

ISO 26000: Business as usual

Another standard where the market reigns supreme and, thus, the fundamental issue of the living wage remains in oblivion

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Periodically, Jus Semper publishes briefs of relevance for The Living Wages North and South Initiative (TLWNSI). This brief succinctly makes the argument about the business as usual approach that the International Organisation for Standardisation (ISO) has taken in the development of its ISO 26000 standard to address corporate social responsibility (CSR) practices. As was expected, the Final Draft of the standard is not a binding framework. It is a tool that organisations may incorporate discretionally as guidelines to develop their best practices. Far more important, as was also expected, ISO 26000 failed to address the issue of the ineludible obligation of business organisations to pay to all their workers –including those in their supply chains– a living wage, so that their best practices comply with Article 23 of the Universal Declaration of Human Rights. As usual, the issue remains a taboo topic, not to be addressed, for it goes directly against the interest of the market. Moreover, what was not expected, was that the ISO 26000 is an exception to customary practice inside ISO. In contrast with most of its standards, ISO 26000 is not a tool that can be used to certify the practices of an organisation that claims to have incorporated ISO's 26000 CSR guidelines. Such particularity plays all the more in favour of business organisations, where the mantra is to leave all issues up to the logic of the market, which has as its only purpose the maximisation of shareholder value.

One of the most consistent issues in all the guidelines, norms, standards and principles currently available "in the market", is the sheer degree of ambiguity of many of its concepts. One fundamental reason for this is the ambiguous ethos in which international conventions –including those binding upon States– have been developed. For instance, decent work, a decent standard of living and decent working conditions do not provide a conceptual definition of decent or at least a process to determine what shall be considered "decent" to accurately and objectively qualify these concepts. Everything is left up to the interpretation of governments and businesses, in a discretionary manner, in an ethos completely immersed in the context of the market. Consequently, given that the ISO 26000 is anchored on many international conventions –particularly on the issues pertaining to human and labour rights– it indulges as well in a great deal of ambiguity, when addressing these critical concepts. Furthermore, it leaves the critical issue of the living wage outside its framework. This is so despite the fact that a living wage is a fundamental responsibility that no business organisation that pretends to be perceived as socially responsible and with a sustainable business model can do without. Such approach does not provide much added value to what is already available. In this way, in regards to ISO's 26000, the market reigns supreme, once again.

❖ Background

Since early 2001, the "Consumer Protection in the Global Market" Working Group of COPOLCO, ISO's Consumer Policy Committee, was asked to consider the viability of an ISO standard on CSR. The result, after three years, was the launching, in 2005, of the development work for the ISO 26000 standard on social responsibility, originally scheduled for publication in

2008. Guided by the ISO Working Group on Social Responsibility, a diversity of stakeholders, organised in six stakeholder task forces, was involved in this effort. Commendably, ISO engaged many outside stakeholders, a practice which departs from the traditional ISO method of developing a standard with only delegations from ISO member bodies where each presents a national consensus. The process is currently in its final stage as the Draft International Standard ISO/DIS 26000, which is under circulation for its final approval. Voting began on 14 September 2009 and will end on 14 February 2010.

❖ Market context

As the vast majority of CSR concepts available, ISO 26000 will be staunchly anchored on the context of the market. It will not require anything from corporations to use it. Everything will be exclusively voluntary. It will simply provide another tool that may allow corporations, if they so wish, to look good without really doing the public good –by truly becoming socially responsible. This should come as no surprise to anyone with some degree of familiarity with ISO. Although ISO defines itself as a non-governmental organisation that forms a bridge between the public and private sectors, and it aspires to enable a consensus to be reached on solutions that meet both the requirements of business and the broader needs of society,¹ its focus is clearly on the side of the private good. In a document prepared to inform on the status of the project, ISO clearly states that *ISO develops only those standards that are required by the market. This work is carried out by experts coming from the industrial, technical and business sectors which have asked for the standards, and which subsequently put them to use. These experts may be joined by others with relevant knowledge, such as representatives of government agencies, consumer organisations, academia and testing laboratories.*² Therefore, if there were a social need but not a market need, it is unlikely that ISO would have pursued the development of a CSR standard from the perspective of civil society.

