CHRB Peer Learning:
Case Studies from Companies in the 2018 Corporate Human Rights Benchmark

Supporting companies to review and improve their human rights practices

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INTRODUCTION

The Corporate Human Rights Benchmark (CHRB) is a unique collaboration led by investors and civil society organisations dedicated to creating public benchmarks of corporate human rights performance. By providing key decision makers with the means to make informed decisions, CHRB aims to encourage companies to improve their human rights policies and practices; by leveraging the competitive nature of businesses to create a ‘race to the top’, by supporting investor engagement and civil society advocacy, by enabling customers to understand who they are purchasing from and by providing governments with evidence of the success or failures of mixed regulatory approaches to business and human rights.

Why: One of CHRB’s key objectives, alongside creating a positive competitive environment for corporate human rights performance, is to ‘Acknowledge companies putting human rights at the core of their business, while also pointing the way towards improved performance on key human rights issues.’ While CHRB makes all the research and data publicly available, companies both within and outside of the benchmark have consistently asked how they can approach improving their human rights approaches.

What: This document is not a ‘how to guide’ and CHRB is primarily a platform for assessing and publishing rankings of companies as part of a wider movement to push responsible business practices. Instead, it provides case studies of companies who scored higher in CHRB rankings compared to their peers, looking at a subset of our assessment indicators in detail and digging into the company approaches, in order to provide signposts for companies wishing to develop their approaches, learn from their peers and understand more about what goes on within a company that results in higher scores in the benchmark.

Who: This document is designed for staff within companies who are on a maturity journey regarding human rights and who are looking for resources to support their efforts. It assumes a familiarity with both human rights, the UN Guiding Principles and the CHRB Methodology and rankings. It is not restricted to companies or sectors within the CHRB assessment, as the indicators selected for investigation should be relevant to most, if not all, companies.

How: The case studies are split up by CHRB research Themes (A to F), with one company used as the reference for each Theme. A subset of indicators has been selected, based largely on the CHRB Core UNGP Indicators and performance indicators that are relevant to most companies. To make best use of this resource, interested parties should ensure familiarity with the CHRB Methodology and assessment (a brief summary is included below), then identify which of the Themes and Indicators being used in these case studies are most relevant for their own company’s needs.

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1 CHRB has produced a standalone methodology which draws on 13 key indicators from the CHRB full methodology. These indicators provide an understanding of a company’s approach to the UNGPs and a company’s score on the 13 key UNGP indicators is likely to be closely aligned with their score on the full methodology. See the [file](#) for more info.
Background to CHRB Methodology and Rankings

The first and second benchmarks were produced in 2017 and 2018 respectively, assessing 100 of the leading companies from high human rights risk sectors (apparel, agricultural products and extractives) against a robust methodology developed through several years of consultations with hundreds of stakeholders. The CHRB Methodology assesses companies from key sectors against six Themes with various weightings as set out below:

1. CHRB Theme Weightings

The companies in the benchmark are assessed on publicly available information at roughly the mid-year point, covering their performance in the previous 12 months.

The detailed indicators and overall scores represent a snapshot in time and provide a proxy for the company’s overall approach to human rights. The methodology is grounded in the UN Guiding Principles on Business and Human Rights and builds from that baseline to enable comparison between companies in different sectors.

The CHRB makes the full methodology, as well as the detail to its development, freely available on the www.corporatebenchmark.org website.
The most recent CHRB results are freely available online in the Key Findings Report and show a mixed picture since 2017:

There is a race to the top in business and human rights performance, but only a portion of companies are taking part, signifying that insufficient pressure has been felt by the laggards to convince them to move.

Only a few leading companies score more than 50%, with 27 companies scoring less than 10%. Disclosure is increasing and the average scores are raising, but overall the performance across these three high risk sectors is poor (27% compared to a top score of 87%) (see Figure 2 below).

Companies do care about their scores relative to their peers and are also finding the methodology itself useful in guiding their internal processes. 40% of companies scored zero points on human rights due diligence compared to some companies scoring full points.

2. CHRB Score Banding 2017-2018
There are no ‘leading themes’, but improvements across all themes, indicating that companies are at various stages of maturity – from developing new policy commitments, to integrating them into business practices and rolling them out across their supply chains (see Figure 3 – Theme Scores).

Leading companies who have taken approaches across various themes resulting in consistent high scores are providing clear signposts to their peers for improving their approaches and disclosures.

Disclosures and scoring tend to be higher in Europe than in other regions, with a clear lead on north American companies who, on average, seem less comfortable with disclosing substantive details of human rights approaches (see Figure 4 below).
DEVELOPMENT OF THE CASE STUDIES

Companies can benefit from leading practices as a means to improve their own approaches. The Benchmark offers detailed, open guidance about what it is measuring, but for many companies, there is a desire to see more of what their peers are doing – how was this done in practice. The selection of case studies in this guidance is not exhaustive, or exemplary of a ‘one right approach’ to improving any given element of the responsibility to respect human rights. Instead it brings together a collection of case studies on companies leading the 2018 scoring on the Benchmark to tell a story of potential approaches to human rights.

Each of the case studies – one for each Theme of the Benchmark – highlight potential approaches to stronger human rights management that meet key CHRB indicators. The Methodology is designed to provide a comparison of companies based on global societal expectations and norms, but it does not set a ‘top bar’ for performance; business as a whole are underperforming and the CHRB aims to ‘raise the bar’ to move beyond the basics in due course.

No companies scored 100% in 2018 and so the case studies reflect elements of leading or emerging practice, as opposed to best practice; all companies can continue to find room for improvement, both in terms of their human rights commitments, approach and performance, and their reporting. Development of the case studies followed four stages as set out in Figure 5 below. The following section sets out these stages in more detail.

5. Approach to developing the Guidance Document Case Studies

Stage 1. Selection of Case Study Companies

The selection of the six case study companies followed a systematic process to identify leading practice companies, while ensuring that all three of the industries covered by the Benchmark (apparel, agricultural products and extractives) were represented. The selection process involved three steps:

1. A long-list of 14 companies was developed by identifying all the companies that scored over 50% in the 2018 Benchmark.
2. A short-list of seven companies, spread across the three industries, was developed by identifying all the companies that scored in the top four for one of more Measurement Themes. The top scoring company was selected for each Measurement Theme unless it had already been selected for another Measurement Theme.
3. The Case Study Companies were re-confirmed based on the scores they achieved for the indicators selected during Stage 2.
4. The final companies selected were Rio Tinto, Coca Cola, Adidas, Eni, Marks and Spencer and Unilever.

It should be reiterated that these companies were chosen because of their performance relative to their peers for a Theme within the Methodology. Their inclusion does not constitute an absolute endorsement from CHRB and, as the scores for 2018 show, all companies have room to improve. It should also be noted that all six companies received serious human rights allegations that were reviewed by CHRB. The six
companies were not directly involved in the drafting of the case studies and any feedback given was at the discretion of CHRB as to its inclusion in the report.

**Stage 2. Selection of Indicators**

Due to the large number of indicators assessed by CHRB (over 90 in total), it was necessary to prioritise those for inclusion in the Guidance Document. This refinement was based on a combination of criteria for each case study:

- Measurement Themes A, B and C use indicators which reflect the core expectations of the UNGPs and are aligned to the CHRB Core UNGP Indicators;
- Measurement Theme D looks at indicators that are applied to all three industries (as many indicators in this Measurement Theme are industry-specific);
- Measurement Theme E considers all three indicators included for this Measurement Theme; and
- Measurement Theme F is based on assessing general disclosures, as well as revisiting ‘quality disclosure’ indicators that focus on reporting specific examples, discussing challenges and a forward focus.

The final indicator list used to build the case studies is as follows:

<table>
<thead>
<tr>
<th>Theme A – Governance and Policy Commitment (Rio Tinto)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1.1 Commitment to respect human rights</td>
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<tr>
<td>A.1.2 Commitment to respect the human rights of workers</td>
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<tr>
<td>A.1.4 Commitment to engage with stakeholders</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Theme B - Embedding Respect and Human Rights Due Diligence (Coca Cola)</th>
</tr>
</thead>
<tbody>
<tr>
<td>B.1.1 Responsibility and resources for day-to-day human rights functions</td>
</tr>
<tr>
<td>B.2.1 Identifying: Processes and triggers for identifying human rights risks and impacts</td>
</tr>
<tr>
<td>B.2.2 Assessing: Assessment of risks and impacts identified (salient risks and key industry risks)</td>
</tr>
<tr>
<td>B.2.3 Integrating and Acting: Integrating assessment findings internally and taking appropriate action</td>
</tr>
<tr>
<td>B.2.4 Tracking: Monitoring and evaluating the effectiveness of actions to respond to human rights risks and impacts</td>
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</table>

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<thead>
<tr>
<th>Theme C – Remedies and Grievance Mechanisms (Adidas)</th>
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<tbody>
<tr>
<td>C.1 Grievance channels/mechanisms to receive complaints or concerns from workers</td>
</tr>
<tr>
<td>C.2 Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities</td>
</tr>
<tr>
<td>C.7 Remediying adverse impacts and incorporating lessons learned</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Theme D - Performance: Company Human Rights Practices (Eni)</th>
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<tbody>
<tr>
<td>D.3.1 Living wage</td>
</tr>
<tr>
<td>D.3.3 Freedom of association and collective bargaining</td>
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<tr>
<td>D.3.4 Health and safety: Fatalities, lost days, injury rates</td>
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<table>
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<tr>
<th>Theme E - Performance: Responses to Serious Allegations (Marks &amp; Spencer)</th>
</tr>
</thead>
<tbody>
<tr>
<td>E(1).1 The Company has responded publicly to the allegation</td>
</tr>
<tr>
<td>E(1).2 The Company has appropriate policies in place</td>
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<tr>
<td>E(1).3 The Company has taken appropriate action</td>
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<table>
<thead>
<tr>
<th>Theme F – Transparency (Unilever)</th>
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</thead>
<tbody>
<tr>
<td>F.1 Company willingness to publish information</td>
</tr>
<tr>
<td>F.3 Key, high-quality disclosure</td>
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</table>
Stage 3. Review of Case Study Company Data

The data for each Case Study Company were reviewed to understand the spread of information across various sources. These included:

- CHRB 2018 Methodology for the Agricultural Products, Apparel and Extractive Industries;
- CHRB 2018 Key Findings – Apparel, Agricultural Products and Extractives Companies;
- CHRB 2018 Benchmark full dataset which provided a summary of the score for each indicator and for each company;
- Company submissions via the CHRB Disclosure Platform, which allows companies to provide additional disclosure and close gaps in their public reporting;
- Company websites and key documents such as Annual Reports, Human Rights Reports and publicly available company standards, policies and guidelines; and
- Additional sources, such as company media releases, videos and news articles.

In some cases, external sources were also used, such as media reports. This was particularly the case for Measurement Theme E - Performance: Responses to Serious Allegations, as CHRB uses external sources when assessing this theme.

Stage 4. Write-up

Finally, the case studies were developed in detail, reviewed and written up. Each case study chapter commences by providing an introduction to the CHRB Measurement Theme and the Case Study Company, before focusing on the Company’s approach to the requirements underpinning the pre-selected indicators. The case studies have been written based on publicly available information only, just as the Benchmark is based on publicly available information. They aim to discuss the wider approaches taken by companies, not just the evidence provided to achieve high scores in the CHRB assessment.
MEASUREMENT THEME A
GOVERNANCE AND POLICY COMMITMENTS
Introduction to Theme A

The leadership and commitments of companies are the driving force behind its action, or inaction on human rights. Policy commitments and board level governance form the foundation for embedding the responsibility to respect human rights across the business. Measurement Theme A – Governance and Policy Commitments is focused on two areas: a company’s public commitment to respect human rights, and the top-level governance of this commitment within the company. The indicators in this theme contribute 10% of the total potential Benchmark score.

This case study considers Rio Tinto’s public commitment to respect human rights. It provides an overview of Rio Tinto and its approach to human rights. It then outlines Rio Tinto’s actions relating to three core Benchmark indicators linked to the UNGPs, within Measurement Theme A. The first two indicators highlight the fundamental need for companies to develop a commitment to respect human rights, particularly those of workers. The third indicator focuses on the commitment to engage with stakeholders.

Demonstrating a public commitment to respect human rights is not just about setting a ‘tone from the top’. Public corporate human rights positions should include a commitment to:

- Respect all internationally recognised human rights across all business activities;
- Respect the human rights of workers, including the workers of its business relationships;
- Engage in dialogue with potentially and actually affected stakeholders and their representatives;
- Provide for remediation for affected parties;
- Not tolerate threats, intimidation or attacks against human rights defenders; and
- Understand and commit to respecting the most relevant human rights to the company’s particular industry.

To be effective, policy commitments must be enforced and supported by an effective governance framework, in order to safeguard consistent policy implementation and ongoing attention of senior management. Effective governance requires the establishment of Board (or equivalent) level accountability, including actions that:

- Require Board-level approval, responsibility for and communication of a company’s human rights policy commitments;
- Develop processes to ensure that human rights topics are regularly addressed and reviewed; and
- Establish Board-level incentives and a performance management structure associated with the human rights policy.

Current Trends in Theme A and Common Gaps

There is encouraging progress among companies in governance and policy commitments, with an increase in the average score by almost 10% between 2017 and 2018 for both policy commitments (Sub-theme A.1) and board level accountability (Sub-theme A.2). However, there is still significant room for improvement as the average total score for Measurement Theme A remains low – only 2.9 out of 10 in 2018.

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2 Sub theme A.1 - Policy commitments
3 Sub theme A.2 - Board level accountability
4 Corporate Human Rights Benchmark Methodology 2018 p.32. Link.
5 Indicator A.1.1 - Commitment to respect human rights
6 Indicator A.1.2 - Commitment to respect the human rights of workers
7 Indicator A.1.4 - Commitment to engage with stakeholders
8 Corporate Human Rights Benchmark 2018 Key Findings p.16. Link.
The UNGPs require companies to make a public commitment to respect human rights. In 2018, 78% of companies demonstrated a public commitment to respect human rights. Many of these companies, however, do not have sufficient coverage in what the policies cover. For example, 69% of companies do not have a commitment to ensuring access to remedy and only 7% of companies scored points for demonstrating a commitment to respecting the rights of human rights defenders.

Many companies also struggle to show how they have created appropriate structures and processes to support Board accountability for human rights. Only 15 companies (the majority in the Extractive industry) scored full points for disclosing how the Board discusses and reviews human rights issues, and only four companies achieved full marks for using incentive schemes associated with human rights policy commitments or targets. A full 27 companies did not provide enough public information on board accountability to achieve any marks at all for A.2.

Rio Tinto was selected as a case study for Measurement Theme A as it received the maximum score for the three indicators that were chosen for review. These three indicators were picked for their clear association with the UNGPs and as being a clear starting point for companies wanting to kick-start their approaches to human rights. The company also placed within the top three companies for all six Measurement Themes in the overall Benchmark.

Background to Rio Tinto

Rio Tinto is an international mining group, consisting of multiple companies that share a unified approach to corporate governance. It was founded in 1873, and is headquartered in London, United Kingdom (UK), with a corporate office in Melbourne, Australia. Rio Tinto is a member of the Extractive industry, with four product groups: iron ore, aluminium, copper and diamonds, and energy and minerals. The business model involves the full mining value chain from exploring, developing and operating mines to refining, marketing and logistics. The company employs over 50,000 people in approximately 35 countries, with its main operations in Australia and North America. Its supplier base consists of 33,000 business partners from around the world.

At times over its 146-year history, Rio Tinto has come under scrutiny and experienced criticism for not addressing human rights sufficiently. In more recent times it has committed to contributing to sustainable development and having a positive societal impact, for instance by its contribution in the late 1990s to the formation of the Global Mining Initiative. Rio Tinto has since developed and refined its commitment to human rights, and its current Human Rights Policy was adopted in 2015. Rio Tinto states in its policy that

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10 Corporate Human Rights Benchmark 2018 Key Findings p.28. Link.
11 Corporate Human Rights Benchmark 2018 Key Findings p.28f. Link.
12 A.2.2
13 A.2.3; Corporate Human Rights Benchmark 2018 Key Findings p.29. Link.
14 Corporate Human Rights Benchmark 2018 Key Findings p.27. Link.
16 A.1.5 – Commitment to Remedy is also a core UNGP indicator, but it has not been reviewed for this study, although the Theme C review does cover elements of grievance and remedy mechanisms.
17 Rio Tinto Website – Corporate Governance, 2019. Link.
its approach to human rights is based on the UNGPs and it commits to other globally recognised voluntary principles and frameworks, such as the OECD Guidelines for Multi-National Corporations.23

In 2017, Rio Tinto launched an updated Global Code of Business Conduct, *The way we work*, which is applicable to all employees and includes a chapter on human rights.24 Rio Tinto has also developed a Supplier Code of Conduct with corresponding human rights elements.25 The overall responsibility for human rights compliance sits at the Board level with the Sustainability Committee, while a cross-functional human rights working group is responsible for implementing Rio Tinto’s human rights commitments throughout the business.26 Note that for these case studies, more up to date information and figures will be available in the latest reports, modern slavery statements etc.

**Note on negative impacts**

While these case studies focus on how high scoring companies achieve their results in specific Themes, it should be noted that no company is perfect and companies used for the case studies have been involved, or alleged to have been involved, in causing, contributing or being linked to serious negative impacts on people or planet.

In the 2018 CHRB assessment, Rio Tinto was assessed for its response to two serious allegations of human rights impacts. The first involved the majority owned Oyu Tolgoi mine in Mongolia27, where herders complained of forced relocations, unfair compensation and reduced access to water28. The project, supported by members of the World Bank Group, underwent several years of mediation following complaints filed with the Compliance Advisory Ombudsman (CAO) and in recognition of the complaints, 114 resulted in compensation to eligible parties29. The second case involved an allegation that the crew of a ship chartered by Rio Tinto were forced to live and work in poor conditions and had their pay withheld30. Rio Tinto took action to address the issue, both onboard with the crew and with the ship’s management.

The two cases reviewed by CHRB concern alleged human rights impacts from different areas of the business (via subsidiary joint venture and third-party contractor). These and other stories concerning Rio Tinto highlight that even where there is a strong approach to the governance of - and policy commitments to respect - human rights, this does not guarantee that negative impacts will not happen (although it is arguably likely that strong commitments to respect human rights will reduce the likelihood of occurrence and increase the likelihood of remediation in the event of an incident).

**Rio Tinto’s Approach to Governance and Policy Commitment**

Rio Tinto scored a total of 76% in the 2018 Benchmark, twelve points higher than in 2017, largely due to improvements in Measurement Theme B – *Embedding Respect and Human Rights Due Diligence*.31 In 2018, Rio Tinto was the highest scoring company in the Extractive industry and the second highest scoring overall. It scored 7.7% out of a maximum 10% in Measurement Theme A – *Governance and Policy Commitment*.

24 Annual Report 2017, p.10. [Link](#).
25 Supplier Code of Conduct 2016, p.3. [Link](#).
26 Rio Tinto, Slavery and Human Trafficking Statement, p.4. [Link](#).
27 Turquoise Hill Resources owns 66% of the mine and is predominantly owned by Rio Tinto, [Link](#).
28 Mongolia: Rio Tinto mine allegedly threatens nomads’ access to water, forces them to relocate, [Link](#).
29 Joint Statement, Tripartite Council of Khanbogd Soum, [Link](#).
30 Bauxite shipping crew underpaid and underfed, [Link](#).
31 Rio Tinto CHRB 2018 Results on 20181026 at 173329, p.2. [Link](#); Rio Tinto CHRB 2017 Company Scoresheet Results, [Link](#).
Rio Tinto’s Scores for Measurement Theme A – Governance and Policy Commitment

<table>
<thead>
<tr>
<th>A.1 Policy Commitment (5%)</th>
<th>Score (out of 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.1.1* Commitment to respect human rights</td>
<td>2</td>
</tr>
<tr>
<td>A.1.2* Commitment to respect the human rights of workers</td>
<td>2</td>
</tr>
<tr>
<td>A.1.3 Commitment to respect human rights particularly relevant to the industry</td>
<td>1.5</td>
</tr>
<tr>
<td>A.1.4* Commitment to engage with stakeholders</td>
<td>2</td>
</tr>
<tr>
<td>A.1.5 Commitment to remedy</td>
<td>1.5</td>
</tr>
<tr>
<td>A.1.6 Commitment to respect the rights of human rights defenders</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A.2 Governance (5%)</th>
<th>Score (out of 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A.2.1 Commitment from the top</td>
<td>2</td>
</tr>
<tr>
<td>A.2.2 Board discussions</td>
<td>2</td>
</tr>
<tr>
<td>A.2.3 Incentives and performance management</td>
<td>0.5</td>
</tr>
</tbody>
</table>

*Core indicators linked to the UNGPs that are also examined in this case study

Despite being a high scorer in Theme A there are opportunities for Rio Tinto to improve, as highlighted in the table above. Rio Tinto only scored partial marks for commitments relating to the right to water (normally a key risk within the Extractive industry), expectations for business partners to make similar commitments to respect human rights, and collaboration with initiatives and business relationships to provide access to remedy. Further, the company scored zero marks regarding a specific commitment to respect the rights of human rights defenders (A.1.6). This indicator requires companies to express a commitment to not tolerate or contribute to threats, intimidation or attacks against human rights defenders linked to its operations, and to expect the same commitment from its business partners. Additionally, the lack of articulation of board level incentives and performance management regarding achieving human rights policies/goals impacts on their governance scores.

