RESEARCH NOTE

THE EXTRACTIVE INDUSTRY AND THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

THE SIX PRINCIPLES

1   We will incorporate ESG issues into investment analysis and decision-making processes.

2   **We will be active owners and incorporate ESG issues into our ownership policies and practices.**

3   **We will seek appropriate disclosure on ESG issues by the entities in which we invest.**

4   We will promote acceptance and implementation of the Principles within the investment industry.

5   **We will work together to enhance our effectiveness in implementing the Principles.**

6   We will each report on our activities and progress towards implementing the Principles.

CREDITS

CONTENTS

This paper supplements the report *Human rights and the extractive industry – why engage, who to engage, how to engage*. It shares more detail on the findings of a PRI research project into 50 large global mining and oil and gas companies' public disclosure against the UN Guiding Principles for Business and Human Rights (the "UN Guiding Principles"). It also includes findings from two investor-company roundtables, where the nine global investor members of the PRI Investor Steering Committee on Human Rights and twelve European and North American extractive companies discussed best practices, implementation challenges, and meaningful ways to report on the UN Guiding Principles[1].

The research and the company-investor roundtables were undertaken in collaboration with the PRI Investor Steering Committee on Human Rights. Findings informed the engagement approach of the [PRI-coordinated engagement on human rights in the extractive industry](#).

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1   Members of the PRI Human Rights Steering Committee include representatives from Aviva Investors, British Columbia Investment Management Corporation, Calvert Investments, Canada Pension Plan Investment Board, Government Employees Pension Fund of South Africa, Mirova, NEI Investments, PGGM Investments, Standard Life Investments. Due to confidentiality agreements, the names of the companies participating in the roundtables as well as those that have been researched cannot be disclosed.

RESEARCH QUESTIONS

Pages 6-7 look at whether the 50 companies reviewed report at least some information on the questions below[2]. Within each of these areas, additional research has been undertaken to understand how and to what extent policies and processes are reported on. A summary of the outcomes is discussed in pages 8-13.

HUMAN RIGHTS COMMITMENT, GOVERNANCE AND EMBEDDING RESPECT FOR HUMAN RIGHTS INTO CORPORATE PRACTICE	
Commitment	Has the company publicly expressed commitment to respect human rights, i.e. to avoid infringing on the human rights of others and to address adverse human rights impacts?
Embedding commitments into company culture and practices	Is the commitment reflected in and supported by internal policies, procedures, budgets and/or assigned across relevant functions of the company?
Governance and oversight	Does the company's board and/or senior management oversee the human rights policy and due diligence process?
Training - employees	Does the company provide human rights training for relevant employees at corporate and/or operational level?
Training - security personnel	Does the company provide training for relevant security personnel on its human rights policies and procedures?
Training - effectiveness	Does the company track the effectiveness of training for employees, security personnel and business partners?
Business relationships[3]	Are human rights criteria included in the selection of business partners and/or in investment agreements and contracts with business partners?

HUMAN RIGHTS DUE DILIGENCE	
Stakeholder engagement	Does the company engage with relevant stakeholders, including potentially affected stakeholders on an ongoing basis?
Identifying and assessing impacts	Does the company identify actual and potential human rights impacts across its business activities and relationships?
Integrating findings	Does the company integrate the results of its human rights due diligence into decision making and operations, including budget allocations and/or oversight processes?
Tracking performance	Does the company track the effectiveness of its human rights risk management?

GRIEVANCE MECHANISMS AND REMEDIATION	
Grievance mechanisms	Does the company have grievance mechanisms or other means for individuals and communities who may be adversely impacted to communicate concerns?
Grievance mechanisms - Effectiveness	Does the company provide evidence that its grievance mechanisms are effective and/or fulfil the effectiveness criteria for non-judicial grievance mechanisms, i.e. are they a) legitimate, b) accessible, c) predictable, d) equitable, e) transparent, f) rights-compatible, g) and a source of continuous learning?
Remediation	Does the company provide for or cooperate in remediation in the event of actual impacts?

