The respect which society accords the engineering professions is earned and maintained by its members demonstrating a strong and consistent commitment to ethical values. These commitments are additional to the obligations, which every member of society is required to observe, such as obeying the law, and reflect the additional responsibility expected of all professionals. It therefore follows that the Institution must maintain an appropriate Code of Ethics, to publish it for the information of the public, and to enforce it impartially. This Code must be responsive to the changing expectations of both society and the profession and the global standard to which the Institution subscribes.*⁷⁰

⁶⁸ These include IFAC, NZICA, CPA, ICAA, ACCA, NIA, GAA, AICPA, ACAUS, CICA, SAICA, ICAS, ICAEW. The scope of this paper was 'eurocentric' in its analysis, and did not extend to a review of the equivalent documents of the accounting bodies of nations beyond this range, which may have revealed differences in perspective on the key issues that are the subject of this paper.

⁶⁹ IFAC Code of Ethics for Professional Accountants, Section 150.

⁷⁰ Code of Ethics for the Institute of Professional Engineers of New Zealand (IPENZ), 1.

Rule 4 of the Institute sets out five ‘*fundamental ethical values*’ upon which the IPENZ Code of Ethics is based:

Protection of life and safeguarding people
Sustainable management and care for the environment
Commitment to community wellbeing
Professionalism, integrity and competence
Sustaining engineering knowledge

These values are expanded in Part 1 of the Code, so that, of the first three:

*‘Members shall recognise the need to protect life and to safeguard people; ... Members shall recognise the responsibility of the profession to **actively contribute to the wellbeing of society** ...’* [emphasis added]. Further elucidation of these values includes a requirement for *‘[t]reating people with dignity and having consideration for the values and cultural sensitivities of all groups within the community affected by [the member’s] work’*.

Section 4 requires that *‘Members shall recognise and respect the need for sustainable management of the planet’s resources and endeavour to minimise adverse environmental impacts of their engineering activities for both **present and future generations**’* [emphasis added]; this further imposes upon members requirements of

... using resources efficiently; Endeavouring to minimise the generation of waste and encouraging environmentally sound reuse, recycling and disposal; Recognising adverse impacts of your engineering activities on the environment and seeking to avoid or mitigate them; Recognising the long-term imperative of sustainable management throughout your engineering activities ... have regard to reasonably foreseeable effects on the environment from those activities.

In a transparent link referencing the IPENZ Code of Ethics to key principles of the Declaration of the 1992 United Nations Conference on Environment and Development (the ‘Rio’ Declaration⁷¹), the Code further elaborates that:

In this context, sustainable management means management that meets the needs of the present without compromising the ability of future generations ... to meet their own reasonably foreseeable needs.

Clearly the IPENZ Code imposes upon its members obligations of standards of ethical conduct towards wider society that extend far beyond those outlined in any of the corresponding documents of the accounting bodies.

While not as extensive as that of the engineering profession, the codes of conduct for professional architecture bodies, such as the Australian Institute of Architects (AIA),

⁷¹ United Nations ‘Rio’ Declaration, June 1992.

which is closely affiliated to the Union of International Architecture (UIA), and strongly influential upon the policies of the corresponding New Zealand body, impose obligations upon their membership that in addition to the requirement to ‘*maintain the integrity and standing of the profession*’, require that their members’ undertakings must address ‘*growing environmental concerns within societies*’.⁷² In New Zealand, the work of members of the New Zealand Institute of Architects (NZIA), which is currently in the process of developing guidelines in accordance with its Australian counterpart, must in addition to other ethical and professional requirements, contribute towards the creation of an ‘*innovative and sustainable built environment in New Zealand*’.⁷³

Conclusions

International organizations including the United Nations point out the impossibility in the present globalized context for any group to effectively insulate itself from the wider effects of its own or others’ actions, regardless of intention:

*In the global village, someone else’s poverty very soon becomes one’s own problem: of lack of markets for one’s products, illegal immigration, pollution, contagious disease, insecurity, fanaticism, terrorism’.*⁷⁴

Ethicist Peter Singer (2004) contends that as individual citizens and as members of groups we ought to be ‘*people who recognise not only the force of prohibitions [against unethical acts] ... but also the pull of obligations to assist one another*’.⁷⁵ Singer does not exempt any individuals or groups from such obligations. Whilst the codes of ethics of the professional accounting bodies recognise the former injunction - that is, the minimal requirement not to violate the prevailing laws of the country in which their member accountants conduct their operations - none include any further admonition to obey the latter requirement (that is, an obligation to ‘*assist one another*’), thereby relegating the latter social duty outside the professional ‘sphere of influence’ to that of a voluntary, personal behavioural choice.

The series of ‘Ruggie Reports’ to the United Nations Human Rights Council address the problematic issue of human rights observance by transnational corporations and other business enterprises.⁷⁶ The reports emphasize that in order to mitigate the ‘*social harms caused by markets*’⁷⁷, in particular ‘*corporate-related human rights abuses*’ deemed to

⁷² ‘*The Institute*’, Australian Institute of Architects (AIA) website.

⁷³ ‘*Architecture in New Zealand*’, New Zealand Institute of Architects (NZIA) website.

⁷⁴ Report of the High-Level Panel on Financing for Development appointed by the United Nations Secretary-General, United Nations General Assembly, 55th Session, Agenda item 101, 26 June 2001, A/55/1000, p3. retrieved 13 January 2009 from www.un.org/esa/ffd/a55-1000.pdf.

⁷⁵ Singer, Peter (2004), *One World*, 8,9.

⁷⁶ Ruggie Report 2007, Introduction, 3

⁷⁷ Ibid, section 1.

result largely from increasing globalization, '[governments] *need to be joined by other social actors and to utilize other social institutions to achieve this goal ... within their "sphere of influence"*',⁷⁸. It has been inferred in this paper that the scope of the reports' term can be implied to encompass the professional accounting bodies.

Developments in international human rights law since the mid-twentieth century has extended the scope of the concept of 'complicity' well beyond a focus on national governments, so as to encompass other entities within its scope, including national and multi-national corporations, and individuals. These developments have significant potential risk implications for accountants, particularly in their role as agents and advisors for corporations engaged in a range of national and international trade and commerce.

The professional status of accounting bodies accords them extensive powers to influence, direct and control business activity. Such status also imposes significant obligations to utilize those powers in the service of the wider society which accords them their legitimacy (not merely in the interests of a selective, hegemonic group within that society). The codes of ethics of the professional accounting bodies establish guidelines as to the expectations and requirements of those bodies regarding notions of 'ethical conduct' and the 'public benefit'. In their present form, none of those bodies sets minimum standards regarding the expectations they hold regarding their members' obligations in regard to human rights obligations. A particular lacuna exists in regard to the codes of ethics of the professional accounting bodies based in those nations with a colonial history, in that they make no reference to members' obligations towards the rights of their indigenous peoples.

Ruggie (2007) asserts that '*no silver bullet can resolve the business and human rights challenge. A broad array of measures is required, by all relevant actors*'.⁷⁹ It is the conclusion of this paper that the professional accounting bodies are included within the compass of the terms 'relevant actors' and 'other social actors', and that through the medium of their mandated codes of ethical conduct for their members, these bodies should extend their role in influencing and promoting improved corporate behaviours towards human rights observance globally, including the rights of indigenous peoples.

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⁷⁸ Ibid section 4.

⁷⁹ Ruggie (2007), section 88.

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