Beyond Theme A, Rio Tinto could improve in several areas as detailed by the 2018 scorecard. The implementation of Rio Tinto’s own standards (or demonstrating their implementation) across business partners and joint ventures is an area where more can be done. A low score in D.3.7 (security) indicates that more can be done to demonstrate how Rio Tinto ensures its business partners and joint ventures implement a responsible security management approach in line with the commitments for their own operations.

The following section outlines Rio Tinto’s approach to the three indicators (A.1.1, A.1.2 and A.1.4) selected for their linkages to the UNGPs. Rio Tinto scored full marks across all these indicators.

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33 Rio Tinto CHRB 2018 Results on 20181026 at 173329, p.3. Link; CHRB 2018 Methodology p.49. Link.
34 Note Rio Tinto appears to be addressing some of these issues – see Link.
Review of A.1.1 – Rio Tinto’s Commitment to Respect Human Rights

The image on the following page shows the scoring requirements for indicator A.1.1:

A.1.1 Commitment to respect human rights

**Sources:** UNGP 11 and 12; UNGPF A1; GRI 103-2

The Company publicly commits to respecting human rights across its activities. It must be clear the commitment relates to all internationally recognised human rights, rather than to only one or more selected human rights. This only considers commitments to avoid adverse human rights impacts and does not include philanthropic commitments.

**Note:** Additional industry-specific commitments are considered in A.1.3

**Meeting Score 1**

Rio Tinto publicly commits to respecting all internationally recognised human rights and was one of the first companies in the world to have a standalone Human Rights Policy. The Policy references the Universal Declaration of Human Rights (UDHR) and forms the basis for Rio Tinto’s approach to embedding the responsibility to respect human rights. They are a member in good standing of the UN Global Compact and their human rights section of their website confirms their commitment to respecting all internationally recognised human rights under the UDHR.

**Human Rights Policy in Context**

Rio Tinto’s Human Rights Policy:

- Outlines the main elements of the company’s approach to delivering on their commitment to respect human rights, such as its due diligence procedure;
- Expresses the importance of community involvement;
- Calls attention to the company’s salient human rights risks;
- References the company’s expectations of its business relationships, such as contractors, agents and suppliers; and
- References other policies and corporate principles that support the company’s commitment to human rights.

Rio Tinto builds upon its Human Rights Policy through ongoing updates and stakeholder engagement. It first introduced a policy referencing human rights in 1997, through its Statement of Business Practice (now called the Global Code of Business Conduct) The way we work. To draft the policy, Rio Tinto conducted dialogue

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35 Rio Tinto’s website - Human Rights: [Link](#).
36 Human Rights Policy 2015: [Link](#).
37 Human Rights Policy 2015: [Link](#).
38 Rio Tinto 2009, The Way We Work: [Link](#).
with stakeholders and subject matter experts including Amnesty International and British government departments and public bodies.\textsuperscript{39} Rio Tinto’s approach to outlining its human rights commitments has since evolved and Rio Tinto now has a stand-alone Human Rights Policy\textsuperscript{40}. The current version was approved by the Executive Committee in 2015 and is supported by wider explanations on their public website.

The company’s commitment to human rights is addressed in various formats and across different governance levels. Rio Tinto’s Human Rights Policy is a group-wide document applying to all employees. Rio Tinto also expects compliance among its business relationships:

“Through appropriate contractual arrangements and procurement principles, we make our consultants, agents, contractors and suppliers aware of and expect their compliance with our human rights commitments. We strive to ensure our joint venture partners and non-controlled companies in which we participate also respect our commitments to uphold human rights.”\textsuperscript{41}

The language used by Rio Tinto (expect compliance...ensure etc) is more robust than low scoring peers who only ‘encourage’ third parties to comply with human rights commitments.

A number of standards, procedures and guidance notes support their Human Rights Policy, and form the company’s internal compliance and control framework.\textsuperscript{42} Standards such as Rio Tinto’s Business Integrity Standard\textsuperscript{43} are mandatory, whereas guidance notes such as Why human rights matter and Why cultural heritage matter\textsuperscript{44} provide recommendations on how to implement policies and integrate human rights management at an operational and community level.\textsuperscript{45} Human rights commitments are also included in other corporate policies such as its Employment; Health, Safety, Environment and Communities; and Inclusion and Diversity policies.\textsuperscript{46}

Rio Tinto signed the United Nations (UN) Global Compact in 2000.\textsuperscript{47} It has expressed its commitment to the ten UN Global Compact Principles through The way we work\textsuperscript{48} and through its annual, publicly disclosed Communications on Progress.\textsuperscript{49} Rio Tinto is also an active member in the UN Global Compact community and is involved in working groups and local networking.\textsuperscript{50}

**Meeting Score 2**

Rio Tinto publicly states its voluntary commitment to the OECD Guidelines for Multinational Enterprises.\textsuperscript{51} Rio Tinto also states that its human rights approach is consistent with the UNGPs and other international frameworks\textsuperscript{52}, however this language alone would have been unlikely to result in full marks as CHRB is looking for commitments to implantation, rather than a weaker phrasing for approaches that are ‘consistent with’.

\textsuperscript{39} Memorandum submitted by Rio Tinto plc, 1998. \textsuperscript{40} Human Rights Policy 2015. \textsuperscript{41} Human Rights Policy 2015. \textsuperscript{42} Rio Tinto – Further CHRB Disclosure 2018 p.1. \textsuperscript{43} Rio Tinto Website 2019 – Publications & Policies. \textsuperscript{44} Rio Tinto Website 2019 – Publications & Policies. \textsuperscript{45} Rio Tinto Website 2019, which includes at a minimum, a ‘statement by the Chief Executive expressing continued support for the UNGC and renewing the participant’s ongoing commitment to the initiative’; a ‘description of practical actions the company has taken or plans to take to implement the Ten Principles in each of the four areas (human rights, labour, environment, anti-corruption)’; and ‘measurement of outcomes’. See UN Global Compact 2019 ‘The Communication on Progress [CoP] in Brief.’ \textsuperscript{46} UN Global Compact – Rio Tinto Plc. \textsuperscript{47} Rio Tinto’s Communication on Progress report to the UN Global Compact, 2003. \textsuperscript{48} The UNGC requires companies to provide an annual Communications on Progress, which includes at a minimum, a ‘statement by the Chief Executive expressing continued support for the UNGC and renewing the participant’s ongoing commitment to the initiative’; a ‘description of practical actions the company has taken or plans to take to implement the Ten Principles in each of the four areas (human rights, labour, environment, anti-corruption)’; and ‘measurement of outcomes’. See UN Global Compact 2019 ‘The Communication on Progress [CoP] in Brief.’ \textsuperscript{49} Rio Tinto’s Communication on Progress report to the UN Global Compact, 2010. \textsuperscript{50} 2017 Sustainable Development Report, p.44. \textsuperscript{51} Human Rights Policy 2015. \textsuperscript{52} 2017 Sustainable development report, p.43.
Rio Tinto uses a number of external publications and channels to describe its approach and commitment to embedding respect for human rights, including annual reports, sustainable development reports and the company website.53

“And so today, more than ever Rio Tinto sees the need to reaffirm our commitment to the Ten UNGC [UN Global Compact] Principles on human rights, labour, the environment and anti-corruption and to refresh our approach through innovation: technological, social and importantly, in our partnerships.”

–Jean-Sébastien Jacques, CEO, Rio Tinto

<table>
<thead>
<tr>
<th>Rio Tinto’s key steps to Respecting Human Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Public commitment to respect all recognised human rights</td>
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<tr>
<td>• UN Global Compact</td>
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<tr>
<td>• Group wide human rights policy</td>
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<tr>
<td>• Commitment to the OECD Guidelines</td>
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<tr>
<td>• Alignment with UNGP and other internationally recognised standards</td>
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<tr>
<td>• CEO endorsement, group-level approval</td>
</tr>
<tr>
<td>• Supporting standards, guidance notes and policies</td>
</tr>
<tr>
<td>• Participation in human rights policy working groups and local network meetings</td>
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</tbody>
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<table>
<thead>
<tr>
<th>Key Questions for Companies trying to Improve</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Has your company made a formal policy-level commitment to respect (all internationally recognised) human rights?</td>
</tr>
<tr>
<td>• To what extent has internal and external stakeholder engagement informed your company’s commitment to respect human rights?</td>
</tr>
<tr>
<td>• Is your company’s commitment delivered through internationally recognised standards and principles (i.e. commitment to implement UNGPs or OECD Guidelines)?</td>
</tr>
<tr>
<td>• Who approves and enforces the commitment?</td>
</tr>
<tr>
<td>• How does your company ensure that its human rights commitments are updated to reflect current issues?</td>
</tr>
</tbody>
</table>

Review of A.1.2 – Rio Tinto’s Commitment to Respect the Human Rights of Workers

The image below shows the scoring requirements for indicator A.1.2:

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53 Annual Report 2017, p.34 et.al. Link; Rio Tinto Website - Human Rights. Link; 2017 Sustainable development report, p.44. Link.
A.1.2 Commitment to respect the human rights of workers

Sources: UNGP 12 and 16(c), UNGPF A1 and GRI 103-2

The Company publicly commits to respecting the principles concerning fundamental rights at work in the eight ILO core conventions as set out in the Declaration on Fundamental Principles and Rights at Work (see Figure 14), together with those human rights of workers that are particularly relevant to its industry. It also has a publicly available statement of policy committing it to respect the human rights of workers in its business relationships.

Meeting Score 1

The four ILO Fundamental Principles and Rights at Work can be summarised as:

a) Freedom of association and the effective recognition of the right to collective bargaining;
b) The elimination of all forms of forced or compulsory labour;
c) The effective abolition of child labour; and
d) The elimination of discrimination in respect of employment and occupation.

Rio Tinto is committed to supporting the ten principles of the UN Global Compact, including the principles related to labour rights, meeting the first part of Score 1. The second element of Score 1 requires companies’ policy commitments to place expectations on business partners (suppliers etc) to commit to respecting the ILO core labour standards.

Rio achieves this through the requirements in their Code of Business Conduct, the Supplier Code of conduct and their application to business partners:

Since its adoption in 1997, the Code (The Way We Work) has acted as the focal point of principles and standards of conduct for Rio Tinto’s commitment to corporate responsibility.

The Code outlines the company’s value framework and sets out its expectations regarding business conduct and individuals’ behaviours, including safety and health, employment and inclusion, data privacy, bribery and corruption, as well as human rights.

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54 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. Link.
55 The way we work 2009, p. 5. Link.
The Code’s section on human rights is a summarised version of Rio Tinto’s Human Rights Policy. The Code has been revised to reflect evolving expectations, regulations and changes to the business. The Code is publicly available in ten languages.56

The Code extends to Rio Tinto’s business relationships, applying to all employees as well as consultants, agents, contractors and suppliers. Joint venture parties and non-controlled companies are also expected to respect the Code.57 The Supplier Code of Conduct also outlines the ILO’s Fundamental Principles and Rights at Work and covers eight areas including labour and human rights.58 It applies to all suppliers, their subsidiaries and subcontractors.59

“Upholding workers’ rights is both morally right and good business sense. But we’re also aware that simply protecting workers’ rights is not enough.”

Rio Tinto’s website

“The way we work provides a clear framework for how we should conduct our business, no matter where we work or where we are from. Importantly, it provides clear boundaries that we should hold ourselves and each other accountable for, to help make the right choices.”

Jean-Sébastien Jacques, CEO, Rio Tinto

Meeting Score 2

Achieving a score of 2 on this indicator requires companies to explicitly spell out their commitments to respecting the rights that the ILO has declared to be fundamental rights at work and to respect the health and safety of workers, with a stated expectation that business partners make the same commitment.

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56 Rio Tinto website 2019 – The Way we work. Link; Memorandum submitted by Rio Tinto Plc 1998. Link.
57 The way we work 2017, p.3. Link.
58 Rio Tinto’s Supplier code of conduct covers health and safety performance; governance and legal compliance; labour and human rights; environmental performance; emergency preparedness and business resilience; host communities; information and reporting; and management commitment. Link.
59 Supplier code of conduct 2016. Link.
Rio Tinto meets Score 2 through commitments in several documents. The Global Code of Business Conduct, *The way we work* contains the Code of Conduct which includes explicit commitments to diversity (non-discrimination), freedom of association and collective bargaining, plus the health and safety element.

The Human Rights Policy contains explicit commitments regarding forced and child labour. The Supplier Code of Conduct reinforces these expectations on business partners (for example Section 3 – inserted right).

Freedom of association and Collective Bargaining Commitments

The freedoms to associate and to bargain collectively are fundamental rights. Rio Tinto’s global code of business conduct explicitly states a commitment to respecting freedom of association and the right to collective bargaining. It recognises people “have the right to belong to a union and to seek to bargain collectively”.

While companies may be working to support the effective recognition of the right to collective bargaining, CHRB would encourage a policy level focus on respecting the fundamental rights at work when discussing this indicator.

CHRB has observed several companies struggling to publicly commit to respecting rights around freedom of association and collective bargaining, particularly in their own operations or where they mostly operate in jurisdictions with more robust legislation. Companies should recognise that CHRB expecting companies to ‘commit to respect the rights that people have at work’ does not equate to CHRB demanding companies unionise their workforce. This indicator focuses on the high-level commitment to respect those rights, meaning a company will not, at a minimum, inhibit, discourage or prevent those rights from being realised.

**Forced labour** – The Rio Tinto code also declares a non-tolerance for forced labour and child labour, and expresses the importance of inclusion and diversity. Rejection of slavery, forced labour and child labour are also specifically mentioned in the Human Rights Policy. Rio Tinto adopts a strong position against any type of forced labour. It dedicates a section of its website to the UK’s *Modern Slavery Act 2015* and its approach to managing the risks and impacts of modern slavery. Rio Tinto recognises that tackling modern slavery requires a continuous commitment and has released an annual Slavery and Human Trafficking Statement since 2016, as required under the transparency in supply chain provision of the UK’s *Modern Slavery Act*.

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60 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. [Link](#).
61 ILO Declaration on Freedom of Association and Collective Bargaining. [Link](#).
62 *The way we work* 2017, p.15. [Link](#).
63 *The way we work* 2017, p.15. [Link](#).
64 Human Rights Policy 2015. [Link](#).
65 Rio Tinto website 2019 - UK Modern Slavery Act. [Link](#).
In its 2017 Statement, Rio Tinto reiterates its commitment to protect against modern slavery and accounts for its achievements during the year. Rio Tinto has also made a submission to the Australian Government’s inquiry to welcome an Australian Modern Slavery Act.

CHRB encourages companies to use the current momentum (and legal compliance pressures) around Modern Slavery Reporting to push human rights commitments and due diligence up the agenda internally. Modern Slavery Reporting allows for a wider discussion of the due diligence approach a company is taking and can be a ‘gateway’ for both a broader and more detailed public disclosure of human rights approaches.

**Rio Tinto’s key steps – Commitment to Respect the Fundamental Rights at Work**
- Respect for all the ILO fundamental rights at work is integrated into Human Rights Policy, Code of Business Conduct and Supplier Code of Conduct
- Periodic revisions reflecting evolving needs and expectations
- Detailed slavery and human trafficking statement
- Engagement in the policy space in support of worker rights

**Key Questions for Companies**
- Does your company have a commitment to respect each of the fundamental rights at work, as outlined by the ILO?
- Does your company’s commitment to respect human rights extend to the human rights of workers in your business relationships?
- How does your company communicate its requirements and expectations to employees, business relationships and other stakeholders?

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**Review of A.1.4 – Rio Tinto’s Commitment to Engage with Stakeholders**

The image below indicates the key scoring elements for this indicator:

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66 Rio Tinto website 2019 - UK Modern Slavery Act. [Link](#).
67 Slavery and human trafficking statement 2017, p.2. [Link](#).
68 Rio Tinto website 2019 - UK Modern Slavery Act. [Link](#).
A.1.4 Commitment to engage with stakeholders

Sources: UNGP 12 and 18; UNGPF C2

The Company publicly commits to engage with its stakeholders, including potentially and actually affected stakeholders and/or their legitimate representatives.

Meeting Score 1

“At Rio Tinto, we never take our licence to operate for granted. We know that if we are to be successful, we must continue to build strong partnerships at every stage of our business – through exploration, development, operations and closure.”

Jean-Sébastien Jacques, CEO, Rio Tinto

From a policy perspective, Rio Tinto makes a clear commitment to engagement in its Human Rights Policy “Wherever we operate, we engage with communities to understand the social, cultural, environmental and economic implications of our activities” and stakeholder engagement is seen as a key element of Rio Tinto’s human rights approach. Rio Tinto defines a stakeholder as “any person or organisation that has an interest in our activities ... including those who are potentially affected by our activities and those influential to our business decisions.”

Rio Tinto strengthens this commitment by integrating stakeholder engagement into a bespoke management system approach (termed Communities and Social Performance or CSP). The internal CSP Standard is backed up by a public document - Our approach to communities and social performance. The top priority for effective communities and social performance, as described in this document, is Developing and maintaining mutually beneficial relationships with local communities and relevant stakeholders.

Methods to engage with external stakeholders include community forums, committees, meetings, site visits, surveys, and complaints and grievance mechanisms, which are supported by Rio Tinto’s publicly available reports and disclosures. Rio Tinto effectively reports that it has integrated the policy commitment (to engage) into a management system for their operations and reports on specific engagement topics annually.

Due to the nature of the mining industry, a lack of commitment to engage with potentially and actually affected stakeholders would be a clear warning sign regarding the company’s approach to respecting human rights and understanding/managing their human rights risks and impacts.

71 Annual Report 2017, p.60. Link.
73 Annual Report 2017, p.34. Link.
Meeting Score 2

Meeting score 2 requires a commitment to a more mature approach regarding engagement, which relies on external stakeholder contribution to the development or monitoring of the company’s own approach to human rights.

Rio Tinto’s engagement approach for stakeholders should enable it to continually develop and monitor its human rights approach. Rio Tinto details its stakeholder engagement process across each phase of its communities and social performance management system, which incorporates human rights due diligence, and is premised upon inclusive engagement.74

Specifically, checklists provide guidance to capture diverse voices and vulnerable groups, including women and Indigenous peoples. Not only can stakeholders voice concerns or exchange ideas, but they also have the opportunity to influence decisions that affect their human rights.75 The engagement process results in the joint development of an improvement plan.76 Another important tool is Rio Tinto’s complaints, disputes and grievance procedures, which are aligned with the UNGPs.77 78

As with many large companies, a central policy (e.g. to engage) is backed up by a detailed management system approach that sets out the standards to be applied across the business to realise the policy objectives.

In meeting a score of 2, Rio Tinto demonstrates its commitment to engage with stakeholders in the development of its human rights approach, through an ‘Inclusive Engagement’ process.79 This approach is highlighted in the ‘Four phases of integrating human rights into CSP work’80 image on the following page. Beyond engagement with potentially impacted stakeholders, Rio Tinto provides a good example of high-level engagement in their submission to the Australian government in support of initiatives such as the Australian Modern Slavery Act and an Australian National Action Plan for business and human rights81.

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74 Why human rights matter 2013, p.16. Link
75 Why human rights matter 2013, p.16. Link
76 Why human rights matter 2013, p.20. Link
77 Sustainable Development Report 2017, p. 44. Link
78 Why human rights matter 2013, p.20. Link
80 Why human rights matter 2013, p.18. Link
81 Rio Tinto submissions to Joint Standing Committee on Foreign Affairs, Defence and Trade (not all submissions available in public search). Link
7. Rio Tinto’s phases of integrating human rights into its Communities and Social Performance Work

Figure 1. Four phases of integrating human rights into CSP work

1. Know and understand
   - Know the human rights considerations at our operations.
   - Incorporate human rights into building our knowledge base and informing our social analyses. Understand the human rights context, issues and local priorities.

2. Plan and implement
   - Integrate human rights and gender considerations into our internal control and oversight systems and community development and social investment activities.
   - Human rights should be integrated in CSP multi-year planning processes.

3. Monitor, evaluate and improve
   - Monitor and evaluate progress in the area of human rights against agreed indicators and through project-level complaints, disputes and grievance process.
   - Adjust and improve projects, programmes and operational plans according to key findings.