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2 Please note the research originally looked at two additional basic data points: Commitment to stakeholder engagement, and adherence to reporting frameworks that include human rights. While no longer listed separately, the findings on those two elements are incorporated in this document.

3 Business relationships refer to any third party with which a company has a direct or indirect business relationship. Examples include first tier suppliers, suppliers beyond the first tier (both upstream and downstream the value chain), consultants, contractors such as security providers, joint venture partners, governments and government agencies.

OVERVIEW

The starting point for investors to understand how well a company manages human rights is public disclosure[4]. The graph below shows the number of companies, out of the 50 reviewed, that report at least some information on the questions above.

Basic disclosure of 50 extractive companies on human rights policies and processes

Category	Number of reporting companies
Commitment	45
Embedding human rights	31
Governance and oversight	25
Training - employees	24
Training - security personnel	25
Training - effectiveness	0
Business partners	27
Stakeholder engagement	30
Risk assessment	27
Integration	10
Tracking performance	4
Grievance mechanisms	29
Grievance mechanisms - effectiveness	9
Remediation	18

Number of reporting companies

4   The research looked at 50 large global extractive companies which had been identified at risk of possible violations of human rights, by looking at current and planned operating regions, existing corporate human rights policies and systems as well as human rights allegations and breaches. The research mainly looked at public disclosure against the UN Guiding Principles on company websites, in particular annual and CSR reports. In addition, 20 of the companies also provided publicly available information on their human rights policies and processes to the Company Action Platform of the Business & Human Rights Resource Centre.

Gaps in companies' reporting and therefore opportunities to engage with them include:

- **An overall lack of human rights reporting beyond a basic commitment:**
  45 of the companies reviewed have a human rights commitment in place, but only 27 companies identify and assess human rights risks;
- **Smaller companies typically report less:**
  companies with a US$ 3-49 billion market cap on average report less about human rights than companies with a market cap of US$ 50-400 billion, particularly on: governance and oversight; employee training; risk assessment; business partners;
- **Oil and gas companies report less than mining companies:**
  oil and gas companies report less on nearly all aspects, and significantly less on: governance and oversight; human rights training for security forces; remediation;
- **Emerging markets lag behind in reporting:**
  67% of companies in developed markets report assessing their human rights impacts, but only 29% of emerging market companies do so (although a few more emerging market companies reported on stakeholder engagement than developed market companies).

Most companies report on human rights via their annual report or sustainability report. Reporting is often guided by, or complies with, global standards such as the UN Global Compact or the GRI. As highlighted throughout this paper, most reporting focuses on the existence of human rights policies and procedures, rather than on their performance.

Though a lack of disclosure often points towards a lack of policies and practices, the lack of disclosure can be due to concerns such as balancing transparency and confidentiality. Transparency has risks not only for companies but also for rights-holders[5]. Although this subject was not dealt with extensively during the roundtables, there was some acknowledgement that while companies should be encouraged to communicate more openly on human rights impacts, this cannot be done at the expense of putting rights-holders at risk. For example, vulnerable members of communities that might oppose a particular project could be threatened by more powerful interests in the communities. A potential solution discussed at the roundtables was to use anonymous case studies to illustrate the types of issues companies are facing and how they are dealing with them.

Although there was a strong emphasis that there are already many reporting frameworks out there, and that no one size of reporting fits all, companies participating in the roundtables overall welcomed the Human Rights Reporting and Assurance Frameworks Initiative and the UN Guiding Principles Reporting Framework released in February 2015.

This reporting framework is the first comprehensive guidance for companies to report on how they respect human rights. Many companies felt it was useful to have a common framework for reporting on human rights and said that it allows them to build off existing information and to fill in reporting gaps.

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5   Every individual is a rights-holder. The term emphasises that the individual is the holder of human rights, and is often used in contrast to the duty-bearer, i.e. the entity that has to ensure the rights-holder is able to enjoy his human rights. This entity would most commonly be the state, but can also be a company.

HUMAN RIGHTS COMMITMENT, GOVERNANCE AND EMBEDDING THE COMMITMENT INTO PRACTICE

A company's human rights commitment can indicate to investors, impacted rights-holders and other stakeholders the extent to which a company understands its impacts and responsibilities.