One ought to conclude that ISO only responds to market demands, which can only come from a business perspective. However, breaking with its customary approach ISO has engaged hundreds of so-called experts representing a diversity of stakeholders beyond its constituency. Its members are either part of the governmental structure of each country or belong to the private sector, usually as national partnerships of industry associations. Yet, for the development of the ISO 26000, it engaged a diversity of stakeholders grouped into six categories: consumers, government, industry, labour, NGOs, and SSRO (service, support, research and others). This is clearly a commendable effort that departs from ISO's customary approach involving only its network of national standards institutes in 158 countries, one member per country. Of particular preeminence in the development of the ISO 26000, is the alignment of the process with ILO's core conventions and the Principles of the UN Global Compact. ISO considered that it is of utmost importance to achieve consistency with the international body of law that addresses labour rights in a binding manner over all governments that have ratified its conventions. It regards in the same manner the need to achieve consistency with the ten principles of the UN Global Compact for the impact of business activity in the areas of human rights, labour, environment and anti-corruption.³ Moreover, ISO has gone to great lengths to ensure full transparency. It has also made a tremendous effort to ensure a balanced representation of the six stakeholder groups as well as between stakeholders of the developed and developing countries. In the opinion of Bart Slob from Red Puentes –a network of 52 organisations in Iberian America and Europe participating in the process as a D-liaison stakeholder– and Gerard Oonk –from a coalition of 35 Dutch NGOs participating in the Dutch mirror committee– the ISO 26000 is the only CSR multi-stakeholder process in the world with such a strong input from developing countries, including from NGOs in these countries.⁴ Yet, ISO acknowledges that a full and equitable balance of stakeholders was constrained by various factors, including the availability of resources and the need for English-language skills (121-122).⁵

All of the above notwithstanding, the end result of the final draft clearly shows that the preeminence of the market over all other considerations continues to reign supreme. As a result, although the ISO 26000 could arguably be considered to be of some improvement over some of the preceding CSR instruments currently available, it shares with all others two fundamental characteristics: a voluntary nature and the omission of a living wage guideline. This makes the ISO 26000 a tool that suits corporate interests almost ideally. Corporations can cherry pick whatever they deem convenient from the ISO 26000 and disregard not only what does not apply to their particular sphere of influence but the issue of living wages that, as is customary,

¹ About ISO: <http://www.iso.org/iso/about.htm>

² ISO Central Secretariat: Participating in the future International Standard ISO 26000 on Social Responsibility, 2006.

³ What is the Global Compact: <http://www.unglobalcompact.org/index.html>

⁴ Bart Slob and Gerard Oonk: The ISO Working Group on Social Responsibility: Developing the future ISO SR 26000 Standard. SOMO Briefing Paper, March 2007, p. 6.

⁵ ISO: Draft International Standard ISO/DIS 26000 – Guidance on social responsibility, Secretariat: TMB/WG SR, 2009.

is absent from the final draft. This is fully consistent with market dogma. There should be no regulations or requirements, even if they constitute only a structured process that needs to be followed for comprehensive reporting to stakeholders. Everything, including reporting, should be left up to the opinion of market players to use as they deem convenient in pursuit of their business interests to maximise competitiveness and, thus, shareholder value.

Indeed, until now governments have consistently refused to develop any type of legally-binding regulatory framework to reign in the impact of business activity on its sphere of influence. This is because we really do not live in real democracies but in marketocracies. If we were, corporations would be closely regulated. Thus, in the area of CSR, they would be required to conform their operations to an international legally-binding framework that would regulate how their activity would impact the social, economic and environmental dimensions of their business. This does not happen because governments have been co-opted by private interests and have made a complete mockery of representative democracy. In today's so-called democracies, the people who finance the campaigns of those who compete for office are those who define their political agendas. But the former are not regular individuals who make small contributions, but rather wealthy individuals or their corporate businesses. Thus, despite all the rhetoric to control campaign financing, it is the interests of these money sources that dictate the issues and priorities of the contenders for office. The old Greek agora, where citizens would meet to reconcile the private interest with the public interest, through representative democracy, is a complete illusion. In fact, the public interest has been, in a myriad of cases, privatised, and the politicians discuss it in private with the owners of the world's capitalist system. In this way, we live in a mockery of real democracy because the political class is corrupt; it has renounced to the fulfilment its responsibilities, and it works in partnership with the global centres of economic power: the global institutional investors, their global corporations and the domestic plutocracies in every Nation State.