4. Report and communicate
   - Report and communicate internally and externally on human rights performance and impacts including those involving gender and Indigenous peoples.

Inclusive engagement
- Engagement that aligns with respecting human rights.
- Ensure that all voices are heard, including men, women, Indigenous peoples and those from other vulnerable and ‘at risk’ groups.
“We’re not always legally required to meet international human rights standards. We work to meet them because we’ve chosen to respect human rights as a responsible company. This is not only the right thing to do, it is critical to maintaining trust and our licence to operate.”

Rio Tinto’s website

<table>
<thead>
<tr>
<th>Rio Tinto’s key steps – Commitment to Stakeholder Engagement</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Policy commitment to engage, grounded in UNGPs</td>
</tr>
<tr>
<td>• Commitments implemented through a Communities and Social Performance management system across operations</td>
</tr>
<tr>
<td>• Variety of means and channels for internal and external stakeholder engagements</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Questions for Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Are you actually engaging with your potentially or actually affected stakeholders?</td>
</tr>
<tr>
<td>• What policy commitment do you have to engagement and to integrating stakeholder voice into your human rights approaches and decision making?</td>
</tr>
<tr>
<td>• How does your company ensure stakeholders can voice their concerns effectively and regularly, in a manner in which they feel safe and is appropriate to the context?</td>
</tr>
<tr>
<td>• How does your company ensure that input is received from a diversity of voices, including from vulnerable groups?</td>
</tr>
<tr>
<td>• Does input from stakeholder engagement inform decisions regarding your human rights approach?</td>
</tr>
</tbody>
</table>

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62 Commitment to Respecting Human Rights. [Link](#)
Conclusion to Theme A – Governance and Policy Commitments

When companies ask, ‘where should we start?’, the company policy is a sensible place to begin. Assuming a company has strong governance and a culture of compliance to its own policies, a good human rights policy is an excellent foundation to build human rights performance. The disappointing scores in Theme A are in part driven by companies not meeting the specific language CHRB expects to see. Some companies may object to the approach CHRB has taken, but there is a strong belief that a commitment to implementing the UNGPs (relevant business elements) and/or the OECD Guidelines is materially different to a declaration that a company approach to human rights is based on, consistent with, in line with or informed by those same guidelines.

CHRB encourages companies to demonstrate their commitment to the UNGPs and/or the OECD Guidelines. Similarly, detailed commitments to respecting the rights at work (ILO elements) and to deal with specific industry risks prevent companies from cherry picking the elements that are easy to implement, or to wrap everything up in ‘catch-all’ statements and avoid digging into the issues.

While the three indicators investigated in this chapter make up only a few percent of the total score, they represent a key insight into the level of company commitment to managing and respecting human rights. As such, after their scores, they are the first thing CHRB would recommend an investor reviews to understand a company and guide engagement or the development of shareholder resolutions and voting positions. Other indicators, such as board remuneration linked to human rights, will provide a key insight into the elevation of human rights within the company and how seriously it is taken.

Key Takeaways

- Approving good policy commitments to respect human rights should not cause debate within any company that is serious about understanding, managing, mitigating and remedying its human rights risks and impacts.
- Similarly, boards that commit to respecting human rights should encourage linking the achievement of the human rights commitments with their own remuneration; to provide a clear demonstration of intent to external stakeholders.
- Policy commitments to respect human rights do not require reinventing the wheel. Clear guidance is available in international human rights instruments and the UNGPS, as well as good examples from higher scoring peers in the benchmark.
- Policy commitments, driven from the top down, applicable across the whole business - including subsidiaries – represents the best ‘start’ to respect human rights; ready for integration and implementation.
- Companies that prize themselves on agility should recognise that social issues and societal expectations can rapidly change, and that policies and commitments should be able to benefit from this agility.
- Stakeholder engagement, which means talking, listening and integrating engagement into company decision making, should be part of explicit commitments and hard-baked into development and ongoing monitoring of management approaches.
MEASUREMENT THEME B
EMBEDDING RESPECT AND
HUMAN RIGHTS DUE DILIGENCE
Introduction to Theme B

Words are only effective when accompanied by action. Companies’ human rights policy commitments must therefore be embedded within its systems and processes. Measurement Theme B - Embedding Respect and Human Rights Due Diligence outlines the actions required by companies to embed their human rights policy commitments and implement due diligence processes. Together, the indicators in this theme contribute 25% of the total potential Benchmark score.83

This case study considers the approach used by The Coca-Cola Company (“Coca-Cola”) to embed respect for human rights and human rights due diligence into its systems and processes. It first provides an overview of Coca-Cola and its human rights journey. It then explores key actions by Coca-Cola to drive change across five Benchmark indicators in Measurement Theme B (most directly linked to the UNGPs), which highlight the need for clear lines of responsibility and resources, and the due diligence process of identifying, assessing, integrating and acting, and tracking human rights risks and impacts.84

The process of embedding respect into a company’s culture and across its day-to-day activities and managements systems, including business relationships, generally requires a number of actions:

- Ensure that senior leaders adopt responsibility for human rights, and allocate appropriate resources to day-to-day functions;
- Develop incentives and performance management expectations that are linked to human rights management implementation;
- Integrate human rights considerations into enterprise risk management;
- Communicate the company’s human rights policy both internally and externally, including among the business relationships which the company holds;
- Provide human rights training to enable staff to understand and implement commitments;
- Monitor and responding to human rights impacts with corrective actions; and
- Engage with affected stakeholders. 85

Indicators relating to the above embedding requirements form the B.1 sub section and make up 10% of the total CHRB score.

Human rights due diligence is a key component of the UNGPs and the five B.2 sub section indicators make up 15% of the total CHRB score. Due diligence enables a company to be proactive and systematic in respecting human rights, rather than being reactive or unprepared.86 Implementing due diligence processes involve the following steps, as reflected in the CHRB indicators:

- Identify human rights risks and impacts;87
- Assess identified risks and impacts, including salient and key industry risks;88
- Integrate and act on findings to prevent and mitigate human rights impacts;89
- Monitor the actions used to identify risks and respond to findings;90 and
- Communicate publicly about these actions.91

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84 The Benchmark Indicators associated with the UNGPs are: Indicator B1.1, B2.1, B2.2, B2.3 and B2.4.
87 In accordance with UNGPs 17 and 18; UN Guiding Principles Reporting Framework B2 and C3; Human Rights Indicators for Business 1.2.1; and Global Reporting Initiative G4-HR11 and G4-LA15.
88 In accordance with UNGPs 17, 18 and 24; UN Guiding Principles Reporting Framework B1, B2 and C3; Human Rights Indicators for Business 1.2.1; and Global Reporting Initiative G4-HR9, G4-HR11 and G4-LA15.
89 In accordance with UNGPs 17, 19 and 24; UN Guiding Principles Reporting Framework C4; and Global Reporting Initiative G4-DMA-b.
90 In accordance with UNGPs 17, 20 and 24; UN Guiding Principles Reporting Framework C5; and Global Reporting Initiative G4-DMAc.
91 In accordance with UNGPs 20 and 21; and UN Guiding Principles Reporting Framework C2.
Current Trends and Common Gaps

Companies need to do more to embed respect for human rights and the due diligence processes. The 2018 Benchmark indicates that companies frequently fall short in demonstrating how they embed respect for human rights. In 2018, companies achieved an average score of 6.8 out of 25 in Measurement Theme B – Embedding Respect and Human Rights Due Diligence. In particular, companies on average scored only 2.8 out of 10 for embedding respect for human rights in company culture and management systems (Sub-theme B.1). Given that the tone from the top is vital to embed respect, it is significant that in 2018 only half the companies in the Benchmark demonstrated senior management responsibility for human rights functions.92

In 2018, there were also significant gaps in the area of human rights due diligence, with companies scoring 4.1 out of 15 (Sub-theme B.2). Forty percent of companies score no points at all across the five CHRB indicators for due diligence.93 Even among companies that conduct some aspects of due diligence, their performance generally decreases across each due diligence stage.94 This means 80% of companies scored zero points in relation to the final stage of human rights due diligence: tracking the effectiveness of the company’s response to human rights risks and impacts.

These results suggest a real opportunity for companies to embrace the requirements of the UNGPs and increase the extent to which they embed human rights considerations as business as usual and improve the maturity of their human rights due diligence. Encouragingly, four companies scored full points across the four indicators selected for this case study (strongly associated with the UNGPs on due diligence –indicators B2.1 to B2.4).95 These companies publicly demonstrate leadership in developing approaches to human rights due diligence and offering an opportunity for others to learn from and build on their efforts.96

Coca-Cola was selected for this case study because it scored full marks across the five core indicators in Measurement Theme B that were selected for this review. Coca-Cola’s global presence, complex business relationships and ongoing improvements also offer key lessons and guidance.

Background to The Coca-Cola Company

The Coca-Cola Company, assessed as part of the Agricultural Products sector,97 is the world’s largest beverage company, owning or licensing and marketing more than 500 non-alcoholic beverage brands. It manufactures and sells beverage concentrates, syrups and finished beverages across a vast value chain. Coca-Cola has over 800 plants as well as the world’s largest beverage distribution system, reaching customers in more than 200 countries through a network of company and independent bottling and distribution operations.98 These operations are organised across four geographic operating groups: Europe, Middle East and Africa; Latin America; North America; and Asia Pacific.99

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94 The four stages of human rights due diligence are: identifying risks, assessing risks, integrating and acting on risks, tracking the effectiveness of the company’s actions, and communicating on how human rights impacts are addressed.
96 Note ‘full points’ refers to Indicators B2.1 to B2.4 but excluded B2.5 which assesses public reporting of impacts. The four companies are: Adidas, Rio Tinto, The Coca-Cola Company and Unilever.

“The Coca-Cola Company’s commitment to respect human rights is fundamental to building our social licence to grow both now and into the future — it’s simply the right thing to do.”

– James Quincey, President and CEO, The Coca-Cola Company

Note on negative impacts

While these case studies focus on how high scoring companies achieve their results in specific Themes, it should be noted that no company is perfect and companies used for the case studies have been involved, or alleged to have been involved, in causing, contributing or being linked to serious negative impacts on people or planet.

In the 2018 CHRB assessment, Coca Cola was assessed against six severe human rights impact allegations, scoring on average one-third of the total available points. These allegations concern infringements on land and water rights, child labour and livelihoods and appear across various elements of Coca Cola’s operations and supply chains (for example related to sugar suppliers, recycling plants, bottling/production plants and energy supplies to facilities) in India, Mexico and Brazil.

The cases reviewed by CHRB concerning Coca-Cola’s global operations highlight that even where there is considerable public disclosure of a company’s approach to human rights due diligence, it does not guarantee that negative impacts will not happen, particularly where the company operations and supply chain is so vast and diverse, in the same way that a strong environmental risk management approach does not guarantee zero environmental impacts. However, it is arguable that strong due diligence and risk management will increase the chance of identifying potential impacts and reduce the likelihood of those risks manifesting.

The Coca-Cola Company’s Approach to Embedding Respect and Human Rights Due Diligence

Coca-Cola demonstrated significant improvement in 2018. It scored a total of 59% across the six CHRB Measurement Themes, 18.5 points higher than its score in 2017, and was ranked ninth overall. It scored 20.6 out of 25 for Measurement Theme B - Embedding Respect and Human Rights Due Diligence, placing it fourth for this theme.

While Coca-Cola scored full marks on a number of indicators, the 2018 Benchmark identified areas it can continue to improve. In particular, the company scored zero marks for disclosing incentives and performance management, which requires companies to incentivise senior managers to implement human rights policy commitments, such as through remuneration. Coca-Cola also scored only partial marks for a number of indicators, highlighting potential improvements in specific areas such as managing supplier compliance down

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103 The Coca-Cola Company, James Quincey on Human Rights at The Coca-Cola Company. Link.
104 CHRB Results, Coca Cola download scoresheet 2018. Link.
105 Indicator B.1.2.
the supplier chain, undertaking corrective action processes, following systems and processes to identify affected stakeholders, and responding to affected stakeholders’ concerns.

<table>
<thead>
<tr>
<th>Coca-Cola’s Scores for Theme B - Embedding Respect and Human Rights Due Diligence</th>
<th>Score (out of 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>B.1 Embedding respect for human rights in company culture and management systems (10%)</strong></td>
<td></td>
</tr>
<tr>
<td>B.1.1* Responsibility and resources for day-to-day human rights functions</td>
<td>2</td>
</tr>
<tr>
<td>B.1.2 Incentives and performance management</td>
<td>0</td>
</tr>
<tr>
<td>B.1.3 Integration with enterprise risk management</td>
<td>1</td>
</tr>
<tr>
<td>B.1.4.a Communication/dissemination of policy commitment(s) within Company’s own operations</td>
<td>2</td>
</tr>
<tr>
<td>B.1.4.b Communication/dissemination of policy commitment(s) to business relationships</td>
<td>1.5</td>
</tr>
<tr>
<td>B.1.5 Training on human rights</td>
<td>2</td>
</tr>
<tr>
<td>B.1.6 Monitoring and corrective actions</td>
<td>1.5</td>
</tr>
<tr>
<td>B.1.7 Engaging business relationships</td>
<td>2</td>
</tr>
<tr>
<td>B.1.8 Approach to engagement with potentially affected stakeholders</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>B.2 Human rights due diligence (15%)</strong></td>
<td></td>
</tr>
<tr>
<td>B.2.1* Identifying: Processes and triggers for identifying human rights risks and impacts</td>
<td>2</td>
</tr>
<tr>
<td>B.2.2* Assessing: Assessment of risks and impacts identified (salient risks and key industry risks)</td>
<td>2</td>
</tr>
<tr>
<td>B.2.3* Integrating and Acting: Integrating assessment findings internally and taking appropriate action</td>
<td>2</td>
</tr>
<tr>
<td>B.2.4* Tracking: Monitoring and evaluating the effectiveness of actions to respond to human rights risks and impacts</td>
<td>2</td>
</tr>
<tr>
<td>B.2.5 Communicating: Accounting for how human rights impacts are addressed</td>
<td>1</td>
</tr>
</tbody>
</table>

* Core indicators closely aligned to the UNGPs that are examined in this case study.

Beyond Theme B, there are several areas of performance that Coca-Cola could improve. Looking at the 2018 scorecard, they score just over a third of the available points for Theme C (remedies and grievance mechanisms) with low scores relating to grievance mechanisms developed with, used by and available to wider communities. In Theme D, Coca-Cola could work towards higher scores for living wages and health and safety practices in the supply chain.

The following section outlines Coca-Cola’s approach to the five indicators selected for review in Measurement Theme B, each of which is closely reflected in the UNGPs (B1.1, B2.1, B2.2, B2.3 and B2.4). Coca-Cola scored full marks across all these indicators. While communication (B.2.5) is a critical aspect of human rights due diligence, it is not included in this review primarily for reasons of space, but also because the CHRB methodology is already based on publicly communicated information.

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106 Indicator B.1.4.b.  
107 Indicator B.1.6.  
108 Indicator B.1.8.  
109 Indicator B.2.5.
Review of B.1.1 – Coca Cola’s Resourcing and Responsibilities for Day-to-Day Human Rights Functions

The image below indicates the key scoring elements for this indicator:

B.1.1 Responsibility and resources for day-to-day human rights functions

**Sources:** UNGP 19; UNGPRF A2 and A2.1; GRI 102-19 and 102-20

The Company outlines senior level responsibility for human rights within the Company as well as the organisation of the day-to-day responsibility for human rights across relevant internal functions.

**Note:** Board level responsibility is assessed under indicator A.2.1 and therefore not considered in this indicator.

**Score 1**

The Company indicates the senior manager role(s) responsible for relevant human rights issues within the Company (i.e. responsibility for human rights is assigned to a senior manager(s)) and this includes the ILO core labour standards at a minimum.

**Score 2**

The Company also describes how day-to-day responsibility, resources and decision-making process are allocated across the range of relevant functions of the Company.

Lock Score 2

The Company describes how day-to-day responsibility for managing human rights issues within its supply chain is allocated.

**Meeting Score 1**

Senior leaders at Coca-Cola are public about the company’s commitment to respecting human rights. As James Quincey, Coca-Cola’s President and CEO says, “It is vital that we all embrace this commitment and that we identify and address human rights impacts when they occur in our business system and in our supply chain.”

Senior responsibility for human rights at Coca-Cola sits within the Global Workplace Rights Department, which oversees:

- Human rights policy and governance support;
- Human rights risk identification across the value chain; and
- Development of due diligence tools to identify and mitigate human rights risks.

Coca-Cola also has a Global Workplace Rights Director, which is a direct senior management role with responsibility for human rights issues. The Director reports to the Chief People Officer and reports to the Board semi-annually on human rights issues, risks, challenges and progress against Coca-Cola’s commitments.

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110 The Coca-Cola Company, James Quincey on Human Rights at The Coca-Cola Company. [Link](Link).
“At Coca-Cola, we have taken a leadership role in the human and workplace rights space. I speak broadly about Coca-Cola’s expectations of our suppliers and we continuously work to equip our partners with tools to better understand those expectations and how to meet them. We aim to demonstrate by example what a good company is as well as how a good company can be good for communities.”

– Brent Wilton, Global Workplace Rights Director, The Coca-Cola Company

Coca-Cola also has human rights and workplace rights managers in the field, monitoring compliance at the regional level.

**Meeting Score 2**

The Global Workplace Rights Department is intentional about working cross-functionally by collaborating across procurement, health and safety, diversity and inclusion, public affairs, communications and sustainability, legal and enterprise risk management. Human rights issues are also discussed regularly at senior management meetings. This day-to-day collaboration, alongside senior accountability, is key to promoting a consistent approach to embedding human rights at Coca-Cola.

Coca-Cola’s approach indicates one way that companies can elevate human rights to the highest level by proactively allocating senior responsibility and resources for day-to-day human rights functions. Elevating human rights, however, requires continuous evaluation and improvement.

“Respect for human rights is a journey that requires commitment and leadership. Our approach to human rights has matured over the decades as have the expectations of our stakeholders... We are working to continuously review the Coca-Cola System’s impact on human rights and do so in a transparent and meaningful way.”

– Brent Wilton, Global Workplace Rights Director, The Coca-Cola Company

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**Coca-Cola’s Key Steps: Responsibility and Resources**

- Establishment of the Global Workplace Rights Director and Global Workplace Rights Department
- Senior human rights roles at the regional level and in the field
- Regular discussions of human rights issues at management meetings
- Cross-functional engagement across company

**Key Questions for Companies**

- Does your company have a senior management role and team that has day-to-day responsibility for human rights?
- Are your company’s human rights responsibilities allocated to a dedicated role, or are these human rights allocated as an extra responsibility to someone’s day-to-day role?
- Does your company have human rights roles in the field and across the company’s regional reach?
- How does your company ensure cross-functional engagement and consistency on human rights?
Review of B.2.1 – Coca Cola’s Due Diligence; Identifying Human Rights Risks and Impacts

The image below indicates the key scoring elements for this indicator:

B.2.1 Identifying: Processes and triggers for identifying human rights risks and impacts

**Sources:** UNGP 17 and 18; UNGPRF B2 and C3; HRIB. 1.2.1; GRI 412-1 and 414-2

The Company proactively assesses its human rights risks and impacts on an on-going basis, including when these are triggered by key moments of the Company’s activities (e.g. policy change, market entry, new projects, amongst others).

*Note:* If a company has a clear global system of the type described in the criteria, then it can be assumed that it operates in each particular location. As such, by complying with all criteria in score 2, a company is automatically assumed to have achieved a score 1.

**Score 1**

The Company describes the process(es) to identify its human rights risks and impacts in specific locations or activities, covering its own operations (i.e. impacts that it may cause or contribute to) AND through relevant business relationships.

**Score 2**

The Company describes the global systems in place to identify its human rights risks and impacts on a regular basis across its activities, in consultation with affected or potentially affected stakeholders and internal or independent external human rights experts. This includes how the systems are triggered by new country operations, new business relationships or changes in the human rights context in particular locations.

**Meeting Score 1**

Coca-Cola’s Global Workplace Rights Department holds responsibility for identifying human rights risks and impacts — an important element of due diligence that spans across its operations and relevant business relationships, including suppliers.

Between 2015 and 2017, Coca-Cola conducted a comprehensive process to map and prioritise the company’s salient human rights risks. Salient human rights issues are those at risk of the most severe negative impacts through a company’s specific activities or business relationships, based on a lens of risk to people, rather than risk to business. To capture a diversity of views, Coca-Cola conducted consultations, involving employees across all functions and continents. It also consulted externally with bottling partners, suppliers, subject matter experts and civil society groups, including unions, NGOs and investors. Participants ranked, evaluated and prioritised human rights risks according to scale, scope and remediability.
“The consultation process confirmed that much of our human rights focus is appropriate and has equipped us to move in a more strategic direction in addressing these issues.”
— Brent Wilton, Global Workplace Rights Director, The Coca-Cola Company

To further support due diligence, Coca-Cola equips its managers with specific human rights due diligence checklists for a range of functions and operational settings such as plant siting, migrant labour, contract labour, pre-sourcing design and child labour. These checklists not only support staff to identify potential human rights impacts internally, but also assist external suppliers and contractors to self-assess, develop awareness and identify impacts.