Though the vast majority of companies publicly commit to respect human rights, detailed information on how that commitment is reflected in internal policies, procedures, budgets and relevant functions is often missing completely.

> "Detailed information on how companies' human rights commitments are reflected in internal policies, procedures, budgets and relevant functions is often missing completely."

COMMITMENT
Out of the 50 companies reviewed 26 have a commitment that is part of a broader sustainability or CSR policy, while 19 have a standalone commitment. Many report that they have a commitment informed by the UN Guiding Principles, but rarely provide relevant details such as which stakeholders informed the policy. Some companies report adhering to the overall approach of standards such as the Voluntary Principles on Security and Human Rights, or train security personnel based on those principles, without being formal members.

EMBEDDING COMMITMENTS INTO COMPANY CULTURE AND PRACTICES
Many companies report how the commitment is integrated into their overall risk management system and strategy, but few report on how human rights are reflected in, or supported by, internal procedures or addressed at an operational level. Where they do, the reporting is very limited. None report on how their commitment is reflected in budgeting.

GOVERNANCE AND OVERSIGHT
Only 25 out of the 50 companies report that the board or senior management oversee commitments and few report that senior management approve or buy into the human rights policy or are involved in formulating it. Just one reports on how human rights are reflected in remuneration.

FOCUS AREA: TRAINING
About the same number of companies report on human rights training for employees (24) and human rights training for security forces (25), but companies provided more detail on the training of third-party security forces than on training for employees, which could indicate higher risks around the use of security personnel. None of the companies reviewed reports on the effectiveness or impact of training.

A number of companies at the roundtables pointed out that the traditional reporting of numbers of hours of training may not be meaningful. However, companies underlined the importance of training employees, in particular given how challenging it can be to:

- Fully embrace the cross-functional nature of human rights[6];
- Ensure that corporate policies are adopted at site level;
- Ensure consistency across sites.

> "The respect for human rights does not sit with one staff member or department: many business units have the potential to impact human rights."

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6   The respect for human rights does not sit with one staff member or department only, as many business units have the potential to impact human rights, including human resources, health and safety, procurement, public affairs, marketing, security arrangements, sourcing of raw materials and risk assessment.

Some of the solutions companies brought up at the roundtables include:

- Give all employees basic human rights training when joining the company, with employees in relevant functions and high-risk areas regularly receiving more in-depth training;
- Give operational-level staff tools to interpret the global policy at local level and to address dilemmas, e.g. check-lists to identify, log, address and escalate issues;
- Create cross-functional working groups between different business units to exchange information and serve as an early warning system;
- Increase communication between the local and HQ level, in the form of a joint system of managing complaints, regular meetings or reports, or HQ-level staff visiting sites.

Companies participating in the roundtables said that human rights training is important not only to broaden stakeholders' understanding of human rights and potential impacts, but also to clarify misconceptions. For example, employees tend to shy away from the term human rights, as it is often associated with the most severe impacts such as torture, as opposed to more common issues such as discrimination. Some rights-holders think of human rights in terms of receiving individual benefits regardless of whether their rights have been impacted. An ever bigger need for bridging understanding is posed by environments where the term "rights" does not even exist.

## FOCUS AREA: BUSINESS RELATIONSHIPS

Of the 50 companies reviewed:
- 27 (54%) included some level of disclosure demonstrating that their human rights commitments extend to business relationships such as with co-owners, contractors and the organisations' supply chains. For emerging market companies the number dropped to 35%.
- 24 include human rights criteria when selecting business partners, tending to report on either suppliers (especially security suppliers) or contractors, but not both, and with least reporting on joint venture partners;
- 23 incorporate human rights language into contracts (nine companies report on incorporating human rights

language into contracts, but not on whether human rights criteria are included when selecting business partners);
- 9 make business partners aware of the human rights implications of their work, and how to address them (some of the leading companies, particularly in high-risk countries, are expanding their training beyond employees to include business partners, contractors, government security forces and even communities themselves, or offer to support local police forces or government security forces);
- 10 monitor the human rights commitments of business partners on an ongoing basis.

