"If you count it, it will count:" From Directives to Reports Refined

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Oren Perez, *The Green Economy Paradox: A Critical Inquiry into Sustainability Indexes*, 17 **Minn. J. L. Sci. & Tech** 153 (2016).

Students of organizations know that numbers can drive action and uncounted outcomes can get lost despite their mission centrality. The strategy of "Management by Objectives" was praised for providing a focus, preventing drift, and criticized for ignoring that which is difficult to count, misdirecting energies. Those of us in law schools know how rankings can help align us to serve students, but also can involve us in wasteful (or just less than optimum) activities to improve our rankings. More importantly, the rankings may deter our pursuing difficult but crucial pedagogies, whose importance may be unappreciated by students and the rankings.

Oren Perez's *The Green Economy Paradox* is critical in the best sense. It digs deep into the numeracy problem, recognizing both the good and the bad. It is also comprehensive, in examining a broad range of indexes that might foster sustainable activities, by counting what corporations do in multiple ways. Rather than directing goals or processes, rankings "simply" count and hope that comparisons with others, and with previous years' results, will move corporations toward sustainable activities. The numbers of rankings are increasing. This week, I learned that my university is joining the "Sustainability Tracking Rating System of the American Association for Sustainability in Higher Education." One can hope that this Association ponders Perez's fine article.

Corporate social responsibility has moved from laws, codes and guidelines (both hard and soft) to reports. Rather than telling corporations how to behave, the indexes ask corporations to count and report their numbers. Rather than giving corporations numbers "to hit," these indexes only ask for reports, with the Global Reporting Initiative (GRI), beginning in 2000, currently the most pervasive reporting scheme. The convergence on reports, rather than directives, has been aided by ISO 14001 and the European Union's Eco-Audit and Management Scheme (EMAS) which also emphasize counting. The international accounting profession sells assurance of GRI reports, in line with the International Auditing and Assurance Standards Board's ISAE 3000 (2013), which authorizes assurance engagements other than those that deal with financial information.

Although these reports are often spoken about as "benchmarking," they institute a process without a standard or mark against which to benchmark. Perez explains that they posit "development paths" (P. 170) in which firms can grow in both profits and sustainability. Perez concludes that this overestimates the "win-win" (P. 172) possibilities under capitalism, but he nicely explains how counting alters the internal dynamics of firms: "When a firm uses new routines for selecting, ordering, and processing information, it changes the trajectory and cognitive horizon of the organization." (P. 176.)

Counting also can influence corporations by influencing purchasers of stock. Much like law schools wanting to appear good for students, corporations want to please stock funds that invest on the basis of sustainability numbers. Perez pays careful attention to the Dow Jones Sustainability Indices (DJSI) and the FTSE4Good Index Series (FTSE4Good). Reviewing the evidence, Perez concludes that these funds have had some effects on steering monies to companies engaged in sustainability reporting, but criticizes the funds for not reporting on how their sustainability practices compare to non-listed firms. They present information that buttress their claims of supporting sustainability, not information that might challenge it. What is not counted may be as important as what is counted.

There is a democratic deficit in the move from directives to reports. The stock indexes exert a governance function, for example individuals who seek sustainable investing rely on which stocks are chosen for the indices. Who makes these choices? On what bases? Perez serves on the board of a Tel-Aviv Stock Exchange version of DJSI and FTSE4Good. In Tel-Aviv public directors serve. This practice is not followed in New York and London. GRI criteria are developed after industry consultation. Should others be involved? The promoters of these indexes will tout their transparency. They are transparent as to what they count. But, not what they have chosen not to count. Perez suggests that the stock funds should count carbon emission and gender diversity in corporate boards. (P. 210.) He suggests that the GRI process should be open to more constituencies than are presently involved in its decisions as to what corporations should count.

Of the world's 250 largest companies that report on social responsibility, 82% follow the GRI reporting guidelines for their industry. (P. 166, n. 53.) I would like to see case studies of how the GRI reporting process influences action at these firms. The case study should be longitudinal and should imagine what is not being reported. Whether and how the Global Reporting Initiative responds to such studies will answer the challenges that Perez has set for it and other sustainability indexes.

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