This situation has just been made far worse in the United States when the U.S supreme court ruled last January that corporations have the right to the first amendment, which, otherwise, would be exclusively part of the Bill of Rights of the citizenry. In this way, the high court equated the persona of corporations to that of citizens, so that corporations can exercise their "right" to freedom of speech.⁶ With this ruling, the court provided corporations unlimited influence over U.S. elections. Companies can now spend as much as they want to support or oppose individual candidates.⁷ The court did not even bother to distinguish between domestic and foreign-owned corporations. Consequently, corporations are now completely free to spend all the money they want to support the political agendas of their choice and, frequently, of their own design. With some variation, the halls of government have been overtaken by corporate power all over the world. Thus, with this kind of political ethos, it would be a complete delusion to expect governments to fulfil their so-called "democratic" mandate by moving forward and developing a strict regulatory framework to control the market and their owners. What has been happening for decades is exactly the opposite of what should take place in a truly democratic ethos: the market has overtaken the public arena and dictates over the lives of societies around the world.

❖ *Sheer voluntarism*

The voluntary nature of ISO 26000 was expected. Neoliberal dogma imposes an ethos of deregulated markets, where actors are free to fend for themselves in a very unequal playing field for most stakeholders. What was not expected was the extreme flexibility that ISO has used to position its new standard. Three features stand out to expose the sheer voluntarism of ISO 26000:

- ➔ **A very optional scope:** The Draft clearly states that *this International Standard contains no requirements and therefore the word "shall", which indicates a requirement in ISO language, is not used. Recommendations use the word "should" (181-182).* It further explains that *the word "may" is used to indicate that something is permitted. The word "can" is used to indicate that something is possible, for example, that an organisation or individual is able to do something (184-185).*⁸ Yet nothing is required. ISO positions its social responsibility standard as a tool that provides guidance for all types of organisations (212). Its intention is to assist organisations to contribute to sustainable development (223-224). It aspires to encourage users to undertake activities that go beyond legal compliance (225-226). It is also intended to promote a common understanding of social responsibility and to complement other instruments and initiatives for social responsibility and not to replace them (228-229). Although its intention is to provide guidance concerning social responsibility and can be used as part of public policy activities, regarding the WTO, it is not intended to be interpreted as

⁶ United States Supreme Court: Citizens United v. Federal Election Commission, 21 January 2010.

⁷ Robert Barnes and Dan Eggen: Supreme Court rejects limits on corporate spending on political campaigns, The Washington Post, 22 January 2010.

⁸ ISO: Draft International Standard ISO/DIS 26000 – Guidance on social responsibility, Secretariat: TMB/WG SR, 2009.

an “international standard”, “guideline” or “recommendation” (236-239). Thus, from this perspective, it has no purpose.⁹ Moreover, the ISO 26000 is not intended to (239-243):

- provide a basis for legal actions, complaints, defences or other claims in any international, domestic or other proceeding;
- be cited as evidence of the evolution of customary international law;
- prevent the development of national standards that are more specific, more demanding, or of a different type.

➔ **Not a tool for certification:** Contrary to customary practice in ISO’s standards, the Draft clearly states that *it is not a management system standard. It is not intended or appropriate for certification purposes or regulatory or contractual use. Any offer to certify, or claims to be certified, to ISO 26000 would be a misrepresentation of the intent and purpose of the International Standard (233-235).*¹⁰ This is congruent with the fact that there is no structured process for its incorporation into the practices of a company. Its use is completely flexible and frequently relies on many existing guidelines, standards, principles, conventions, recommendations...to then in turn suggest or recommend criteria that can be used to develop a company’s best socially-responsible practices at the users discretion. In their 2007 assessment on the development of the standard, Slob and Oonk considered that it would be a flaw not to introduce management systems standards language – providing step-by-step guidance– especially in the chapter on implementation, for the standard to be a useful tool. Slob and Oonk reported that some industry experts –representing market interests- *have strongly opposed this and have endeavoured to assure that no management system concepts be used in any way in the SR standard.*¹¹ In fact, according to Slob and Oonk, industry experts also put up a collective attempt to delay the process by restating concerns regarding matters already settled.¹² Slob and Oonk hoped that the last word on the inclusion of a systems management standard had not been cast. Yet, clearly, the market wanted something completely diluted –as loose as possible– and with its use subjected to the discretion of corporations. Evidently, the Draft confirms that the market obtained what it lobbied for.