Meeting Score 2

The global approach mentioned in score 1 under the Global Workplace Rights Department is relevant for score 2. Coca-Cola describes a pro-active approach to identify both existing and future human rights risks and impacts, navigating through an ever-changing environment of policy updates, company decisions and evolving in-country risks. Much of this work is rooted in experience with the sugar industry and deep dives into child labour, forced labour and land rights issues at a country level. Coca Cola provides overviews of the methodology for country level studies, as well as country level reports, supported by tools such as the Human Rights Due Diligence Checklists.

In relation to changing circumstances, an example of Coca-Cola’s approach is the introduction of guidance documents for the mergers and acquisitions team, who are equipped to account for potential human rights impacts when Coca-Cola enters into new business relationships or geographies. Another example to identify emerging risks is the use of social audits to identify non-conformances to the human rights policy; for instance excessive overtime and improper overtime compensation made up a quarter of the 2016 audit findings, while safeguards relating to recruitment practices were built into the audit protocol.

<table>
<thead>
<tr>
<th>Coca-Cola’s Key Steps: Supporting Due Diligence</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Identification process to map and prioritise human rights risks with internal and external stakeholders</td>
</tr>
<tr>
<td>• Creation of function-specific human rights due diligence checklists for employees and suppliers</td>
</tr>
<tr>
<td>• Ongoing and independent due diligence studies that are targeted to high-risk factors</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Questions for Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Does your company understand the difference between ‘business risks’ and ‘human rights risks’?</td>
</tr>
<tr>
<td>• Does your company understand the difference between materiality and salience?</td>
</tr>
<tr>
<td>• How does your company identify its human rights risks and impacts, and seek input from a diverse range of stakeholders, including affected stakeholders?</td>
</tr>
<tr>
<td>• How does your company ensure your employees and suppliers understand and apply the due diligence process?</td>
</tr>
<tr>
<td>• How does your company identify future human rights risks and impacts, such as in mergers and acquisitions?</td>
</tr>
<tr>
<td>• How does your company identify high-risk factors that cause human rights impacts?</td>
</tr>
</tbody>
</table>

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121 The Coca-Cola Company, Overview of Country Sugar Studies, Link.
123 The Coca-Cola Company, Human Rights Due Diligence Checklists, Link.
Review of B.2.2 – Coca Cola’s Due Diligence; Assessing Risks and Impacts

The image below indicates the key scoring elements for this indicator:

B.2.2 Assessing: Assessment of risks and impacts identified (salient risks and key industry risks)

**Sources:** UNGP 17, 18 and 24; UNGPRF B1, B2 and C3; HRIB, 1.2.1.; GRI 412-1 and 414-2

Having identified its human rights risks and impacts, the Company assesses them and then prioritises its salient human rights risks and impacts.

### Meeting Scores 1 and 2

To uncover salient human rights issues, Coca-Cola conducts human rights assessments, such as the consultation process described above in Indicator Topic 2, as well as regular audit and due diligence reports. As Wilton describes: “[O]ur understanding is gained through our 2,500+ audits each year that show us a compliance rate for workplace-related human rights, and also importantly through a strong risk management and due diligence process that enables us to better respond to salient human rights issues.”

Coca-Cola is purposeful in its assessment process, targeting high-risk areas based on criteria such as geographies and commodities. For example, it conducted 18 independent country-specific due diligence studies on its sugar supply chain, with a focus on child labour, forced labour and land rights (by 2018). While sugar is one of the largest commodities sourced by Coca-Cola, it has committed to publishing 28 country-specific studies by 2020. By using specific goals, independent experts, and a targeted approach, Coca-Cola continues to evolve its human rights risk identification and assessment.

Coca-Cola’s 2016-2017 Human Rights Report also examines each of its salient human rights issue in detail. “For the first time we publicly list and discuss our 13 identified salient human rights issues”, says Wilton. These risks include safety and health of all workers, equality, child labour, forced labour, freedom of association, land rights, access to water, privacy, and corruption and anti-bribery. The 2016-2017 Human Rights Report features practical examples for each risk,
highlighting commitments, policies, memberships to stakeholder organisations, and actions such as workshops, audits and mitigations.¹³⁰

<table>
<thead>
<tr>
<th>Coca-Cola’s Key Steps: Assessing Identified Risks and Impacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Human rights assessments, including consultations, independent audits and due diligence reports that target high-risk factors</td>
</tr>
<tr>
<td>• Public disclosure and analysis of salient human rights risk factors</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Questions for Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• How does your company assess its salient human rights risks and impacts?</td>
</tr>
<tr>
<td>• Does your company publicly list and analyse its salient human rights issues?</td>
</tr>
</tbody>
</table>

**Lessons from another sector:**

Global human rights due diligence processes help frame the company understanding and a global list of salient human rights risks is useful, particularly to help drive strategic initiatives, but it cannot replace site level understanding of risks and impacts.

A leading mining company may have a site level (rolling) social risk management approach that is integrated within the wider operational risk management framework and updated through ongoing engagement and activities. It is informed by a two or three yearly (detailed) stakeholder engagement process that goes into more detail of risks and impacts.

This is on top of the detailed environmental and social impact assessments (ESIAs) conducted before major projects, changes or closures – which bookends the human rights risk identification process.

Review of B.2.3 – Coca Cola’s Due Diligence; Acting on Assessments of Risk and Impact

The image below indicates the key scoring elements for this indicator:

**B.2.3 Integrating and Acting: Integrating assessment findings internally and taking appropriate action**

**Sources**: UNGP 17, 19 and 24; UNGPRF C4; GRI 103-2

The Company integrates the findings of its assessments of human rights risks and impacts into relevant internal functions and processes by taking appropriate actions to prevent, mitigate or remediate its salient human rights issues.

**Note**: Indicators B.1.6 and B.2.3 are related but focus on different dimensions of a company’s actions: B.1.6 (which is in section B.1 on management systems) is about the company’s systemic approach to on-going monitoring and follow up on policy implementation whilst B.2.3 (which is in section B.2 on Human Rights Due Diligence) is about a specific step in the human rights due diligence process in addressing salient (or other) human rights impacts.

<table>
<thead>
<tr>
<th>Score 1</th>
<th>Score 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Company describes its global system to take action to prevent, mitigate or remediate its salient human rights issues OR provides an example of the specific conclusions reached and actions taken or to be taken on at least one of its salient human rights issues as a result of assessment processes in at least one of its activities/operations.</td>
<td>The Company meets both of the requirements under Score 1.</td>
</tr>
</tbody>
</table>

**Meeting Scores 1 and 2**

The findings of Coca-Cola’s human rights risk assessments act as a catalyst, prompting Coca-Cola to take steps to prevent, mitigate and remediate its human rights risks and impacts. Wilton explains, “It is important for us to have a clear understanding how we, as a Company, as well as our bottlers and suppliers, perform related to the identified salient human rights risks.”

**Prevention**

Coca-Cola requires its suppliers to comply with its Company’s Supplier Guiding Principles and Sustainable Agriculture Guiding Principles, which are embedded into all contractual agreements.

While Coca-Cola expects its suppliers to follow its standards on paper, it also aims to ensure these standards are met in practice, taking responsibility for monitoring compliance. Coca-Cola uses independent third-party audits and as of 2017, it has conducted over 20,000 audits of its suppliers. The audits involve confidential interviews with employees and on-site contract workers. Coca-Cola emphasises that, “Protection of the workers in the process is of utmost importance”. To ensure a representative sample and confidentiality, the audits include:

- A diverse range of employees across different genders, ethnicity, religions, as well as employees who appear young, employees who are pregnant, union representatives and contingent workers;
- Voluntary participation;

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1. 131 The Coca-Cola Company, ‘Working to Get Human Rights Right... and Reporting On It’, 9 October 2017. [Link](#).
2. 132 The Coca-Cola Company, Supplier Guiding Principles. [Link](#).
3. 133 The Coca-Cola Company, Sustainable Agriculture Guiding Principles. [Link](#).
• Prevention of management influence, such as conducting interviews in a private location; and
• Confidentiality, such as removing references to employees’ names and destroying all documentation in a location away from the facility.136

Coca-Cola also conducts training with suppliers and publishes implementation guidance on issues including land rights, HIV/AIDS and pregnancy testing, and migrant worker recruitment.137 While Coca-Cola uses its leverage to encourage improved supplier conduct where necessary, it can terminate a supplier agreement as a last resort if a supplier fails to comply with the Supplier Guiding Principles (although no public examples of this last resort being taken have been identified for this report, the Human Rights Report does describe how non-conformances identified through actions like social audits are addressed through corrective action plans within a set time frame138).

Internally, Coca-Cola also holds workshops on health and safety, uses monitoring and reporting metrics for non-discrimination, and collaborates on stakeholder engagement, such as through the Leadership Group for Responsible Recruitment139 and the Mega-Sporting Events Platform for Human Rights.140

**Mitigation**

Coca-Cola attempts to mitigate human rights impacts by adopting a corrective action plan that targets underlying causal factors. A recent example of non-compliance is employee overtime. Coca-Cola conducted a root cause analysis of overtime, including questionnaires, bottler visits and working groups. The results included a cause and effect diagram, identifying both the drivers of overtime and strategies to reduce overtime. Examples of mitigation actions to change behaviours and conditions include mapping production flow and identifying bottlenecks, educating managers on the legal restrictions and costs of overtime, and increasing staff capacity to cover busy periods and leave.141 Coca-Cola also published an Hours of Work Improvement Guide for its facility management teams with a self-assessment checklist, tools and case studies.142

Coca-Cola meets with the International Union of Food and Allied Workers bi-annually, enabling early understanding and mitigation of labour issues before they escalate.143 It also combines leverage with other organisations to encourage change. In 2016, it formed a coalition with Oxfam and other buyers to influence a sugar mill in Brazil to cease land grabbing. As Coca-Cola highlights in its Human Rights Report, “building leverage and triggering change does not happen overnight and requires engagement, persistence and vision.”144

**Remediation**

Coca-Cola commits to “fair and equitable” remediation when human rights impacts are found.145 For example, as a result of the due diligence studies on sugar supply chains Coca-Cola discovered forced labour in its supply chains. A subcontractor in Côte d’Ivoire had indebted its migrant workers and withheld travel documents until the debt was repaid. After investigations, the contractor undertook immediate remediation, requiring the subcontractor to return the travel and identity documentation to the employees. The contractor also conducted training for the subcontractor to ensure full compliance with Coca-Cola’s Human Rights Policy.

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142 The Coca-Cola Company, Hours of Work Improvement Guide. Link.
To avoid future instances, the contractor introduced new procedures to appoint, supervise, manage, monitor, audit and train subcontractors. Local mills are required to conduct audits of all subcontractors every six months in sites across Africa.146

### Coca-Cola’s Key Steps: Integrating and Acting on Findings

- Supplier guidelines in contractual agreements (does this make them requirements?)
- Independent audits of suppliers
- Due diligence and training and guidance documents for employees and suppliers
- Leverage and collaboration to influence suppliers
- Membership and meetings with stakeholder organisations
- Mitigation plans that analyse and address causal factors
- Ensuring remediation of impacts, including via third parties like contractors

### Key Questions for Companies

- How does your company **expect and ensure** its business relationships comply with its Human Rights Policy and other relevant (human rights related) guidelines?
- How does your company **use its leverage** to influence business relationships to respect human rights?
- How does your company **engage with stakeholder** organisations and their membership?
- How does your company prevent and monitor human rights risks and impacts in both your company and business relationships?
- Does your company have an approach to analyse and address causal factors to human rights risks and impacts?
- How does your company implement **appropriate remediation** measures and avoid future human rights impacts in your company and your business relationships?

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Review of B.2.4 – Coca Cola’s Due Diligence; Monitoring and Evaluation

The image below indicates the key scoring elements for this indicator:

**B.2.4 Tracking: Monitoring and evaluating the effectiveness of actions to respond to human rights risks and impacts**

*Sources: UNGP 17, 20 and 24; UNGPF C5; GRI 103-3*

The Company tracks and evaluates the effectiveness of actions taken in response to its human rights risks and impacts and describes how it uses that information to improve processes and systems on an ongoing basis.

- **Score 1**: The Company describes the system(s) for tracking the actions taken in response to human rights risks and impacts assessed and for evaluating whether the actions have been effective or have missed key issues or not produced the desired results OR provides an example of the lessons learned while tracking the effectiveness of its actions on at least one of its salient human rights issues as a result of the due diligence process.

- **Score 2**: The Company meets both of the requirements under Score 1.

**Meeting Scores 1 and 2**

The capstone to Coca-Cola’s due diligence approach is a continuous effort to monitor and evaluate the **effectiveness** of its responses to human rights risks and impacts. Coca-Cola operates a risk management system that enables tracking of human rights performance, escalation of serious incidents to the global level, and evaluation of response effectiveness\(^1\), although detailed explanations of this system have not yet been seen and are encouraged to enable better peer learning.

As it learns lessons along the way, Coca-Cola discloses both its successes and challenges through case studies and practical solutions. A case study on safety culture, for example, highlights Coca-Cola’s work with a Malawi-based bottler to fund a bicycle safety awareness program. The program was designed to prevent accidents among cyclists who distribute Coca-Cola’s products.\(^2\) Coca-Cola also evaluates the success of its initiatives. In 2017, Coca-Cola introduced the Ultra High-Density Plantation initiative, a farmer curriculum and supply chain traceability to improve the livelihoods of India’s mango farmers. The program’s effectiveness has examined via a random sampling of farmers to assess the uptake of sustainable practices.\(^3\) The study found that farmers increased their mango productivity by 200%.\(^4\)

Looking forward, Coca-Cola’s 2016-2017 Human Rights Report identifies the following areas requiring more attention: access to remedy for workers in its supply chain, protection of human rights defenders, accuracy of data gathering, and deep integration of the UNGPs into its supply chain.\(^5\) Reflecting on the ongoing journey for monitoring and evaluation, Wilton says, “We will examine and engage in work toward positively impacting these issues, and report on progress. With an area as complex and ever-changing as human rights, more work will always need to be done.”\(^6\)

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4. Coca-Cola India, Mango Farmers Bear the Fruit of Project Unnati. [Link](#).
Coca-Cola’s Key Steps: Monitoring and Evaluation

- Global risk management system
- Ethics hotline
- Reports from regional human rights manager
- Internal audits
- Sharing of successes and challenges in case studies
- Identification of areas requiring more attention

Key Questions for Companies

- How does your company collate and analyse data on human rights, drawing on the successes and failures from site, to regional and to global levels?
- Is there a management system that supports such an approach?
- How does your company share successes and challenges, and areas requiring further attention?

8. Coca Cola Bottling Plan (see footnote for photo credit)
Conclusion to Theme B – Embedding and Human Rights Due Diligence

“Human rights issues are only becoming more prominent with increasing legislation, benchmarks and growing attentiveness of stakeholders. As human rights issues and engagement evolve, so must we. Our social license to operate depends on our ability and effectiveness in identifying, preventing and mitigating negative human rights impacts.”

– Brent Wilton, Global Workplace Rights Director, The Coca-Cola Company

Companies must respect human rights in practice. Embedding respect for human rights and due diligence are critical ways to translate human rights commitments into tangible actions. While Measurement Theme B had the largest improvement of all the Measurement Themes between 2017 and 2018, the average score in 2018 was 6.8 out of a possible 25 points.

In terms of taking action, companies need a motivation and the means to do so. The means in this case constitute an adequately resourced approach to human rights risk and impact management that is taken seriously within the company. Some companies who do not see the ethical reasons for acting responsibly may not be able to recognise the link between risks to people and risks to business, despite the ever-growing evidence of where companies have gotten it wrong and severely impacted their bottom line. CHRB is encouraging investors in particular to recognise that if a company does not demonstrate adequate human rights due diligence, it is unlikely that the investor will be able to gauge the potential risks and liabilities of a particular company. As such, CHRB believes that any companies scoring zeroes across the human rights due diligence indicators should expect investors to push for change through engagements, voting against the company at Annual General Meetings and supporting shareholder resolutions that push for improvements.

Key Takeaways

- See human rights due diligence as a way to understand and manage risks and impacts that will be increasingly crucial to maintaining a license to operate and brand reputation; and
- Recognise that due diligence is not an annual get together of the risk committee plus a few ringers who understand human rights; it is a management systems approach and needs to be integrated throughout the business and be adequately resourced.

6. Human Rights Due Diligence Indicators from CHRB Theme B.2

155 The Coca-Cola Company, ‘Working to Get Human Rights Right... and Reporting On it’, 9 October 2017. [Link](#).
156 CHRB, Corporate Human Rights Benchmark 2018 Key Findings, ‘Comparison with the 2017 Pilot Results’, p. 53. [Link](#).
Looking Ahead

The human rights due diligence landscape is not static and CHRB sees scope to increase the disclosure expectations in the future, to better understand how companies compare with one another. Additionally, CHRB sees mandatory human rights due diligence and reporting becoming increasingly likely for any companies doing business within the EU.

A difficulty many companies face in articulating their approach to human rights is often the need or desire to focus on ‘stories’ that demonstrate where systems are working well. But there is a common disclosure gap regarding the systems approaches taken to manage human rights through due diligence processes. Third parties are left with an idea of the overall approach and some snippets, but without understanding how it was achieved. Companies can help address this by disclosing the layers, escalations and oversight elements of their systems. For example, the detail behind a system featuring:

- A global policy and standards set at head office and how this links to materiality and salience assessments;
- Site level social performance plans, linked to regional strategies and tied to business plans;
- Site level monitoring of progress (of social performance plans / risk and impact management plans), reported to regional level and then up to head office;
- Regional and global oversight of site level performance against global policies and standards (assurance and audit programme); and
- Reporting on actual impacts and risks, plus disclosing the actual level of internal compliance with own policies and standards (across own operations, JVs etc) and programmes in place to address gaps.

Another general gap that may be an area of future focus is in the details behind human rights risk and impact assessment. Some companies are able to discuss a generic list of salient human rights risks, but there is little disclosed concerning the actual scale and scope of actual or potential human rights risks and impacts. This may require a significant attitudinal shift from companies (to discuss likelihood, severity, remediability etc). Companies may struggle to integrate human rights risks into their operational or enterprise risk management frameworks, because of the focus areas (i.e. risk to people vs risks to business objectives). Companies could consider making the achievement of human rights objectives part of specific business objectives, which would allow for human rights risks to be framed in a way that ensures they are actively managed within existing frameworks, rather than an under-resourced ‘add-on’.