Number of companies reporting on how they address human rights in their business relationships
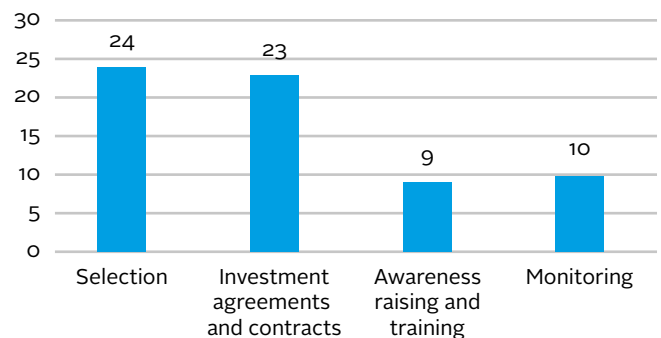
Japanese oil company Inpex identified supply chain management as a challenge, particularly whether human rights considerations should be clearly laid out in contracts. British oil and gas company BG Group also identified supply chains as an issue, as well as joint ventures where the company is a non-operator or a minority partner without an operational mandate[7]. Supporting business partners in building capacity to address human rights can be a way to address this, but companies at the roundtables said that this can take time and long-term commitment. A number of investors at the roundtables felt that more assurance is needed of company's due diligence on their business partners.

7   See both companies' reporting to the Company action platform of the Business & Human Rights Resource Centre.

HUMAN RIGHTS DUE DILIGENCE

Due diligence is an integral part of companies' respect for human rights and good reporting in this area can indicate to investors that companies are able to actively manage their risks. While due diligence can be undertaken in different ways, companies need to be able to demonstrate to stakeholders, including investors, that they have clear, credible and high quality due diligence processes in place, even before the start of a project.

ENGAGING STAKEHOLDERS
While 30 out of 50 the companies report on engaging stakeholders, the reporting on stakeholder engagement did not typically include engagement on human rights or projects: it tended to be limited to local communities and indigenous people, and to not cover projects' full life-cycle.

The importance of effectively engaging stakeholders was raised repeatedly at the roundtables and some company representatives said that country managers will increasingly need to have stakeholder engagement skills in order to operate effectively.

Suggestions for effectively engaging stakeholders included:
- Regularly review social and human rights impacts as part of management plans;
- Engage on an ongoing basis (starting engagement before the start of a project helps to build trust and a license to operate);
- Recognise that extractive companies can have positive human rights impacts, e.g. provide job opportunities and community development can help to engage employees and communities;
- Engage with governments over a longer period to manage impacts and avoid complicity in human rights abuses in high-risk environments.

ASSESSING RISKS
Twenty companies report they integrate human rights into existing risk management processes and seven companies report they undertake standalone risk assessments. Instead of reporting on actual and potential impacts identified in assessments, companies report on risks that are typical to the extractive sector in general. Only one of the companies in the research sample reports on the outcome of human rights impact assessments (HRIAs). Companies also do not report on risks across business relationships, or risks over time.

During the roundtable dialogues, companies said that there is much more focus on ESG issues during due diligence than in the past, and that they have become more important in the decision-making process; when taking over a project, legacy issues[8] are usually built into the price. Participants highlighted the importance of companies not only engaging in one-off risk assessments, but regularly monitoring their human rights risks to identify new or emerging issues over the life-cycle of their operations.

Companies participating in the roundtables preferred to fold HRIAs into existing environmental and social impact and other risk assessment tools whenever possible. However they said that standalone HRIAs can be useful in high-risk situations, to go deeper on specific issues, or to better understand impacts from a rights-holder's perspective.

> "Standalone human rights impact assessments can be useful in high-risk situations, to go deeper on specific issues, or to better understand impacts from the rights-holder's perspective."

Investors at the roundtables pointed out a lack of disclosure around outcomes of human rights impact assessments (HRIAs). Companies do not usually make the results of their HRIAs public, due to concerns over legal risks and confidentiality. Concerns include security for victims and the ability to effectively engage with governments. However, one company said that being pro-active and more transparent can be used strategically: communicating the outcomes of assessments allowed it to decide how to communicate on its risks before the conversation was dominated by external stakeholders. Another company mentioned that such information could be provided on demand where they could communicate directly with the recipient, but that they did not want to post this information publicly for fear that it might be taken out of context.