Since ISO’s SR standard cannot be used to certify compliance with its criteria of a user’s best practices and has no management systems language for its implementation, the incentive to use it gets even more diluted. Why would a corporation –that wants to promote its use of this standard to enhance its intangible assets– use it if no one can certify it?

➔ **A la carte mode:** Furthermore, given its extreme flexibility, ISO 26000 will share a feature with many of the most popular SR guidelines currently available: its inherent nature to cherry pick. Consequently, the ISO standard makes a clear contribution to the proliferation of frameworks and standards available for corporations to cherry pick at their convenience – as in a menu– such as GRI’s G3. In this way, with no requirements and no structured implementation, companies can cherry pick everything. They can cherry pick their stakeholders, the specific areas in their sphere of influence that they want to include and the elements within each area where they want to introduce some degree of social responsibility practice. They can also choose whether they want to report or not and, if they do, they can cherry pick the areas and specific items to be included in their reports. Obviously, as is customarily done with other so-called SR tools, they will never report on areas where they would not generate a good image, since there is no requirement to produce comprehensive reports, if at all.

I must insist that the entire body of work for the development of ISO’s SR standard is staunchly anchored on the context of the market, and, thus, it poorly serves societal expectations about corporate practice. One last evidence that I deem quite illustrative of this reality is the inherent contradiction with true democracy that is implicit on its circumlocution. In point 6.8.2.2 regarding considerations on community involvement, the Draft states that *Organisations often join partnerships and associate with others to defend and advance their own interests. However, these associations should represent their members’ interests on the basis of respecting the rights of other groups and individuals to do the same, and they should always operate in a way that increases respect for the rule of law and democratic processes (2627-2630).* Then, the Draft makes the following statement: *Before deciding upon an approach to community involvement and development, an organisation should research its potential impacts on the community and plan ways of mitigating negative impacts and optimising positive impacts (2631-2633).*¹³ From the perspective of true democratic practice, this is completely unacceptable. Mitigating negative impacts implies that some degree of negative impact is acceptable. The right wording –in congruence with the Draft’s previous assertion about the need to *represent their members’ interests on the basis of respecting the rights of other groups and individuals to do the same–* must

⁹ ISO: Draft International Standard ISO/DIS 26000 – Guidance on social responsibility, Secretariat: TMB/WG SR, 2009.

¹⁰ *ibid.*

¹¹ Bart Slob and Gerard Oonk: The ISO Working Group on Social Responsibility: Developing the future ISO SR 26000 Standard, March 2007, p. 5.

¹² *ibid.*, p. 6.

¹³ ISO: Draft International Standard ISO/DIS 26000 – Guidance on social responsibility, Secretariat: TMB/WG SR, 2009.

have called for the elimination of all negative impacts and not just their mitigation. To be sure, no negative impact from society on the interests of corporations is currently tolerated. Thus, why would some degree of negative impact from the market on people be acceptable? Because, contrary to conventional wisdom, the market rules over people, and democracy is currently only a euphemism used to refer to marketocracy. Lastly, given that both soft-law as well as all other SR initiatives are voluntary –in full congruence with the dominant laissez-faire market-driven ethos– what leverage do they offer to society when the majority of companies envision them as public relations tools to increase market competitiveness and not as standards to comply with their social and environmental responsibilities? ISO claims to be a bridge that aspires to achieve consensus between the public and the private interest. Yet, as long as the ISO 26000 remains a tool immersed in sheer voluntarism, it offers no leverage to society and only contributes to reinforce the market-driven ethos in detriment of societal demands.