A final point on human rights due diligence concerns corporate structures, where subsidiary companies add a layer of complexity when assessing a global corporation. Ownership structures, where profits are ‘global’, but risks and impacts are ‘local’ can reduce the perceived ‘ownership’ of human rights harms (i.e. from causing, to contributing to, to linked with), diluting the links between the global governance commitments and conditions on the ground. With ongoing court cases and significant academic work in this space, CHRB anticipates that disclosures around the level of oversight and implementation of ‘global policies’ will be a future area of focus.
MEASUREMENT THEME C
REMEDIES AND GRIEVANCE MECHANISMS
Introduction to Theme C

Even with robust human rights due diligence processes, companies may still cause or contribute to adverse human rights impacts due to the complexity of its activities and business relationships. Companies must consequently be prepared with a process to respond appropriately and effectively to affected stakeholders.157 The indicators in Measurement Theme C – *Remedies and Grievance Mechanisms* assess whether companies have adequate processes in place to address grievances and to provide remediatory where human rights impacts have occurred.158

This case study considers the approach used by Adidas to provide grievance mechanisms and remediatory. The case study first presents an overview of the company. It then explores three core indicators in Measurement Theme C that are chosen for their clear linkage to the UNGPs, and the key steps that Adidas takes to meet these indicators. The first two indicators focus on the existence of *grievance channels* or *mechanisms* for workers and external stakeholders to bring human rights related issues to Adidas’ attention.159 The third indicator assesses the approach used by the company to *remedy* any adverse human rights impacts.160

Grievance mechanisms allow internal and external stakeholders to effectively and safely raise human rights issues. This, in turn, assists a company to better identify adverse human rights impacts that are caused or contributed by its activities or through its business relationships.161 The mechanisms also enable a company to respond early and directly to human rights impacts before they escalate.162 To create effective grievance mechanisms, a company should:

- Provide grievance channels or mechanisms through which all workers can raise complaints and concerns;
- Provide grievance channels or mechanisms through which external stakeholders can raise complaints and concerns;
- Involve users in the design and performance of grievance channels or mechanisms;
- Publicly disclose how grievance channels or mechanisms work, how complainants are kept informed throughout the process and how grievances are escalated;
- Commit to not tolerating or engaging in retaliation against those who raise concerns or complaints;
- Commit to not impede access to other mechanisms for persons who make allegations, e.g. state-based mechanisms.163

When a company has identified it has caused or contributed to adverse human rights impacts, it must take an active role in remediatory, as per pillar three of the UNGPs.164 This responsibility has both a present and future focus: a company must provide for or cooperate in remediatory to victims, as well as continuously improve its grievance channels or mechanisms from lessons learnt.165 Non-judicial grievance mechanisms should also meet the following effectiveness criteria, as described by the UNGPs (on the following page):

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157 Corporate Human Rights Benchmark 2018 Key Findings p.32. Link.
158 Corporate Human Rights Benchmark Methodology 2018 p.67. Link. Theme C indicators account for 15% of the overall score.
159 Indicator C.1 - *Grievance channels/mechanisms to receive complaints or concerns from worker, and Indicator C.2 - Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities*
160 Indicator C.7 - *Remediying adverse impacts and incorporating lessons learned*
161 Guiding principles on Business and human rights (UNGPs), 2011 p.32. Link.
162 Guiding principles on Business and human rights (UNGPs) - Principle 29, 2011 p.31. Link.
163 Corporate Human Rights Benchmark Methodology 2018 p.67. Link.
165 Corporate Human Rights Benchmark Methodology 2018 p.67. Link.
• Legitimate;
• Accessible;
• Predictable;
• Equitable;
• Transparent;
• Rights-compatible;
• A source of continuous learning; and
• Based on engagement and dialogue with stakeholders.\(^{166}\)

**Current Trends and Common Gaps**

Companies struggle the most with Measurement Theme C — *Remedies and Grievance Mechanisms* in the Benchmark. In 2018, companies achieved an average of 3.4 out of 15 points — less than 25%, which is the lowest average score for all Measurement Themes.\(^{167}\) Significantly, 14 companies did not provide enough information to receive any marks at all. While companies have made some improvement on remedy, increasing the 2018 average mark by 8.5% compared with 2017, companies need to do much more.

The 2018 Benchmark results underscore several opportunities for companies to improve and achieve the UNGPs’ third pillar on remedy.\(^{168}\) While 85% of companies state they have a grievance mechanism for workers, only 65% of companies extend the grievance mechanism to external stakeholders. An even smaller proportion of companies (17%) involve stakeholders to design, implement or manage the performance of mechanisms, undermining their potential effectiveness even if they were fully implemented.\(^{169}\)

Only one-third of companies explain their process of managing grievances,\(^{170}\) a factor that influences the effectiveness of grievance mechanisms. Even though remediation is fundamental to the respect of human rights,\(^{171}\) a quarter of companies do not provide sufficient information on their approach to remedy. A small proportion of companies receive higher marks, indicating that it is possible for companies to meet the criteria in the Benchmark and UNGPs. Adidas was selected as a case study for Measurement Theme C because it received full marks for all three indicators associated with the UNGPs and scored very well in Theme E – Response to Allegations.\(^{172}\) Adidas is also the overall highest scoring company in the 2018 Benchmark, improving significantly in its score in 2018 (87%) compared to 2017 (56%)\(^{173}\) and it also scored full points for its response to a serious human rights allegation. Adidas’ performance offers examples of leading practice compared to its peers, as well as encouragement for the potential of all companies to improve their performance year-on-year.

\(^{166}\) Guiding principles on Business and human rights (UNGPs), 2011 Principle 31, p.33. [Link](#).

\(^{167}\) Corporate Human Rights Benchmark 2018 Key Findings p.32. [Link](#).

\(^{168}\) Guiding principles on Business and human rights (UNGPs), 2011 Principle 31, p.33. [Link](#).

\(^{169}\) Corporate Human Rights Benchmark 2018 Key Findings p.32. [Link](#).

\(^{170}\) Corporate Human Rights Benchmark 2018 Key Findings p.33. [Link](#).

\(^{171}\) Guiding principles on Business and human rights (UNGPs), 2011 p.32. [Link](#).

\(^{172}\) (Adidas) Corporate Human Rights Benchmark 2018 Company Scoresheet p.1. [Link](#).

Introduction to Adidas

Founded in 1948 in Germany, Adidas is the world’s second largest designer and producer of sportswear, including footwear, sportswear and sport equipment.\(^{174}\) Adidas employs approximately 60,000 people\(^{175}\) and sources the majority of its goods from independent business partners in over 50 countries.\(^{176}\) Top sourcing countries are China, Vietnam and Indonesia.\(^{177}\) Its products are distributed and sold in around 100 markets. In 2006, Adidas acquired another major sporting goods company, Reebok.\(^{178}\)

Over the last decades, the Apparel industry has been in the spotlight for its poor human rights record. Large brands, including Adidas, have been historically accused of tolerating “sweatshop”-like conditions in their factories.\(^{179}\) Since the mid-1990s, Adidas has worked to address human rights risks throughout its business and supply chain. In 1997, it developed a human and labour rights program, including a due diligence process designed to systematically identify human rights risks in relation to its business activities.\(^{180}\) Adidas has also set up a number of mechanisms for both employees and stakeholders to raise concerns, such as the Third Party Complaints Process, introduced in 2014.\(^{181}\) Adidas discloses the number of complaints received each year and the processes taken to respond, including actions to remediate adverse human rights impacts.\(^{182}\)

Note on negative impacts

While these case studies focus on how high scoring companies achieve their results in specific Themes, it should be noted that no company is perfect and companies used for the case studies have been involved, or alleged to have been involved, in causing, contributing or being linked to serious negative impacts on people or planet.

In comparison to lower scoring but other highly visible companies, Adidas was assessed against only severe human rights impact allegation in 2018 - concerning trade union rights in the supply chain. In this case (the only one that met the severity threshold for the 2018 ranking), a complaint was raised by the Fair Labour Association (FLA) against a factory in Honduras that manufactures garments a company that was an Adidas licensee (Outerstuff) regarding the forced resignation or illegal firing of union leaders and affiliates\(^{183}\).

This allegation was one of only three (from 96 allegations) where the remedy was seen to be accepted by the impacted parties. While a good remedy process obviously does not preclude negative impacts from occurring, it is vital to ensuring that rights are respected and rightsholders are remediated when they are impacted. It is particularly important (as is the company’s approach in applying the mechanisms) for companies with dispersed supply chains who may often be linked to negative impacts but who do not have the resources or leverage to prevent impacts from occurring.

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\(^{174}\) Statista - Leading athletic apparel, accessories and footwear companies worldwide in 2018, by sales (in million U.S. dollars). Link
\(^{175}\) Adidas website – Profile, 2019. Link
\(^{176}\) Adidas website – Human Rights, 2019. Link
\(^{177}\) Adidas website – Global factory lists, 2019 Link; Fair Labour Association - adidas Assessment for Reaccreditation, 2017 Link.
\(^{178}\) Adidas website – History, 2019 Link.
\(^{180}\) Adidas website – Human Rights, 2019. Link.
\(^{182}\) Adidas website – Human Rights, 2019. Link.
\(^{183}\) (Adidas) CHRB 2018 Company Scoresheet Link
Adidas’ practical approach to Remedies and Grievance Mechanisms

Adidas is the highest scoring company in the 2018 Benchmark, achieving a total score of 87%, one-third higher than its 2017 score. Among a variety of improvements, Adidas progressed its score for Measurement Theme C - Remedies and Grievance Mechanisms, from 12 out of 14 points in 2017, to full marks in 2018.

<table>
<thead>
<tr>
<th>Adidas’ Scores for Measurement Theme C – Remedies and Grievance Mechanisms</th>
<th>Score (of 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.1* Grievance channels/mechanisms to receive complaints or concerns from workers</td>
<td>2</td>
</tr>
<tr>
<td>C.2* Grievance channels/mechanisms to receive complaints or concerns from external individuals and communities</td>
<td>2</td>
</tr>
<tr>
<td>C.3 Users are involved in the design and performance of the channel(s)/mechanism(s)</td>
<td>2</td>
</tr>
<tr>
<td>C.4 Procedures related to the mechanism(s)/channel(s) are publicly available and explained</td>
<td>2</td>
</tr>
<tr>
<td>C.5 Commitment to non-retaliation over concerns/complaints made</td>
<td>2</td>
</tr>
<tr>
<td>C.6 Company involvement with State-based judicial and non-judicial grievance mechanisms</td>
<td>2</td>
</tr>
<tr>
<td>C.7* Remediing adverse impacts and incorporating lessons learned</td>
<td>2</td>
</tr>
</tbody>
</table>

*Indicators which are examined in this case study

The following section outlines Adidas’ approach to the three core indicators in Measurement Theme C that were prioritised for their clear links with the UNGPs (C.1, C.2 and C.7). Adidas scored full marks for all these indicators.

Review of C.1 – Adidas’ Grievance Mechanism for Workers

The image below indicates the key scoring elements for this indicator:

**C.1 Grievance channel(s)/mechanism(s) to receive complaints or concerns from workers**

*Sources: UNGP 22, 29 and 30; UNGPRF C6.1 and C6.3; GRI 103-2*

The Company has one or more channel(s)/mechanism(s) (its own, third party or shared) through which workers can raise complaints or concerns, including in relation to human rights issues. The channel(s)/mechanism(s) is available to all workers and takes into account accessibility by marginalised groups. The channel(s)/mechanism(s) is not used to undermine the role of legitimate trade unions (or equivalent worker bodies where the right to freedom of association and collective bargaining is restricted under law) in addressing labour-related disputes, nor to preclude access to judicial or other non-judicial grievance mechanisms.

Score 1

The Company indicates that it has one or more channel(s)/mechanism(s), or participates in a shared mechanism, accessible to all workers to raise complaints or concerns related to the Company. An explicit reference to human rights is not required, but a channel/mechanism that is specifically designed to cover other topics (e.g. a corruption hotline) will need to make clear to stakeholders that it can be used for human rights concerns as well.

Score 2

The Company also discloses data about the practical operation of the channel(s)/mechanism(s), including the number of grievances about human rights issues filed, addressed or resolved AND indicates that the channel(s)/mechanism(s) is available in all appropriate languages.

Note that the CHRB methodology refers to ‘workers’ which covers those who are performing work for a company, regardless of the existence of a contractual relationship with the individual. This would include supply chain workers.

**Meeting Score 1**

Adidas actively engages with its workers in its business and supply chains by collecting their views and tracking human rights issues and grievances. Since the late 1990s, Adidas has operated a grievance mechanism for workers but it should be noted that ‘who can complain’ is broad and can be seen to provide an avenue for complaints from workers and third parties like NGOs or trade unions. As such, the evidence for indicators C.1 and C.2 are often the same source.

**Who can complain?**  
*Any individual or organisation* directly affected by an issue, or an organisation with a formal mandate to represent individuals or communities directly affected, can make a complaint related to adidas Group operations or our global supply chain. They must have access to first-hand knowledge of the circumstances of the complaint and if they are an organisation, they must be viewed as a legitimate representative of those affected.

**Adidas Third Party Complaints Process**

Compared to some companies, Adidas has disclosed greater details about how complaints can be practically raised and addressed. In 2012, Adidas introduced a SMS Workers Hotline to allow workers to anonymously raise concerns directly and promptly with factory management via text messages. The Hotline allows a more flexible, live and confidential way for workers to report grievances and emerging issues.

Key benefits of the SMS Workers Hotline include:

- Management is alerted of issues in real-time through direct SMS text messages;
- Workers are guaranteed full anonymity as management cannot track telephone numbers;
- Workers with limited literacy can speak via the hotline;
- Workers can use the service in their local languages; and
- Management can provide information on issues such as policy updates, enabling direct, two-way communication.

The SMS Workers Hotline is available to 63% of Adidas’ strategic suppliers in Vietnam, Indonesia, Cambodia and China, reaching a total workforce of 300,000. The SMS Workers Hotline is operated by the Social and Environmental Affairs department staff, or by independent third parties and NGOs in countries such as China and Bangladesh. The anonymity of the service allows workers to communicate directly with management without fearing retaliation. Adidas regularly reviews the SMS Workers Hotline to understand its value and effectiveness.

Using technological solutions, Adidas has also introduced an advanced app-based grievance platform, with plans to introduce the platform to all its strategic factories and second-tier suppliers. The app allows workers...

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186 Third Party Complaint Process for Breaches to the adidas Group Workplace Standards or Violations of International Human Rights Norms, p.1, p.3 2014. [Link](#).

187 Business & Human Rights Resource Centre, Adidas Encourages Factory Workers To Anonymously Text Complaints, 2013. [Link](#).

188 Simanjuntak, A., Adidas blog – Giving Workers a voice for Better Working Conditions, 2014. [Link](#).

189 Adidas blog – How we bring factory management and workers closer together, 2015. [Link](#).

190 Adidas, 2016 Sustainability Progress Report, p.40-41. [Link](#).

191 Adidas, Third Party Complaint Process for Breaches to the adidas Group Workplace Standards or Violations of International Human Rights Norms, p.1 2014. [Link](#).

192 Adidas, CHRB 2018 Submission p.13. [Link](#).
to anonymously report issues to Adidas, which collects and analyses the data. The app has uncovered child labour and illegal workers in Turkey, as well as complaints about wage, food and supervisor abuse in Asia.193

“Sometimes there can be resistance from suppliers, but we work with them to demonstrate how this [app] can help them in the long run by improving supply chain transparency, communication, productivity and worker retention.”

– Aditi Wanchoo, Senior Manager, Development Partnerships, Social and Environmental Affairs, Adidas194

Adidas also conducts worker satisfaction surveys, which first began in Indonesia in 2016.195 Supervisors and workers answer questions on topics including trust, wage fairness, room temperature, noise level, canteen services, toilet conditions, harassment and discrimination, and how complaints or suggestions were handled. After the surveys, Adidas also uses an independent partner to conduct focus group discussions and interviews to gain a deeper understanding of issues. The surveys allow Adidas to establish baseline data and understand workers’ experiences, as well as develop responses and improvements. Adidas plans to introduce the survey to more factories across Asia, Europe, Middle East and Africa.196

Meeting Score 2

Adidas monitors the complaints raised through the SMS Workers Hotline in real-time. This enables Adidas to identify critical issues early on and for factory management to take steps to investigate and offer remediation.197 By tracking the complaints, Adidas also collects and analyses data on how workers use the mechanism and monitor its overall effectiveness and publishes data on complaints (including those filed under the Fair Labour Association’s Third Party Complaints Mechanism, which Adidas also references as an alternative approach to raise complaints).

Adidas strives for transparency and accountability by publishing an annual summary of third-party complaints and actions taken.198 This information has been disclosed since the inception of its third-party complaint mechanism in 2014.199

The yearly case analysis includes the following information:
- Status of cases handled (closed, ongoing, unresolved);
- Geographic coverage;
- Number of new complaints received; and
- Profile of cases (individual, community group, local NGO, international NGO or joint).200

2016 CASE ANALYSIS: ADIDAS GROUP THIRD PARTY COMPLAINTS

CASELOAD OVERVIEW FY2016

This year Adidas Group handled 12 cases using its third party complaint mechanism of which 8 were new and 3 were carried over from FY2015. 58% closed of those cases during the year. A summary of the individual cases and their resolution is given on the following pages.

STATUS OF CASES HANDLED

<table>
<thead>
<tr>
<th>Status</th>
<th>No. of Cases</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Closed</td>
<td>7</td>
<td>58</td>
</tr>
<tr>
<td>Ongoing</td>
<td>3</td>
<td>25</td>
</tr>
<tr>
<td>Unresolved</td>
<td>2</td>
<td>19</td>
</tr>
</tbody>
</table>

NEW COMPLAINTS

Nine (9) new complaints were received during the year and 3 were carried forward from FY2015. Adidas Group did not discontinue any complaint submitted to it for consideration. However, in 1 case, it had no active relationship with the named supplier, so it closed the case without further investigation. In all other cases it has examined, investigated and responded to complaints received by it.

GEOGRAPHIC COVERAGE

<table>
<thead>
<tr>
<th>Region</th>
<th>No. of Cases</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Europe</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Middle East &amp; Africa</td>
<td>4</td>
<td>33.3</td>
</tr>
<tr>
<td>Asia</td>
<td>3</td>
<td>25.0</td>
</tr>
<tr>
<td>North America</td>
<td>2</td>
<td>16.6</td>
</tr>
<tr>
<td>South America</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>16.6</td>
</tr>
</tbody>
</table>

PROFILE OF CASES

<table>
<thead>
<tr>
<th>Region</th>
<th>No. of Cases</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual</td>
<td>0</td>
<td>0.0</td>
</tr>
<tr>
<td>Community Group</td>
<td>1</td>
<td>8.3</td>
</tr>
<tr>
<td>Grand Total</td>
<td>5</td>
<td>33.3</td>
</tr>
<tr>
<td>International</td>
<td>6</td>
<td>33.3</td>
</tr>
<tr>
<td>Profile of cases</td>
<td>4</td>
<td>25.0</td>
</tr>
</tbody>
</table>

This includes a complaint filed under the Fair Labour Association's Third Party Complaints Mechanism which denied to a supplier’s request, making appeal for an adidas Group (Europe) Definitive End Supplier. Further information is given in note 7. A 2nd party complaint receiving chart, see [URL].

No description of the complaint is a participating member of the FIFA, engaging with the complaint as FIFA Digital Interface.

7. Adidas reporting on complaints

194 Reuters - Adidas’ slavery buster hopes technology can give workers a voice 2017. Link.
197 Simanjuntak, A., Adidas blog – Marking a new milestone in the management of our supply chain – the SMS worker hotline project, 2013. Link.
200 Overview of case analysis 2018. Link.

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It is worth noting that the number of complaints from individuals (i.e. 2016 case analysis) is very low compared to the number of workers in Adidas’ operations and supply chain. It would be useful for Adidas and other companies to disclose more information, particularly for their own operations, where grievance mechanisms may be part of the human resources function and not reflected in the current reporting.

“We are committed to be fair and transparent in the handling of all such third-party complaints and publicly report on our efforts.”

– Bill Anderson, Vice-President for Social and Environmental Affairs in Asia, Adidas

The SMS Workers Hotline is designed to be accessible by marginalised and vulnerable groups such as workers with limited literacy. Workers can use the service in their local languages, as well as text or speak via the Hotline. The worker satisfaction surveys also allow Adidas to respond to challenges in different languages and cultures.

Adidas encourages its suppliers to adopt the SMS Workers Hotline, which is used by a majority of strategic suppliers. If this is not in place, Adidas has clear expectations of its suppliers to implement equivalent grievance mechanisms. The Workplace Standards are contractual obligations for all business partners, who must provide “mechanisms for resolving industrial disputes, including employee grievances, and ensure effective communication with employees and their representatives”. Adidas’ Employment Standards Guideline provides suppliers with information to set up a grievance mechanism, while its annual KPI assessment of its suppliers include a criteria on effective grievance mechanisms. Adidas also works with Human Rights Watch in Cambodia to strengthen whistle-blower protection, reporting and anti-retaliation measures in suppliers’ factories.

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**Adidas’ Key Steps: Grievance Mechanisms for Workers**

- Transparent complaints process, supported by public reporting of grievances received and managed
- Multiple grievance channels available to workers, including SMS, apps and surveys and third-party facilitated focus groups
- Mechanisms are in local languages and cater to vulnerable groups, such as workers with low literacy rates
- Mechanisms that can protect anonymity

**Key Questions for Companies**

- Does your company have one or more channels for workers to raise human rights grievances or concerns and are they aligned with the UNGPs?
- Do company staff understand the difference between raising an issue (e.g. confidential tip-off of corruption) and raising a grievance (e.g. being impacted by corrupt company practices and wanting remediation)?
- Does your company ensure grievance mechanisms are accessible to all, including to marginalised groups?
- How does your company ensure grievance mechanism do not undermine the role of trade unions or prevent workers from accessing judicial or non-judicial grievance mechanisms?
- How does your company inform workers on the monitoring, assessment and resolution of grievances?
- Do you publicly report on the complaints and grievances received and resolved?