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8   Legacy issues refer to human rights issues inherited through a merger or acquisition, for example when a community has been resettled without being consulted or compensated by the previous owner of a company. Where there is a history of miscommunication or even human rights abuses, it is harder for a new operator to build up trust with local stakeholders.

INTEGRATING FINDINGS

Only 10 companies report any information on how they integrate findings from HRIAs into decision-making and operations. Some developed action plans regarding local or indigenous communities based on these findings.

Overall this was one of the weakest areas of reporting, with none of the emerging market companies reporting on this element. There wasn't much difference between the reporting of larger and smaller companies.

TRACKING PERFORMANCE

"Only four of the 50 companies reviewed track whether human rights risks are addressed effectively."

Of the four companies that report whether human rights risks are addressed effectively, some report that they track and periodically review the effectiveness of their processes through formal reports, meetings with relevant staff or follow-up assessments. One company said internal or external assurance of how well risks are managed may take place in high-risk situations. Overall, tracking the effectiveness of human rights related processes tends to be tied to companies' grievance mechanisms, and includes aspects such as the type and frequency of grievances or the average time it takes to resolve them.

Roundtable participants concurred that tracking trend data over time allows them to better understand the use and effectiveness of a grievance mechanism. Some roundtable companies said that company-wide grievance-tracking software can be a powerful tool internally and can help to get issues the senior management attention that they deserve. Many companies have systems that help to categorise grievances and establish internal protocols to decide how and when to follow up on grievances according to the severity of the issue.

The development of the Corporate Human Rights Benchmark[9] means more disclosure in this area can be expected over the coming years.

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9   The Corporate Human Rights Performance Benchmark aims to provide a publicly available ranking of large global extractive and other companies on their human rights performance.

GRIEVANCE MECHANISMS AND REMEDIATION

By having effective grievance mechanisms and providing remediation, companies provide assurance to investors that they use early warning signs and address issues before they escalate into unmanageable operational, reputational or legal costs.

GRIEVANCE MECHANISMS

Of the 50 companies reviewed, 29 report on having a grievance mechanism in place – in most cases at the operational level. Not all of those companies report on the actual means they have to receive complaints or concerns (i.e. hotline, grievance officer, worker led grievance systems, etc.).

Interpreting outcomes: Very few companies report on trends, patterns or outcomes of complaints. While this might reflect a lack of measuring outcomes of the mechanism, it could be due to results sometimes being difficult to interpret, as roundtable companies cautioned, e.g. does a large number of grievances or complaints reflect poor management, or provide evidence of a system that is working?

Roundtable participants highlighted the importance of cultural context: some cultures are less prone to use formal grievance processes and have a bias of disproportionately reporting good news to their supervisors and managers. In these instances, looking at the local context and focusing more on patterns and trends than absolute numbers of grievances can help to interpret outcomes.

Processing grievances: Whether a grievance mechanism is legitimate and predictable strongly depends on how the grievances submitted are assessed, prioritised, escalated where needed, and resolved. However, few companies report on their performance processing complaints.

"THE SYSTEM IS ONLY AS GOOD AS THE PEOPLE ENTERING THE INFORMATION"[10]:

One of the companies at the roundtables reported its frustration when hearing of something happening at a local site through a news source first and not through their own reporting systems. As a result, they have instituted a dual-line reporting system where local issues or grievances are logged and reported to individual line managers on site and to relevant personnel at head office. This was viewed as offering an additional layer of accountability and helping to standardise the classification of grievances.

Capturing, assessing and escalating grievances: Companies at the roundtables pointed out that how to prioritise issues by severity and how to assess when to escalate grievances to senior management remains a key concern at the site level. Companies also said that less severe issues are sometimes more difficult to identify and draw out, but can balloon into bigger issues. A check-list on how to classify issues and when to escalate them, clear channels of reporting and local-level training can help site managers and corporate managers with these less severe issues and even identify them before they become significant and threaten the company's license to operate.