❖ *The fundamental and indivisible issue of a living wage*

In line with all multi-stakeholder SR instruments or the so-called soft law instruments –such as the OECD Guidelines for Multinationals– ISO 26000 aspires to the lowest common denominator concerning the payment of a living wage, for it is envisioned, once again, as part of a market-driven ethos. Of all the available instruments, the OECD Guidelines are the only vehicle where civil society has the opportunity to raise complaints. Nonetheless, the OECD Guidelines, or any voluntary standard, in addition to condoning the current Darwinian ethos, conveniently avoid extremely important situations of human rights violations by business. To be sure, the clearest example is that current human rights standards for business do not address at all the business responsibility to provide a living wage to all workers, including those in their supply chains, in line with article 23 of the Universal Declaration of Human Rights. Much less do they provide a mechanism to determine what should be a living wage in each country for each specific instance. Yet, labour exploitation is at the core of the system.

ISO 26000 does talk –rather ambiguously– about the need to *provide decent conditions of work with respect to wages* (1624).¹⁴ But then it refers the user to ILO's Minimum Wage Fixing Convention (No. 131) and Recommendation (No. 135), and ILO's Protection of Wages Convention (No. 95) and Recommendation (No. 85). Besides the fact that none of these conventions are part of the so-called ILO's eight core and four priority conventions, they have nothing to do with the concept of a living wage or of decent working conditions with respect to wages. They protect the payment of the minimum wage. Nonetheless, a minimum wage does not constitute at all a living or decent wage, not even in the developed world. By any standard, the U.S. hourly minimum wage of \$7,25, which amounts to about \$1.250 U.S. dollars a month for a full time job, does not provide a dignified standard of living. Therefore, by equating the concept of decent work with international law provisions for the minimum wage, ISO 26000 does not address, whatsoever, a business obligation to pay a living wage to all its workers. The problem is systemic. The living wage provision does not exist in the ILO conventions. Accordingly, soft-law mechanisms and the vast majority of multi-stakeholder initiatives are oblivious to the right to a living wage upheld as a principle in article 23 of the UN Universal Declaration of Human Rights. If these frameworks do not even address such a critical right, how are they going to effectively provide a remedy mechanism for ISO 26000 or any other initiative for the customary violation of this right?

The ISO 26000 also aligned itself with the UN Global Compact through a signed memorandum requiring consistency with the Compact's principles. This alignment is preposterous. The Compact is one of the most business-biased gimmicks designed for companies to look good without really behaving responsibly. Regarding labour rights, the Compact adheres to ILO's eight core conventions and, as usual, the issue of living wages is absent. As could be expected, the completely unbalanced Compact, which is ensnared in ambiguity and proposed to business for its voluntary adherence, is regarded by vast sectors of organised civil society as a rhetorical instrument of public relations. Despite its completely pro-business stance, it enjoys a very scarce participation of less than 10% of the 70.000 global companies. In the Global Compact, once again, the market reigns supreme.

The fact is that a living wage is a fundamental and indivisible element of real democracy and of any realistic approach to sustainability. Thus, as long as corporations are allowed to maintain their customary practices of exploitation in their home States or through their global operations –including prominently in their supply chains– there cannot be any degree of social responsibility and sustainability. One cannot regard a corporation as socially responsible because some of its practices are socially or environmentally responsible if, at the same time –and as a matter of business design– it continues to impose practices that generate some of the greatest damage to human rights and to true democracy and sustainability. A truly sustainable business model must be comprehensive and cover all dimensions affected in the sphere of influence of a company.

¹⁴ ISO: Draft International Standard ISO/DIS 26000 – Guidance on social responsibility, Secretariat: TMB/WG SR, 2009.