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201 Adidas website - Embedding human rights into business practices. [Link](#).
203 Adidas, 2016 Sustainability Progress Report, p.41. [Link](#).
204 Simanjuntak, A., Adidas blog – Marking a new milestone in the management of our supply chain – the SMS worker hotline project, 2013. [Link](#).
205 Workplace Standard – Best sports company in the world, p.2 2016. [Link](#).
206 Guidelines on Employment Standards, p.4 2016. [Link](#).
207 Adidas, CHRB 2018 Submission p.13. [Link](#).
208 Human Rights Watch, “Work Faster or Get Out”– Labor Rights Abuses in Cambodia’s Garment Industry. [Link](#).
Review of C.2 – Adidas’ Grievance Mechanism from External Individuals and Communities

The image below indicates the key scoring elements for this indicator:

**C.2 Grievance channel(s)/mechanism(s) to receive complaints or concerns from external individuals and communities**

**Sources:** UNGP 22, 29 and 30; UNGPRF C6.1 and C6.3; GRI 103-2

The Company has one or more channel(s)/mechanism(s) (its own, third party or shared) through which individuals and communities who may be adversely impacted by the Company can raise complaints or concerns, including in relation to human rights issues.

- **Score 1**
  - The Company indicates that it has one or more channel(s)/mechanism(s), or participates in a shared mechanism, accessible to all external individuals and communities who may be adversely impacted by the Company (or individuals or organisations acting on behalf of them or who are otherwise in a position to be aware of adverse impacts) to raise complaints or concerns, including about human rights issues related to the Company, particularly in high risk locations.

- **Score 2**
  - The Company also describes how it ensures the channel(s)/mechanism(s) is accessible to all potentially affected external stakeholders at all operations, including in local languages.

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**Meeting Score 1**

“Our third-party complaint mechanism allows anyone with an issue that infringes on their rights to bring that issue to our attention, anywhere in the world.”

– Bill Anderson, Vice-President for Social and Environmental Affairs in Asia, Adidas

Adidas receives complaints from external individuals and organisations, through its Third Party Complaints Process, established in 2014. The mechanism is available to any “individual or organisation directly affected by an issue, or any organisation which represents individuals or communities directly affected.” Stakeholders can raise concerns related to potential or actual breaches of human rights that are linked to Adidas’ operations, products or services. Adidas does not distinguish between own workers, workers in the supply chain and community/civil society representatives for the use of this mechanism.

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209 Adidas website - Embedding human rights into business practices. [Link](#).
211 Adidas, Third Party Complaint Process for Breaches to the adidas Group Workplace Standards or Violations of International Human Rights Norms, p.1 2014. [Link](#).
Alternative channels for complaints include the Third Party Complaint system managed by the Fair Labour Association and the German government’s National Contact Point established under the OECD Guidelines for Multinational Companies.\(^{212}\) Complaints are also typically raised with Adidas’ local Social and Environmental Affairs staff at a community level, during their visits and meetings with factory employees.\(^{213}\)

### Meeting Score 2

Adidas makes the third-party complaints mechanism available to all external stakeholders and communities via its website.\(^{214}\) The mechanism is described in detail in the company’s Third-Party Complaint Process document, which is available in six languages. The company also provides a summarised version in a further four languages. The Third-Party Complaint Process document:

- Defines the types of complaints that can be filed and who is eligible to file a complaint;
- Outlines how the complaints process works, including the types of follow-up actions taken by Adidas and the appeal procedures; and
- Lists other channels that stakeholders can use to file a complaint.\(^{215}\)

The complaints are made through written submissions through email, fax or post.\(^{216}\) The Third-Party Complaint Process document includes contact details for Adidas’ Social and Environmental Affairs regional departments. The Social and Environmental Affairs staff are versed in 18 local languages throughout the different regions, so they are able to receive complaints in the language that the complainant feels most comfortable to use.\(^{217}\)

Adidas encourages complainants to provide their name and contact details, so it can investigate the allegation and act in a transparent manner.\(^{218}\) Adidas, however, protects the confidentiality of complainants.

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\(^{212}\) Adidas website – Sustainability Contact, 2019. [Link](#).

\(^{213}\) Adidas, CHRB 2018 Submission p.13. [Link](#).

\(^{214}\) Adidas website – Human Rights, 2019. [Link](#).

\(^{215}\) Third Party Complaint Process, 2014. [Link](#).

\(^{216}\) Third Party Complaint Process p.2, 2014. [Link](#).

\(^{217}\) Adidas, CHRB 2018 Submission p.13. [Link](#).

\(^{218}\) Third Party Complaint Process, p.4 2014. [Link](#).
in cases where there is risk of retaliation.\textsuperscript{219} Adidas also has an Anti-Retaliation Policy as part of its Third Party Complaint Process document.\textsuperscript{220}

The Third Party Complaint Process extends to complaints against Adidas’ business relationships, allowing stakeholders to raise serious non-compliance with Adidas’ Workplace Standard by “partners, contractors, subcontractors and others”\textsuperscript{221}. All available grievance mechanisms provided by Adidas are available to its suppliers, who are encouraged to use them to collect complaints from third parties.\textsuperscript{222} Adidas also encourages its suppliers to promptly handle complaints from external parties.\textsuperscript{223}

“We want to know if anyone has a complaint about conditions in our suppliers’ factories or other grievances related to human rights impacts linked to our business activities. If you have a complaint to make, you can contact us with the specific details, and we commit to investigate your complaint.”

– Adidas’ website\textsuperscript{224}

<table>
<thead>
<tr>
<th>Adidas’ Key Steps: Grievance Mechanisms for Third Parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Third party complaint process that extends to business relationships and beyond</td>
</tr>
<tr>
<td>• Independent grievance mechanism options, including Fair Labour Association’s Third-Party Complaint system and OECD’s National Contact Point</td>
</tr>
<tr>
<td>• Process document in ten languages</td>
</tr>
<tr>
<td>• Contractual obligations of business partners regarding provision of grievance and remedy mechanisms</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Questions for Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Does your company have one or more channels for external stakeholders, including organisations, to raise human rights issues?</td>
</tr>
<tr>
<td>• Are there ways for external stakeholders linked with your company’s business relationships to raise concerns?</td>
</tr>
<tr>
<td>• How does your company ensure that the grievance mechanism is accessible to all?</td>
</tr>
<tr>
<td>• Does your company offer and enable access to independent and external complaints channels for external stakeholders?</td>
</tr>
<tr>
<td>• How does your company ensure anonymity and prevention of retaliation against complainants?</td>
</tr>
</tbody>
</table>

\textsuperscript{219} Third Party Complaint Process, p.5 2014. [Link](#).
\textsuperscript{220} Third Party Complaint Process, p.11 2014. [Link](#).
\textsuperscript{221} Third Party Complaint Process, p.1 2014. [Link](#).
\textsuperscript{222} Adidas, CHRB 2018 Submission p.13. [Link](#).
\textsuperscript{223} Adidas, CHRB 2018 Submission p.13. [Link](#).
\textsuperscript{224} Adidas website – Sustainability Contact, 2019. [Link](#).
Review of C.7 – Adidas’ Remediation and Continuous Improvement

The image below indicates the key scoring elements for this indicator:

C.7 Remedying adverse impacts and incorporating lessons learned

Sources: UNGP 19, 22 and 31; UNGPRF C6, C6.4 and C6.5; GRI 103.2 and 413.2

The Company provides for or cooperates in remediation to victims where it has identified that it has caused or contributed to adverse human rights impacts (or others have brought such information to the company’s attention, such as through its grievance channel(s)/mechanism(s)). It also incorporates the lessons learned from remediation approaches into its channel(s)/mechanism(s) and processes to prevent future impacts.

Score 1

For adverse human rights impacts which it has caused or to which it has contributed, the Company describes the approach it took to provide or enable a timely remedy for victims (or if none, then it describes the approach it would take).

Score 2

For adverse human rights impacts which it has caused or to which it has contributed, the Company also describes changes to systems and procedures to prevent similar adverse impacts in the future (or if none, then it describes the approach it would take) AND the Company provides an evaluation of the effectiveness of the grievance channel(s)/mechanism(s).

“We are committed to be fair and transparent in the handling of all such third-party complaints and publicly report on our efforts.”

– Bill Anderson, Vice-President for Social and Environmental Affairs in Asia, Adidas

Meeting Score 1

Remediation is a central element of Adidas’ grievance mechanism process. When Adidas identifies that it has caused or contributed to an adverse human rights impact, it commits to ceasing or changing the activity. It also commits to taking an active part in remediation directly or in cooperation with others. If Adidas’ business relationships cause or contribute to the impact, it commits to influencing the violating entity to prevent or mitigate it from happening again.

Each year, Adidas publishes its approach to handling complaints, its responses and the status of the complaints, providing the main means of describing its approach to enabling timely remedy (when taken in conjunction with their third part complaints mechanism). In 2018, Adidas’ remedial actions included reinstating wrongfully terminated workers, collaborating with other brands to develop a remediation plan for a common supplier, offering freedom of information training through a third party, and engaging an ombudsperson.

225 Adidas website - Embedding human rights into business practices. Link.
227 Summary of Human Rights complaints handled by adidas in 2018, p.3 Link.
228 Summary of Human Rights complaints handled by adidas in 2018, p.4 Link.
Adidas offers several examples of changes to systems and procedures in order to prevent similar adverse impacts in the future. One output is its Responsible Sourcing Practices, which identifies internal company practices that may cause adverse human rights impacts. Based on lessons learnt, Adidas has also introduced preventative actions to:

- Introduce water-based glues to reduce the release of harmful chemicals in footwear operations;
- Balance order flows to reduce the peaks and troughs in the order cycle – which impact working hours and wages;
- Ensure fair price practices to ensure that all legally mandated wages and benefits are met;
- Fix pre-notification periods to provide pre-warnings to suppliers with high order volumes if orders are to be cut; and
- Develop guidance for the handling of layoffs and closures, including financial and technical support to manage downsizing.

Grievance mechanisms are regularly reviewed to ensure their ongoing effectiveness and to better prevent and mitigate future adverse human rights impacts. As described under Indicator Topic 1 above, the SMS Worker Hotline, app and worker satisfaction surveys collect data, enabling Adidas to track and evaluate the
effectiveness of the mechanisms to drive improvements. Adidas also leverages new technology to establish more effective grievance mechanisms, such as the development of the app-based grievance platform.

Another example of actions following the identification of issues relates to suppliers not meeting the expected standard. If Adidas finds ongoing non-compliance of a serious nature, it may issue a formal warning letter to it suppliers. If there is no response, a “stop work” letter is issued. In 2016, Adidas terminated its agreement with ten suppliers, following “severe non-compliance” with its Workplace Standard.233

Improving grievance and remediation processes is an ongoing journey. As Bill Anderson, Adidas’ Vice-President for Social and Environmental Affairs in Asia, explains:

“Is this a perfect system? No. But it has maturity and the flexibility to tackle complex situations and issues. It allows for us to engage. To enter into a dialogue with rights holders, those whose interests we are seeking to protect if they are being adversely affected by our business partners’ activities, and to offer remedies to impacts we may have caused or are contributing to. This is important, especially when our overriding aim is to know, and show, that we respect human rights as a business.”234

Adidas’ Key Steps: Remediation and Continuous Improvement

- Based on commitment to remedy adverse impacts
- Disclosure of complaints received, and actions taken
- Collaboration with partners in remediation
- Use of leverage to influence business partners to provide remedy
- Regular reviews and assessments of grievance mechanism based on data
- Upgrades to the grievance mechanism and business practices

Key Questions for Companies

- Are you honest about where your company, or your business relationships, have caused harm?
- What is your company’s approach to enable timely remedy to affected stakeholders in your operations and in your business relationships?
- Do you use the remedy process to learn and improve?
- Does your company use its leverage to influence business partners to provide remedy?

Notes on remedy in the supply chain:

While it is more straightforward to support remedy for issues that happen in company operations, companies have extensive, if often underutilised, leverage to support remedy for issues in the supply chain. Not only can companies ensure that their suppliers provide access to remedy, for example using current and future contractual leverage, companies can also take leadership positions and support remedy directly, even when they have not directly caused the harm. A recent example concerns labour abuses at Malaysian factories where the brands were encouraged to work with suppliers to address the situation, rather than abandoning their business relationships. While the majority of named brands who took action focused on getting the factories to provide remedy and collective actions on ‘responsible recruitment’ to prevent recurrence, others went further by directly supporting the impacted workers and improving conditions at factories, even though there wasn’t a contractual relationship in place to provide leverage235.

234 Adidas website - Embedding human rights into business practices. Link.
235 Guardian website, NGO’s softly-softly tactics tackle labor abuses at Malaysian factories, 2019, Link.
Conclusion to Theme C – Remedies and Grievance Mechanisms

Despite the centrality of remedy to the UNGPs, companies continue to score poorly, particularly in the inclusion of stakeholder input into the development of grievance mechanisms. It is not inevitable that things will go wrong, but companies without robust grievance and remedy mechanisms will find themselves disadvantaged when issues do arise. A good complaints mechanism should be viewed as a powerful tool to identify and understand issues before they become problems (similar to near misses in health and safety), particularly where corporations rely on extensive supply chains and reduced power over third parties or subsidiaries.

The low scores are disconcerting, not least because the CHRB has set the bar relatively low in Theme C. Companies are not being scored negatively for actual harms or impacts that they have caused, contributed or are linked to. Companies are not yet being scored on the proportion of their operations and supply chain that are demonstrably implementing a grievance mechanism that is aligned with the UNGP requirements. And companies are not being assessed against their approaches to use their leverage where they are linked or contributing to impacts to achieve better outcomes for the people harmed by third parties.

Pockets of good practice, along with best practice guidance, do exist, but while more can be done there is wide recognition that this is often a complex space for companies. The ‘Accountability and Remedy Project III: Enhancing effectiveness of non-state-based grievance mechanisms in cases of business-related human rights abuse’ is an ongoing effort by the UN Office of the High Commissioner for Human Rights (OHCHR) that should provide useful guidance in the long term. Another recent guide is the Ethical Trade Initiative’s ‘Access to Remedy – Practical Guidance to Companies’ which may be useful to companies starting out or aiming to improve their processes.

An element not discussed is the tension created by corporate structures, where subsidiaries may operate in jurisdictions where the state-based mechanisms are unlikely to provide for adequate remedy, but the parent company pushes for local remedy anyway. This ties in with wider discussions about the duties of care between parent companies, subsidiaries/joint ventures and impacted people, versus the exercise of control in different jurisdictions, but under global policies, reporting and consolidated earnings. The ongoing and recent cases (including those regarding BHP Billiton, Unilever and Vedanta) will have a bearing on this in the future and will be a discussion point for the 2020 review of the CHRB Methodology.

Key Takeaways

- If your company isn’t serious about grievance and remedy, it isn’t serious about human rights;
- Companies have demonstrated ways to make adequate disclosures of the nature and management of grievances without causing issues for confidentiality – it can be done;
- Stakeholder engagement should be at the start, middle and end of grievance mechanisms; and
- Assessing the performance of grievance mechanisms and the remedy they provide will be a likely area of focus in the future.

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239 Resource Centre, Unilever lawsuit (re ethnic violence in Kenya), 2019. Link.
MEASUREMENT THEME D
PERFORMANCE:
COMPANY HUMAN RIGHTS PRACTICES
Introduction to Theme D

Top performing companies in the 2018 Benchmark generally have comparable policies and processes, so it is in their actions that they can distinguish themselves from their peers.\textsuperscript{241} During the benchmarking process, Measurement Theme D - \textit{Performance: Company Human Rights Practices} covers the actual human rights practices that exist within companies; the enabling factors and processes that enable the respect of rights and the prevention and mitigation of human rights risks and impacts. The indicators in Measurement Theme D contribute to 20% of the total potential Benchmark score.\textsuperscript{242}

Indicators in Measurement Theme D are divided into two categories: \textit{enabling factors and business processes}, and \textit{key industry risks}. The first category reflects the actions companies can take to further the respect for or realisation of human rights (Figure 10a).\textsuperscript{243} The second category focuses on human rights risks that are likely or potentially severe in particular industries and thus would normally require due diligence from companies in that sector (Figure 10).\textsuperscript{244} It should be noted that the CHRB methodology does not consider collective or downstream impacts under Theme D, such as human rights impacts of climate change.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{enabling_factors_business_processes.png}
\caption{Enabling factors and business processes specific to the Agricultural Products, Apparel and Extractives industries}
\end{figure}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{key_industry_risks.png}
\caption{Key human rights risks specific to the Agricultural Products, Apparel and Extractives industries}
\end{figure}


Current Trends and Common Gaps

The key to achieving a high Benchmark score is embedding the UNGPs across the whole business, from high level commitment, to policies, processes and actions on the ground. This is reflected as consistent high scores in human rights performance across all CHRB Themes. Notably, there is an overlap between Measurement Theme D and other Measurement Themes. This intersection exists because Measurement Theme D tries to capture a snapshot of a company’s human rights performance ‘in practice’, while Measurement Themes A, B and C focus on policies and processes. It is insufficient to perform well on any one individual Measurement Theme, such as governance and policy, while neglecting to disclose the actual human rights practices and responses to serious risks associated with the company’s operations.

Companies need to take significant strides to close the gaps in their human rights performance, with many companies yet to demonstrate they have translated their policy and processes into practice. In 2018, companies achieved an average score of 4.9 out of 20 on Measurement Theme D - Performance: Company Human Rights Practices.245

Across all industries, companies are failing to adequately respond to their industry’s most salient human rights risks and impacts. For example:

- The indicator on living wage is one of the worst-scoring indicators in Measurement Theme D in 2018, with almost no companies demonstrating a strong commitment to guaranteeing a living wage to workers in their operations and supply chains;246
- Over 70% of Agricultural Products and Apparel companies scored zero for respecting freedom of association and collective bargaining, while less than half of Extractives companies scored zero;247 and
- On average, Apparel companies scored the lowest for health and safety followed by Agricultural and Extractive companies248, while recent events in Brazil have highlighted the huge scale of health and safety impacts that can occur in the mining sector.

In addition, while not explored in depth in this case study, companies also fail to address risks and impacts in their supply chains, for example:

- Ninety-five percent of Agricultural Product companies and two-thirds of Apparel companies scored no points for aligning purchasing decisions with human rights.249 This practice places suppliers in difficult situations where they are faced with a Catch-22; lose business (and jobs) or impose conditions on workers that breach the social requirements placed on them by the purchasing company.
- More than half of Agricultural Products and Apparel companies do not meet commitments to prevent child labour in their supply chains.250

These gaps highlight the significant gaps in dealing with ongoing and serious risks and impacts and highlight opportunity for companies to take steps to create improvements in these key areas.

245 See: CHRB, Key Findings 2018, ‘2018 Results by Measure Theme’, p. 34.
249 Indicators D.1.2 and D.2.2. See: CHRB, Key Findings 2018, ‘Key Messages’, p. 35.
This case study examines the approach used by Eni, an Italian multinational oil and gas company, to enhance its human rights performance by respecting human rights and responding to risks associated with the Extractives industry. The case study first provides an overview of Eni and its progress in respecting human rights. It then explores the actions taken by Eni across three key indicators in Measurement Theme D (common to all sectors) that highlight the importance of implementing a living wage, respecting freedom of association and collective bargaining rights, and ensuring workers’ health and safety.

We selected Eni for this case study because it scored almost full marks across the three indicators common to all three industries in Measurement Theme D (living wage, respecting freedom of association and collective bargaining, and health and safety: fatalities, lost days, injury rates) and received the highest score for the Measurement Theme overall. Eni’s multinational presence, complex business relationships and significant improvement over the past two years also offer learnings for peers.

**Introduction to Eni**

Eni is one of the largest oil and gas companies in the world, operating in 71 countries and employing some 33,000 people. It explores onshore and offshore, and extracts oil and natural gas in 46 countries, mainly in Italy, Algeria, Angola, Congo, Egypt, Ghana, Libya, Mozambique, Nigeria, Norway, Kazakhstan, the United Kingdom (UK), the United States of America and Venezuela. Following extraction, it trades and ships, stores, refines, distributes and sells the final product as gas, electricity, LNG and oil products.


**Note on negative impacts**

While these case studies focus on how high scoring companies achieve their results in specific Themes, it should be noted that no company is perfect and companies used for the case studies have been involved, or alleged to have been involved, in causing, contributing or being linked to serious negative impacts on people or planet. In the 2018 CHRB assessment, Eni was assessed against two severe human rights impact allegations, scoring on average 40% of the total available points for their response. The first case relating to the long-running issue of oil spills in the Niger Delta highlights how issues related to joint ventures and subsidiaries provide distinct challenges to parent companies who may exert limited leverage or oversight.

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251 Eni scored 2 out of 2 for two indicators: D.3.3 - Freedom of association and collective bargaining (in own extractive operations, which includes JVs); and D.3.4 - Health and safety: Fatalities, lost days, injury rates (in own extractive operations, which includes JVs). It scored 1.5 out of 2 for D.3.1 - Living wage (in own extractive operations, which includes JVs).