EFFECTIVENESS OF GRIEVANCE MECHANISMS

Nine companies report at least some information against some of the effectiveness criteria of the UN Guiding Principles[11], which is high compared to other processes, e.g. training where none of the companies report against effectiveness. While a number of companies report that they have designed culturally appropriate systems, which is key to ensure mechanisms are trusted and used, little information is provided on what this means in practice.

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10   Quote from company participating in the roundtables.
11   According to the UN Guiding Principles, grievance mechanisms should be a) legitimate, b) accessible, c) predictable, d) equitable, e) transparent, f) rights-compatible g) and a source of continuous learning.

> "An employee who listens to concerns of local communities in an informal setting such as in local coffee shops can help build a relationship of trust between community members and a company."

One example provided at the roundtables was a company that said that they have one person in the communities who spends time in local coffee shops making himself available to listen to concerns about the company's operation in an informal setting. For this company, this visibility is important because it presents to the community a face they can go to if they have any questions or concerns.

Most companies participating in the roundtables had not yet formally assessed their grievance mechanism against the effectiveness criteria of the UN Guiding Principles, although one company indicated that they had evaluated their systems against the IPIECA criteria which is based on the UN Guiding Principles.

Companies at the roundtables said that in order to be effective, grievance mechanisms need to be built to

work, not merely to fulfil reporting requirements or for reputational purposes. It was further noted that companies' responses to grievances need to be time-sensitive, and site staff need to be empowered to act upon grievances.

REMEDIATION
Very few companies report on remediation, and the most common remediation information that was reported related to relocation or resettlement. Few companies report on their performance in arriving at mutually acceptable outcomes.

> "Very few companies report on remediation."

Though at the roundtables none of the companies spoke about co-designing their grievance process with stakeholders, one company said they are co-designing the resolution of the grievances with stakeholders and trying to build regular check-ins with them.

Roundtable participants said that remediation information can be extremely sensitive and disclosure difficult, given legal implications, but also said that good qualitative examples in this area from other companies could be helpful.

The Principles for Responsible Investment (PRI) Initiative

The PRI Initiative is a UN-supported international network of investors working together to put the six Principles for Responsible Investment into practice. Its goal is to understand the implications of sustainability for investors and support signatories to incorporate these issues into their investment decision making and ownership practices. In implementing the Principles, signatories contribute to the development of a more sustainable global financial system.

The Principles are voluntary and aspirational. They offer a menu of possible actions for incorporating ESG issues into investment practices across asset classes. Responsible investment is a process that must be tailored to fit each organisation's investment strategy, approach and resources. The Principles are designed to be compatible with the investment styles of large, diversified, institutional investors that operate within a traditional fiduciary framework.

The PRI Initiative has quickly become the leading global network for investors to publicly demonstrate their commitment to responsible investment, to collaborate and learn with their peers about the financial and investment implications of ESG issues, and to incorporate these factors into their investment decision making and ownership practices.

More information: www.unpri.org

The PRI is an investor initiative in partnership with
UNEP Finance Initiative and the UN Global Compact.

United Nations Environment Programme Finance Initiative (UNEP FI)

UNEP FI is a unique partnership between the United Nations Environment Programme (UNEP) and the global financial sector. UNEP FI works closely with over 200 financial institutions that are signatories to the UNEP FI Statement on Sustainable Development, and a range of partner organisations, to develop and promote linkages between sustainability and financial performance. Through peer-to-peer networks, research and training, UNEP FI carries out its mission to identify, promote, and realise the adoption of best environmental and sustainability practice at all levels of financial institution operations.

More information: www.unepfi.org

UN Global Compact

Launched in 2000, the United Nations Global Compact is both a policy platform and practical framework for companies that are committed to sustainability and responsible business practices. As a multi-stakeholder leadership initiative, it seeks to align business operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption, and to catalyse actions in support of broader UN goals. With 7,000 corporate signatories in 135 countries, it is the world's largest voluntary corporate sustainability initiative.

More information: www.unglobalcompact.org