→ TLWNSI’s conceptual argument for a living wage¹⁵

- In true democracy the purpose of all governments is to procure the welfare of every rank of society, especially of the dispossessed, with the only end of all having access to a dignified life in an ethos where the end of democratic societies is the social good and not the market. The market is just one vehicle to generate material wellbeing,
- In this ethos, and with markets globalised, workers performing the same or an equivalent job for the same business entity, in the generation of products and services that this entity markets at global prices in the global market, must enjoy an equivalent remuneration,
- This equivalent remuneration is considered a living wage, which is a human right,
- A living wage provides workers in the South with the same ability to fulfil their needs, in terms of food, housing, clothing, healthcare, education, transportation, savings and even leisure, as that enjoyed by equivalent workers in the North, which we define in terms of the purchasing power parities (PPP) as defined by the World Bank and the OECD,
- The material quality of life in Jus Semper’s The Living Wages North and South Initiative (TLWNSI) is defined in terms of purchasing power, so that equal pay occurs when purchasing power is equal,
- Purchasing power is determined using purchasing power parities (PPPs),
- Purchasing power parities (PPPs) are the rates of currency conversion that eliminate the differences in price levels between countries.

→ TLWNSI’s definition of a living wage

- A living wage is that which, using the same logic of ILO’s Convention 100, awards “equal pay for work of equal value” between North and South in PPPs terms,
- The premise is that workers must earn equal pay for equal work –in terms of material quality of life– for obvious reasons of social justice, but also, and equally important, for reasons of long-term global economic, environmental and social sustainability.

→ Supporting criteria

The argument of an equivalent living wage is anchored on two criteria of international law:

- ◆ Article 23 of the UN Universal Declaration of Human Rights, on the following points:
 - a. Everyone, without any discrimination, has the right to equal pay for equal work,
 - b. Everyone who works has the right to a just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- ◆ ILO’s Convention 100 of “equal pay for work of equal value”, which is applied for gender equality, but applied in this case to North-South equality, using PPPs as the mechanism,

→ Other ethical criteria from human rights

- The proposal is to make workers in the South earn living wages at par with those of the First World in terms of PPPs in the course of a generation (thirty years),
- There will not be any real progress in the true sustainability of people and planet –reversing environmental degradation and significantly reducing poverty– if there is no sustained growth, in that period, in the South’s quality of life, through the gradual closing of the North –South wage gap; attacking, in this way, one of the main causes of poverty, and pursuing concurrently sustainable development –rationally reducing consumption in the North and rationally increasing it to dignified levels in the South, thus reducing our ecological footprint on the planet,
- Just as the International Labour Organisation’s Decent Work Agenda states, the decent work concept has led to an international consensus that productive employment and decent work are key elements to achieving poverty reduction,

❖ Conclusion

From the perspective of Jus Semper’s TLWNSI and of any truly sustainable paradigm, ISO’s 26000 is a moot point in the pursuit of a truly sustainable social responsibility framework. As long as stakeholders continue to endorse or tolerate a market-driven paradigm, all efforts to make companies conduct their business in a truly sustainable manner are futile. Business practice has as its only *raison d’être* the maximisation of shareholder value at the expense of all other participants in the system. This is clearly the practice of social Darwinism in its most savage form. Furthermore, Darwinian capitalism moves completely in the

¹⁵ For a detailed presentation see: The Jus Semper Global Alliance: The Living Wages North and South Initiative (TLWNSI). A strategic program to commit the private sector (Working draft 2006): <http://www.jussempere.org/TLWNSI/Resources/TLWNSING0303.pdf>

opposite direction of real democracy. They are incompatible. The pursuit of the private interest at the expense of all other stakeholders cannot exist in a truly democratic ethos. Yet the world lives now in a market-drive ethos. This is why representative democracy is only a euphemism for marketocracy, the true form of government in which the world is engulfed.

What we need is a new paradigm where the social good is at the centre –and with the same degree of importance as shareholder value– of business culture. To achieve this, societies need to build a truly democratic ethos, where the only purpose of the social contract is the welfare of people and planet and, consequently, all conflicts between the public and private interest will provide clear preeminence to the public good. If these societal expectations are fulfilled, then there would be a single, universal and legally-binding CSR framework and the living wage would be the remuneration standard for all labour endowments worldwide. Until then, the development of so-called CSR will remain in its infant state, a true mockery, as I initially argued seven years ago, when I first assessed the state of social responsibility practice.

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Useful links:

<http://www.jussemper.org>

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