252 Eni, ‘Company profile.’ Link.


254 Eni, ‘Our commitment to respect human rights.’ Link.

255 Eni, CHRB Scorecard 2018. Link.
While a company may score well on specific practices in Theme D, this obviously does not guarantee the absence of negative impacts. As an example, CHRB scores companies well if they disclose their health and safety data and have set and/or met targets for health and safety – normally in terms of reducing injury rates (implying some negative impacts are almost certain to happen in certain industries). Future methodologies will aim to expand on Theme D indicators to set the bar higher for ‘good performance’ and consider what place attributable negative impacts should have in ranking companies on their human rights performance.

Eni’s practical approach to Company Human Rights Practices

Eni demonstrated the largest improvement among all benchmarked companies in 2018, scoring 61.8 points across the six Measurement Themes, 40.7 points higher than in 2017, and ranking eighth, up from 21st in 2017. It should be noted that much of the work to achieve this jump had been done in 2016, but the implementation and reporting lag meant that it was only reflected in 2018. In 2018, Eni scored 16.3 out of 20 for Measurement Theme D - Performance: Company Human Rights Practices, the highest score for this Measurement Theme.

<table>
<thead>
<tr>
<th>Eni’s Scores for Measurement Theme D – Company Human Rights Practices</th>
<th>Score (out of 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>D.3.1* Living wage (in own extractive operations, which includes JVs)</td>
<td>1.5</td>
</tr>
<tr>
<td>D.3.2 Transparency and accountability (in own extractive operations, which includes JVs)</td>
<td>2</td>
</tr>
<tr>
<td>D.3.3* Freedom of association and collective bargaining (in own extractive operations, which includes JVs)</td>
<td>2</td>
</tr>
<tr>
<td>D.3.4* Health and safety: Fatalities, lost days, injury rates (in own extractive operations, which includes JVs)</td>
<td>2</td>
</tr>
<tr>
<td>D.3.5 Indigenous peoples’ rights and free, prior and informed consent (FPIC) (in own extractive operations, which includes JVs)</td>
<td>1.5</td>
</tr>
<tr>
<td>D.3.6 Land rights (in own extractive operations, which includes JVs)</td>
<td>1</td>
</tr>
<tr>
<td>D.3.7 Security (in own extractive operations, which includes JVs)</td>
<td>1</td>
</tr>
<tr>
<td>D.3.8 Water and sanitation (in own extractive operations, which includes JVs)</td>
<td>2</td>
</tr>
</tbody>
</table>

* Indicators common across all three industries and examined in this case study.

While Eni scored full marks on a number of indicators in Measurement Theme D, the 2018 Benchmark identifies areas in which it can continue to improve. Eni scored partial marks for indicators focused on the company’s reporting in areas such as reviewing the definition of living wages with unions, involving communities in security assessments and ensuring that Indigenous people’s rights are taken into account in business decision making (such as through respecting the principle of free, prior and informed consent, providing valuation and compensation in land settlements). Beyond Theme D, Eni scores relatively poorly in Theme C (Remedy Mechanisms) and in Theme E (Response to Serious Allegations) – two closely linked areas that deserve further attention and greater disclosure.

The following section outlines Eni’s approach to the three indicators in Measurement Theme D that are common across all three industries: living wage, freedom of association and collective bargaining, and health and safety. Eni scored almost full marks for living wage (1.5 out of 2) and full marks for freedom of association and collective bargaining, and health and safety. Notably, no companies scored full marks across the three common indicators.

256 Agricultural Products – Indicator D.1.1; Apparel - Indicator D.2.1; Extractives - Indicator D.3.1
257 Agricultural Products – Indicator D.1.6; Apparel - Indicator D.2.6; Extractives - Indicator D.3.3
258 Agricultural Products – Indicator D.1.7; Apparel - Indicator D.2.7; Extractives - Indicator D.3.4
D.3.1 Living wage (in own extractive operations, which includes JVs)

Sources: ICESCR, Art. 7; HRIB, 2.4.1; SA8000, IV.8.1; GLWC

The Company pays all its workers a living wage, which is regularly reviewed and negotiated through collective bargaining with relevant trade unions (or equivalent worker bodies where the right to freedom of association and collective bargaining is restricted under law). There are numerous definitions of living wage but the core concept is to provide a decent living for a worker and his or her family (in line with ICESCR Article 7) based on a regular work week not including overtime hours. A living wage is sufficient to cover food, water, clothing, transport, education, health care and other essential needs for workers and their entitled official dependents and provide some discretionary income. Workers also receive equal pay for equal work.

Score 1

The Company indicates its target timeframe for paying all workers a living wage or that it has achieved paying the living wage AND the Company describes how it determines a living wage for the regions where it operates, which includes involvement of relevant trade unions (or equivalent worker bodies where the right to freedom of association and collective bargaining is restricted under law).

Score 2

The Company also indicates that it has achieved paying the living wage AND that it regularly reviews its definition of the living wage including with relevant trade unions (or equivalent worker bodies where the right to freedom of association and collective bargaining is restricted under law).

Meeting Score 1 and 2

A living wage is essential to securing a decent standard of living. It is distinguished from a minimum wage, which may be set by local laws but may not be sufficient to meet the requirements for a decent standard of living. Multinationals in sectors such as extractives arguably have less problems meeting living wages due to the need for highly skilled workers in specific and often remote locations. The apparel sector is less geographically and technically constrained and can shift production to where the overheads are smallest in order to access lower skilled and lower cost labour. This does not excuse any companies from failing to pay a living wage. If a full-time job does not ensure a person can meet their needs, then the legitimacy of that company’s business model and the social contract between worker and employer is clearly at risk.

It should be noted that companies often use different language around wages and while CHRB encourages the use of ‘living wage’ terminology, the priority is a positive outcome for workers and companies who do not rely on ‘legal minimum wages’ to set the bar for the needs of their staff. The core concept is to provide a decent living for a worker and his or her family based on a regular work week, not including overtime hours, sufficient to cover food, water, clothing, transport, education, health care and other essential needs for workers and their entitled dependents – plus some discretionary income.

“Living wages are a key part of the Decent Work framework, therefore Eni is committed to ensuring that compensation and benefits reach adequate remuneration levels in line with market average practices for similar roles, which are significantly higher than the minimum subsistence wage.”

– Eni’s ‘Assessing respect for labour standards and monitoring salient issues’ document

Eni determines the living wage of its employees according to market practice for similar roles around the world, taking the position that it already pays a living wage to its staff. Each year, Eni analyses industry data when setting wages and reviews annual salary standards for employee roles in each country’s market. In 2017, Eni also compared its minimum remuneration policy with the market minimum (the first decile) in 30 countries as a way of monitoring and maintaining good practice. The results of this analysis indicated that

259 Eni, ‘Assessing respect for labour standards and monitoring salient issues’, p.3. Link
260 Eni, ‘Assessing respect for labour standards and monitoring salient issues.’ Link
the living wage set for its employees was higher than the minimum wage. Eni’s 2017 Sustainability Report illustrates the contrast between the company’s minimum wage and the minimum wage of the countries in which it operates (see Figure 11).

Eni’s 2017 Sustainability Report illustrates the contrast between the company’s minimum wage and the minimum wage of the countries in which it operates.

![Ratio Between Eni Minimum Wage Policy and Market Minimum Wage (1st Decile)](image)

11. The ratio between the minimum wage paid by Eni and the minimum wage of the countries in which it operates

Eni designs its remuneration policy and practices on merit, using standardised international methods to assess responsibility, competencies and performance of employees. As Eni’s ‘Our People Policy’ highlights, “Fairness, valuing our employees and non-discrimination constitute the pillars of the remuneration systems.” Additionally, Eni reports the wage ratios as part of its KPIs in sustainability reports.

While Eni’s performance highlights a commitment to paying a living wage, it scored 1.5 out of 2 for this indicator in 2018 because it does not report on whether, or how, it regularly reviews the living wage definition with unions. Ongoing collaboration with workers’ representatives on the topic of maintaining a living wage will be key for future improvement, especially as employment and economic conditions change across the world.

“Part of the culture of Eni and the basis for the company’s success is the centrality given to people: from labour protection and the development of skills and expertise, to the creation of a work environment that offers everyone the same opportunities, based on shared criteria of merit and without discrimination.” – Eni’s website

Living Wage in the Supply Chain

The Apparel and Agricultural Products companies have overwhelmingly failed to demonstrate performance on living wage in the supply chain and the current performance bar is not set high. While Eni, as an extractive company, does not get assessed against its approaches to living wage in its supply chain, it does disclose the proportion of high-risk contractors (specifically security staff) that have contractual obligations regarding wages levels and ‘undignified salaries’ over time.

For an apparel or agriculture company to score well on living wages in the supply chain they would have to include living wage guidelines in contractual arrangements (i.e. through contracts or mandatory codes of conduct), show how they work with suppliers to improve living wage practices and show trends in progress.

264 CHRB, CHRB 2018 Results. Link.
made. CHRB has not yet raised the bar for living wage in the supply chain, but this indicator may be toughened in the future, to compare what proportion of tiers in the supply chain are **actually being paid** a living wage, rather than just assessing the companies’ codes and the progress of their initiatives.

An initiative for companies in all sectors to be aware of is ACT\(^{266}\) (Action Collaboration Transformation on Living Wages), an agreement between global brands and retailers and trade unions to transform the garment, textile and footwear industry and achieve living wages for workers through collective bargaining at industry level linked to purchasing practices. There is recognition that a brand alone cannot drive the systematic changes needed to address low/poverty wages in the sector. ACT will “support negotiation between national representatives of manufacturers, and trade unions, towards collective bargaining agreements at industry level. Such agreements are legally binding and enforceable for the signatory parties and can be extended to the whole industry within that country, and as such covering every worker within it. The work of ACT is based on the collaboration between global brands and retailers with manufacturers, national and international trade unions and governments. ACT members and retailers have agreed to commitments to link purchasing practices to collective bargaining at industry level, enabling manufacturers to meet the terms of the agreements on wages and working conditions that are negotiated\(^{256}\).”

<table>
<thead>
<tr>
<th>Eni’s Key Steps: Living Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Living wage based on annual analysis of market standards specific to role and country</td>
</tr>
<tr>
<td>- Monitoring of company’s remuneration policy against market minimum</td>
</tr>
<tr>
<td>- Standardised international methods to assess merit</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key Questions for Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Does your company understand the difference between a living wage and a minimum wage?</td>
</tr>
<tr>
<td>- Has your company committed to paying a living wage and if so, when will it be achieved?</td>
</tr>
<tr>
<td>- How does your company define the living wage across roles and countries, drawing on relevant external input such as trade unions?</td>
</tr>
<tr>
<td>- Do you understand what proportions of your supply chain are being paid a living wage?</td>
</tr>
<tr>
<td>- What commitments and plans are in place to ensure workers in your supply chain are paid a living wage?</td>
</tr>
</tbody>
</table>

Review of D.3.3 - Freedom of Association and Collective Bargaining Indicator

**D.3.3 Freedom of association and collective bargaining (in own extractive operations, which includes JVs)**

<table>
<thead>
<tr>
<th>Score 1</th>
<th>Score 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Company respects the right of all workers to form and join a trade union of their choice (or equivalent worker bodies where the right to freedom of association and collective bargaining is restricted under law) and to bargain collectively. In addition, it provides workers’ representatives with appropriate facilities to assist in the development of effective collective bargaining agreement(s). The Company also prohibits intimidation, harassment, retaliation and violence against trade union members and trade union representatives.</td>
<td>The Company meets both of the requirements under Score 1.</td>
</tr>
</tbody>
</table>

\(^{266}\) ACT, Factsheet, 2018. [Link](#).
Meeting Scores 1 and 2

Eni demonstrates a clear commitment to freedom of association and collective bargaining. It specifically guarantees its employees freedom of association and negotiation,267 the right to collective bargaining and to organise,268 and the right to workers’ representatives269 (e.g. in its Global Framework Agreement on International Industrial Relations and Corporate Social Responsibility). In addition, it commits to not interfering with or discriminating against workers’ representatives, such as unions, and prohibits intimidation and retaliation.270 As far back as 2007, Eni published guidelines on the protection and promotion of human rights, stating in its workers’ rights principles that it would:

“Ensure the freedom of association and effective recognition of the right to collective bargaining by protecting the right to establish and, subject only to the rules of the organization concerned, to join employee organizations of one’s own choosing without distinction, previous authorization, or interference, for the protection of its own employment interests and for other collective bargaining purposes in accordance with national legislation and the relevant ILO conventions. Promote, with regard to activities assigned to Business Partners, the respect of the aforementioned guarantees for workers, pursuing suitable contractual guarantees against possible violations.”271

Eni states it has taken an active collaborative approach with unions to construct dialogue and national and international agreements. In 2016, for example, Eni signed a Global Framework Agreement with seven unions that together represent 50 million workers from 140 countries.272 Through the agreement, Eni guarantees all workers the right to organise and collective bargaining, and to join labour organisations without distinction, interference or prior authorisation. It also commits to treating unions positively, refraining from anti-union activities, remaining neutral on employee membership with unions, and ensuring non-discrimination and reasonable access to the workplace for union representatives.273 Eni held 275 consultations and negotiations with trade unions in 2017, underscoring its cooperative approach to building agreement and understanding.274 Unions have publicly recognised Eni’s union engagement:

“We are happy to see that Eni is taking these steps with IndustriALL and its affiliates worldwide to develop serious corporate social responsibility in partnership with management and unions.”
– Jyrki Raina, General Secretary, IndustriALL Global Union275

To promote accountability and transparency, Eni also provides statistics and details on its industrial relations and employment disputes (Figure 12). In 2017, for example, its Sustainability Report disclosed that 36% of its employees are members of trade unions and that the company faced 1,310 employee disputes.276 Eni also collaborates with ILO on international labour standards and equal opportunity, including through online seminars.277

267 International Labour Organisation (ILO) Convention 87. This right is also mentioned in Eni’s Code of Ethics, p.3. Link.
268 ILO Convention 98.
269 ILO Convention 135.
275 IndustriALL, ‘IndustriALL and ENI agree on improved rights and world works council.’ Link.
12. Eni’s approach to reporting on industrial relations and employment disputes

**Note on Freedom of Association in the Supply Chain**

The focus on Eni as an extractives company is on its business relationships including joint ventures. The apparel and agriculture sectors are also assessed on their supply chain, with only Adidas and Inditex scoring full marks for freedom of association in the supply chain.

To achieve full marks these companies have to include freedom of association and collective bargaining requirements, including the prohibition of harassment of union members and representatives, in contractual arrangements with suppliers or in the supplier code of conduct, plus they must describe how they work with suppliers to improve their practices in relation to freedom of association and collective bargaining and in addition, the company must provide an analysis of progress over time. By working with suppliers, brands are able to promote human rights and support the realisation of rights by using their influence and leverage.

**Eni’s Key Steps: Freedom of Association and Collective Bargaining**

- Commitments made to respect fundamental rights
- Dialogue and agreements with unions to respect workers and union rights
- Disclosure of the number/proportion of employees covered by collective bargaining and trade union memberships
- Information provided on industrial relations and employment disputes, including information about the nature of the cases

**Key Questions for Companies**

- Does your company publicly commit to respect the fundamental rights in the ILO Conventions?
- How does your company engage with unions to respect workers and unions rights?
- How does your company ensure workers are not retaliated against when they exercise their rights?
- How does your company share information on collective bargaining, trade union memberships and disputes?
- How does your company ensure freedom of association and collective bargaining (FoA & CB) requirements are placed on suppliers?
- How does your company work with suppliers to improve FoA & CB and track changes over time?

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278 Eni, 2017 Sustainability Report, p. 13. [Link](#)
Review of D.3.4 - Health and Safety Indicator

**D.3.4 Health and safety: Fatalities, lost days, injury rates (in own extractive operations, which includes JVs)**

*Sources: ICSR Art. 7; HRB, 3.3; GRI 403-9*

The Company discloses a set of quantitative information on health and safety related to its direct employees, its workers and on-site contractors namely: injury rate, fatality rate, lost days or near miss frequency rate.

<table>
<thead>
<tr>
<th>Score 1</th>
<th>Score 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Company discloses quantitative information on health and safety for its employees and workers related to injury rates or lost days (or near miss frequency rate) and fatalities.</td>
<td>The Company has also set targets related to rates of injury, lost days and fatalities for the reporting period AND it has met those targets or provides an explanation of why these were not met.</td>
</tr>
</tbody>
</table>

**Meeting Scores 1 and 2**

Eni states it uses data to track and drive human rights performance, including on health and safety. It also sets targets for health and safety, aiming for zero injuries for the 2017-2021 period.

“At Eni, we have always been committed to instilling a culture of safety. For us, this is a fundamental value to be shared with our employees and contract workers – and with local communities – as an essential part of our activities.”

– Eni’s website

In its 2017 Sustainability Report, Eni discloses the statistics on injury and fatality rates, lost days and near misses over the past three years (Figure 13), allowing for comparison and monitoring. Importantly, Eni discloses data not only for its employees, but also its contractors, highlighting the importance of health and safety across its business relationships. Eni’s disclosure of these statistics reflects its progress towards respecting human rights in practice, and its willingness to be held to account through public information. Eni published a Total Recordable Incident Rate of 0.33 in 2017, that is based on a standard calculation (1,000,000 x injuries / hours worked). This was a 6.8% reduction in injuries compared to 2016, across both employees (-17.2%) and contractors (-2%). It also disclosed the lost day rate employers and contractors, which was 10.3% higher in 2017 than 2016.

“Our commitment to safeguarding human rights, which places people at the centre ... must be the foundation of our daily activity.”

– Claudio Descalzi, CEO, Eni

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279 Eni, ‘The importance of safety.’ [Link](#).


282 Eni, 2017 Sustainability Report, p. 21. [Link](#).

283 Eni, ‘Communicating commitment: our CEO speaks out on Human Rights.’ [Link](#).
13. Eni’s approach to reporting on safety

Supplementing the statistics are brief explanations, including the reasons for failing to meet targets on fatalities. In 2017, for example, there was a fatal incident in Egypt when a contractor touched live electrical parts and received an electric shock. The 2017 Sustainability Report, however, does not describe the corrective or action plans in response to the statistics, such as steps taken to prevent this particular fatality in the future. And while Eni discloses how CEO remuneration is linked to sustainability targets, it is not clear what impact meeting / failing to meet health and safety targets had on top level and management staff (for example impacting their remuneration packages). While Eni does provide a lot of information in its report on health and safety, there is space to improve in terms of detailed targets, the path to reach those targets and the implications of not meeting those targets.

Health and Safety in the Supply Chain

As an extractives company, CHRB focuses on Eni’s approach to its own operations. Companies from other sectors are additionally assessed on the health and safety of their supply chain. To score well in those indicators, companies must:

- Set out clear requirements for its suppliers (in contracts, mandatory codes of conduct etc);
- Disclose quantitative data on health and safety performance for employees of suppliers;
- Discuss how they engage with suppliers to improve their own health and safety practices; and
- Provide an analysis of the trends made in this work

No apparel or agricultural company has met all the criteria for a top score on supply chain health and safety, usually falling down on the analysis of trends.

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### Eni’s Key Steps: Health and Safety

- Disclosure and description of injury rates, lost days and fatalities across current and previous years
- Targets for health and safety
- Including contractors in the statistics

### Key Questions for Companies

- Does your company have public targets for its health and safety performance and are they part of performance incentives / linked to remuneration of key staff?
- How does your company track its health and safety performance and learn from incidents?
- Do your targets and tracking cover all your workers, including contractors and those in subsidiaries and joint ventures?
- Do you analyse and report on health and safety trends (i.e. what does the data actually say)?
- How deep do you go in your supply chain to understand health & safety performance (e.g. Tier 2 supplier)?
Conclusion to Theme D – Company Human Rights Practices

“Our commitment to safeguarding human rights, which places people at the centre ... must be the foundation of our daily activity.”

Claudio Descalzi, CEO, Eni

Many of the highest scoring companies have similar scores for Themes A-C, signifying a certain plateau of commitments and disclosures of human rights risk and impact management systems. These companies start to be differentiated by their scores on Themes D and E, which look more at the implementation of those systems in dealing with key human rights risks or in enabling the realisation of human rights. In the future, as more companies disclose policies and approaches, there will likely be greater analytical focus and scoring weight on performance indicators such as living wages and forced labour.

While the Theme D scores are disappointingly low, the agricultural products sector is lagging - with the poor performance no doubt linked to the prevailing business models. Apparel and agricultural products companies arguably have more complex and fast-moving supply chains with higher human rights risks compared to extractive companies like Eni. But this is a reason to devote more effort to demonstrating how the risks and enabling factors in Theme D are managed, rather than a reason to accept lower scores.

Finally, while collective efforts and multi-stakeholder initiatives designed to drive systemic improvements in a sector or region are laudable, they do not necessarily equate to ‘improved performance’. Companies may desire credit for all the effort that goes into setting up and supporting an initiative, but if they are still profiting from terrible labour conditions, the ‘effort’ should not outweigh the ‘performance’ scoring. This is particularly true where initiatives are set up in the wake of disasters, where the ‘good work’ is a response to companies causing, contributing or being linked to egregious human rights abuses.

Key Takeaways for Theme D

• Paying living wages, respecting freedom of association and collective bargaining, and protecting the health and safety of workers are three common performance areas where the majority of companies fail to deliver;
• As assessments mature, performance indicators will be more heavily weighted in the assessment; companies should be aware that policies and systems are the beginning, not the end, of the journey;
• Companies frequently have significant untapped leverage through the ability to impose and monitor contractual requirements that will protect and enhance the rights of workers in their supply chain.

286 Eni, ‘Communicating commitment: our CEO speaks out on Human Rights.’ [Link]
MEASUREMENT THEME E
PERFORMANCE: RESPONSES TO SERIOUS ALLEGATIONS
Introduction to Theme E

Prevention is always better than the cure, so it is critical that companies take proactive action to avoid human rights impacts. However, when human rights impacts do occur, companies must take appropriate action, placing the impacted individuals at the centre of the response, in order to ensure appropriate remediation. Measurement Theme E - *Performance: Responses to Serious Allegations* examines the responses of companies to severe allegations of adverse human rights impacts. Theme E also focuses on allegations of human rights impacts that *have occurred*, rather than of potential impacts that *may occur* in the future (i.e. human right risks).

The CHRB does not take a position on the veracity of allegations but expects companies to respond transparently to any serious allegations and, where relevant, demonstrate appropriate remediation and behavioural changes to prevent recurrence. The current approach of not negatively marking companies for their human rights harms is an area CHRB will review in detail in 2020.

CHRB aims to assess allegations that are:287

- **Severe**: Based on the gravity of the impact on human rights (scale), number of individuals who are or can be impacted (scope), and ease of restoring the enjoyment of rights for impacted individuals (remediability);
- **Clearly linked to a human right**: For example, the allegation must be associated with forced labour, discrimination, freedom of association and collective bargaining, health and safety, land rights or Indigenous peoples’ rights;
- **Recent**: The 2018 Benchmark examines allegations made between January 2015 and December 2017 (or older if there is ongoing search for remedy);
- **Publicised by an external source**: For example, by media, an NGOs, or government agency; and
- **Based on sufficient information**: There must be sufficient specific details to link the company to the allegation.

Companies may directly cause human rights impacts, contribute to impacts or be linked to impacts through their business activities. The expected and potential responses from companies, particularly in providing remedy, will be dependent on the situation and the relationship between the company and the impact. Due to the complex value chains of modern businesses, where significant proportions of work are outsourced to higher risk jurisdictions and where company structures limit parent company liabilities, the allegations of impact seen by CHRB are frequently linked to a company, rather than classed as being caused by the company.

Measurement Theme E contributes 20% of the total potential Benchmark score288 and uses three indicators to assess whether the company has:

- Responded publicly to the allegation;289
- Appropriate policies in place to deal with issues raised in the allegation;290 and
- Taken appropriate action in response to an impact.291

This case study considers the approach used by The Marks & Spencer Group (“Marks & Spencer”) to respond to a serious human rights allegation that occurred in 2016 regarding labour conditions, including child labour, in its supply chain. The circumstances of the allegation are outlined below. The case study first provides an overview of Marks & Spencer and its development of human rights policies and practices. It then explores the key actions taken by Marks & Spencer to respond to this serious allegation.

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289 Indicator E(1).1.
290 Indicator E(1).2.
291 Indicator E(1).3.
Current Trends and Common Gaps in Theme E

The 2018 Benchmark highlights that companies must focus more attention and resources on engaging with affected stakeholders and providing acceptable remedy for harm. Access to remedy is the third pillar of the UNGPs and without remedy, there is no respect for human rights.

Almost half of the companies included in the 2018 Benchmark (48 out of 101) have recently experienced serious allegations that met the CHRB criteria. In many cases, companies have been involved in more than one allegation, so that a total of 96 serious allegations were assessed by CHRB in 2018. The allegations are dominated by human rights issues including forced labour, health and safety, followed by land rights, excessive hours or overtime in the supply chain, child labour and right to livelihood.

Overall, companies have appropriate policies in place designed to prevent human rights impacts from occurring, scoring an average of 1.63 out of 2. Companies achieved full marks for three-quarters of the allegations considered for Indicator E.2 – The company has appropriate policies in place. While companies may have a policy, however, the 2018 Benchmark finds that companies are significantly weaker when it comes to making a public response and taking appropriate action, scoring an average of 0.89 out of 2 for Indicator E.1 – The company has responded publicly to the allegation. A third of allegations received no public response at all. Disappointingly, companies performed even worse when assessed on whether they had taken appropriate action to respond to allegations (Indicator E.3), with an average score of 0.37 out of 2. In the majority of allegations examined (57%), companies did not engage meaningfully with alleged affected parties at all. This lack of response and subsequent action reflects the diminishing returns on human rights performance across policy, practice and performance.

These findings highlight that many companies have a long way to go to improve how they respond to human rights allegations, despite having a strong policy foundation. At the same time, the findings suggest a clear opportunity for companies to work towards responding transparently to allegations and engaging with affected stakeholders through dialogue and the provision of mutually acceptable remedy.

Marks & Spencer was selected for this case study because it scored almost full marks across the three indicators for Measurement Theme E, highlighting ways in which companies can proactively respond to allegations. Key lessons are also gained from Marks & Spencer's complex business relationships across both the Agricultural Products and Apparel industries, their approach to maintaining transparency and the diversity of actions they use.

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292 Note on Methodology

The indicators included in Measurement Theme E apply only to companies that meet the CHRB criteria regarding serious human rights allegations. Companies that do not meet these criteria instead receive a score that is calculated based on the average of the scores they receive for the other five Measurement Themes. In cases were a company receives multiple allegations, the company's response to each allegation is assessed separately and the scores are then averaged to give a final score.

293 CHRB, Corporate Human Rights Benchmark 2018 Key Findings, '2018 Results by Measurement Theme', p. 45.

294 Indicator E(1).2.

295 Indicator E(1).1.

296 Indicator E(1).2.
Background to The Marks & Spencer Group

Marks & Spencer is a British multinational retailer of food, clothing and home wares, predominantly selling its own branded products. These products are sold in 57 countries through 1463 stores and 20 websites to 32 million customers around the world. Marks & Spencer employs 85,000 people directly, while hundreds of thousands work in its franchised operations and supply chains that span across 70 countries. It also procures goods and services worth several billion pounds each year such as store equipment and cleaning, security and catering services.

Marks & Spencer’s human rights journey began in 1998 when it published its Global Sourcing Principles. These principles are embedded into its contracts and apply across the entire business. In addition, Marks & Spencer:

- was one of the first organisations to report against the UNGPs and published its first Human Rights Report in 2016;
- has reported under the UK’s Modern Slavery Act 2015 each year and also discloses its approach to auditing and its audit results;
- publishes an interactive map on its website to show the locations of its manufacturers, ensuring transparency in its data; and
- has grievance mechanisms in place for employees, suppliers, external individuals and communities to raise allegations.

The Marks & Spencer Group’s approach to Responding to Serious Allegations

Marks & Spencer increased its performance in 2018, scoring almost 70% across the six Measurement Themes, 5.4 points higher than in 2017, and ranking fourth overall. It scored 17.5 out of 20 for Measurement Theme E - Performance: Responses to Serious Allegations, placing it second after Adidas, which scored full marks.

<table>
<thead>
<tr>
<th>M&amp;S’ Scores for Measurement Theme E – Responses to Serious Allegations</th>
<th>Score (of 2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>E(1).1 The Company has responded publicly to the allegation</td>
<td>2</td>
</tr>
<tr>
<td>E(1).2 The Company has appropriate policies in place</td>
<td>2</td>
</tr>
<tr>
<td>E(1).3 The Company has taken appropriate action</td>
<td>1.5</td>
</tr>
</tbody>
</table>

Marks & Spencer scored full marks for the indicators on public response and appropriate policies and while it didn’t meet the criteria to reach a full score in E.3 (appropriate action – remedy that is satisfactory to the victims), it has been included because of the speed and nature of response to the allegation, the approach to using leverage in the supply chain the follow up actions involving external parties like Ethical Trade Initiative and the commitment to increase unannounced audits to better identify issues in the future. Marks & Spencer scored partial marks for Indicator E(1).3 – The company has taken appropriate action because in this particular case, it is unknown whether the remedy was satisfactory to the victim since the remedy was not accepted by the victim, who has subsequently left the factory. The following section outlines Marks & Spencer’s approach to the requirements outlined in the three indicators related to responding to serious allegations.

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297 Marks & Spencer, Annual Report & Financial Statements 2018. [Link](#).
298 Marks & Spencer, ‘Human Rights.’ [Link](#).
299 Marks & Spencer, ‘Human Rights.’ [Link](#).
Allegation Summary – Poor labour conditions, including child labour, 2016

In 2016 a BBC investigation alleged that a Marks & Spencer supplier was using Syrian child refugees to make its clothes in a Turkish factory. The investigation alleged that refugees were ‘employed’ by a third party and were paid in cash, earning under a pound an hour — considerably less than the Turkish minimum wage. The majority of refugees did not have work permits, so they were illegally working in the garment industry. The BBC investigation identified a 15-year-old boy who worked more than 12 hours each day, ironing clothes that were shipped to the UK. The boy wanted to attend school but had to work as a means of survival. The children were allegedly hidden away during audits. Marks & Spencer faced global media coverage, along with other affected brands, as a result of the alleged poor labour conditions, including child labour, in its supply chains.

Review of E.1 – Public response by benchmarked company to the allegation

E.1 The Company has responded publicly to the allegation

The Company has publicly responded to the allegation and provided further details.

Score 1

The Company has responded publicly to the allegation.

Note: This may be a response the Company has made public through a statement in a publicly accessible document on its website, in the press, through BHRRC, or through the CHRB Disclosure Platform.

Score 2

The Company has responded publicly and in detail to each aspect of the allegation.

Note: In case of on-going judicial process or if disclosing full details could have adverse impact on affected people, such details are not required to be disclosed publicly and will not affect obtaining a Score 2.

Meeting Score 1

Marks & Spencer has a dedicated public website with details of human rights allegations where it has made a response, along with resolutions to incidents. The page includes its response to the 2016 labour allegations in Turkey, as well as the alleged mistreatment of migrant workers on a fruit farm in Kent in 2015 and alleged labour rights issues in a footwear factory in China in 2014. It also discloses allegations in its Human Rights Report as case studies.

“As part of our commitment to transparency, we publish details of where we have been challenged by NGOs and campaigners on human rights in our supply chain and the details of our response and resolution.”

– Marks & Spencer’s website

Sources:


301 Marks & Spencer, Responding to Stakeholder Concerns on Human Rights. [Link].

302 Marks & Spencer, Human Rights Report 2017, p.27. [Link].

303 Marks & Spencer, “Responding to Stakeholder Concerns on Human Rights.” [Link].
Meeting Score 2

Marks & Spencer demonstrates a transparent approach to responding to and resolving allegations. Its public responses to allegations are detailed, addressing the individual elements within the allegations as well as disclosing findings from its own investigations and details of the remedial actions taken. At the same time, publication is appropriately restricted if disclosure will adversely impact the affected people or if there is an ongoing judicial process. Marks & Spencer does not disclose specific details of complaints or affected parties, unless the parties have agreed to do so, or the complaint is already in the public domain.304

In response to the 2016 allegation of poor labour conditions, including child labour, Marks & Spencer reported on its awareness of and engagement on the issue; the socio-political context; previous investigations; and its response to the allegation, including its investigation, remediation and monitoring. It also detailed broader actions such as its focus on developing stakeholder partnerships; its commitment to ensuring the human rights impact does not occur again; the steps it has in place to support this commitment, such as monitoring and the use of audits; and its justification for continuing to work with the factory as an opportunity to apply its leverage to support the factory to improve its own performance.

“Our human rights commitment includes being transparent when we are challenged and responding to these challenges in the right way. We always do everything we can to be open and transparent – both in the information we make public and the way we share it. This includes taking every opportunity to learn when things don’t go to plan and to make the necessary improvements in order to continue to be a responsible business.”

– Marks & Spencer’s website305

Marks & Spencer’s Key Steps: Public Response to Allegation

- Commitment to transparency and openness – in order to learn and improve policies and processes
- Company website detailing all public responses and remedial actions to human rights allegations
- Detailed responses include: context, previous responses (if any), current response including investigation, remediation and monitoring, and actions to ensure the impact does not occur again

Key Questions for Companies

- What is the culture of transparency in your company regarding allegations or grievances?
- Are key staff fully conversant with the idea of ‘causing, contributing to and linked to’ impacts under the UNGPs?
- What is your company’s normal position when an incident or allegation is raised that at least links the company to an impact? Do you automatically investigate, ignore or deny involvement?
- How does your company publicly disclose its responses, including investigation and remediation of human rights allegations or confirmed impacts?

Note: This allegation has since been updated and will be revised in the 2019 CHRB assessment.

304 Marks & Spencer, ‘Responding to Stakeholder Concerns on Human Rights.’ Link.
305 Marks & Spencer, ‘Responding to Stakeholder Concerns on Human Rights.’ Link.
E.2 The Company has appropriate policies in place

The Company has policies in place related to the allegation to prevent the type of alleged impact from re-occurring.

**Meeting Score 1**

Marks & Spencer’s Human Rights Policy commits the company to addressing allegations of human rights impacts. Specifically, the Policy commits the company to respecting international human rights informed by the UNGPs, International Bill of Rights, ILO Declaration on Fundamental Principles and Rights at Work, and the Children’s Rights and Business Principles. It emphasises a no-tolerance approach to human rights impacts within its business and supply chains and commits to taking all allegations seriously, addressing the adverse impacts of its global operations and providing effective remedy.306

A standalone Global Sourcing Principles for suppliers enables Marks & Spencer’s human rights policy to be cascaded into its business relationships, and specifically reinforces Marks & Spencer’s requirements and expectation for compliance.307

“Our business commitment to sustainability and Human Rights provides the deep social purpose we need to ‘anchor’ the M&S brand for customers and colleagues alike, giving practical expression to the enduring values that underpin everything this company does.”

–Louise Nicholls, former Corporate Head of Human Rights, Marks & Spencer308

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306 Marks & Spencer, Human Rights Policy. [Link](#).
307 Marks & Spencer, Global Sourcing Principles. [Link](#).
308 Marks & Spencer, ‘Human Rights: it’s time to move faster and collaborate more.’ [Link](#).
Meeting Score 2

Marks & Spencer’s Global Sourcing Principles explicitly require all suppliers to respect the rights of employees across various issues, including labour standards, decent working conditions, health and safety and working hours and wages.

These Principles extend to the supply chain, with an expectation that direct suppliers will adopt similar expectations of their own suppliers, supported by risk assessments and due diligence processes.309

Suppliers must sign to demonstrate their understanding that the Global Sourcing Principles form part of their contract with Marks & Spencer and they are legally bound to implement them as a condition of the contract.

Images 15 and 16 highlight some key elements of the Global Sourcing Principles.

Extending these principles throughout the supply chain

We expect our suppliers to adopt similar principles in dealing with their own suppliers. Suppliers are expected to complete their own risk assessments & due diligence for countries they source from as well as referring to and adhering to the relevant M&S business unit country risk sourcing policy on a regular basis. Suppliers are expected to have a good understanding of the stability & viability of their supply chain and in the case of any financial issues at a supplying site e.g. non-payment of wages, the supplier is expected to bear the cost of remedying any issues.

Our commitment to suppliers

M&S acknowledge that it has responsibilities to its suppliers. The final section of the Global Sourcing Principles sets out some of the key commitments M&S gives to its suppliers.

Suppliers must apply these principles at all times and must also be able to demonstrate that they are doing so. We will work with suppliers to support any necessary improvements, but we will also take action, which may involve cancelling contracts and ceasing to trade, if suppliers are not prepared to make appropriate changes.

Images 15 and 16 highlight some key elements of the Global Sourcing Principles.

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309 Marks & Spencer, Global Sourcing Principles. Link.
Marks & Spencer’s Key Steps: Appropriate Policies to Prevent Negative Impacts

- Detailed requirements to respect human rights placed on suppliers via contractual arrangements
- Framework in place to regularly assess supplier compliance
- Commitments to investigate and deal with issues that arise (when raised by third parties or through own processes)
- Policy commitment to address human rights impacts and provide effective remedy

Key Questions for Companies

- What is your company’s commitment to addressing human rights impacts and providing effective remedy and how does this commitment extend to your business relationships?
- How do you ensure that your business relationships have the same level of human rights commitments that you do?
- How does your company ensure its business relationships respond to issues and deliver effective remedy?
Review of E.3 – Company action to address alleged impacts

E.3 The Company has taken appropriate action

The Company has taken appropriate action to address the alleged impacts.

<table>
<thead>
<tr>
<th>Score 1</th>
<th>Score 2</th>
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<tbody>
<tr>
<td>The company engages in a dialogue with the stakeholders reportedly affected in the allegation(s) (or if the Company is alleged to be directly linked, it encourages its business relationship to do so) AND the Company takes appropriate action depending on its 'level of involvement' (whether causing, contributing or directly linked - see ‘key concepts’ below) to address the identified impacts, including through providing remedy(ies) to the affected people OR through demonstrating an improvement in related management systems to prevent such impacts in the future.</td>
<td>The Company meets all of the requirements of score 1 AND provides evidence that the remedy(ies) provided are satisfactory to the victims. If the company denies the allegation(s), it still engages in a dialogue with the stakeholders reportedly affected in the allegation(s) (or if the Company is alleged to be directly linked, it encourages its business relationship to do so) AND it provides evidence of having reviewed its management systems to prevent such impacts from occurring in the future.</td>
</tr>
</tbody>
</table>

Meeting Scores 1 and 2

There is no single ‘correct approach’ to allegations, due to their varied natures. But Marks & Spencer stand out for their lack of fear in investigating, addressing and disclosing issues that arise in their supply chain. Marks & Spencer took immediate action after being contacted by the BBC, conducting an unannounced audit within 24 hours of being given the name of the factory. The particular audit did not substantiate the media allegations of child labour, but did find poor labour conditions, including one Syrian and three Turkish adults working as casual labourers. They were paid in cash, did not receive wage slips and were employed through an agent working at the factory. While the labourers were above the legal minimum working age and were paid a wage equal to permanent workers with a comparable skill level, they did not hold the required work permit.310

To address the findings, Marks & Spencer reports that they discussed the issue with the supplier and initiated an action plan. The Syrian refugee was offered permanent legal employment in the factory but declined, stating that he did not want to be part of the formal Turkish employment system. He has since left the factory.311 The factory paid the workers their social security payments and agreed not to engage daily workers in the future.312 Since the incident, Marks & Spencer has continued to monitor the factory to ensure compliance with its Global Sourcing Principles. It also committed to conducting more unannounced visits and audits in all factories in the future.

The provision of remedy is difficult to measure when relationships are indirect, and when third parties also respond. In this instance, the Benchmark found that Marks & Spencer did not meet the criteria for demonstrating remediation that was satisfactory to all impacted people, missing out on the final part of the score, but this does not detract from the company’s efforts and their wider work following the incident.

310 Marks & Spencer, ‘Responding to Stakeholder Concerns on Human Rights.’ Link.
311 Marks & Spencer, ‘Responding to Stakeholder Concerns on Human Rights.’ Link.
312 Marks & Spencer, Human Rights Report 2017, p.27. Link.
Marks & Spencer’s response highlights one way in which it uses its leverage to influence supplier conduct. In this case, it chose to continue to work with the supplier, monitoring it closely to ensure its practices improved. Marks & Spencer explained via its website that the factory was fully cooperative and not aware that the Syrian refugee was working in the factory. It justified its decision to continue its relationship with the factory, explaining that:

“It has always been our policy not to “Cut & Run” following an incident such as this, but to work with the factory to ensure our standards are upheld and these issues do not happen again in the future.”

– Marks & Spencer’s website

Taking a big-picture approach, Marks & Spencer has also reviewed its management systems to find lessons and opportunities to improve. If suppliers want to recruit refugee staff, for example, they must now collaborate with United Work, a non-profit foundation that supports refugees including by assisting Syrian refugees to gain legal employment in factories in Marks & Spencer’s supply chains. As of July 2018, there were 14 Syrian refugees employed in six factories. Marks & Spencer has also collaborated with the Ethical Trading Initiative (ETI) Turkey Working Group to identify best practice and due diligence approaches to respect the rights of Syrian refugee workers. It has recommended establishing a multi-industry action plan to protect informal workers, working with other brands, ETI representatives, unions and the Turkish Government.

“This case prompted us to reflect on the enhanced risk of modern slavery where third party labour providers are used, wherever this may be in our business or supply chains. We recognise that traditional audits do not always highlight these potential risks and so in the future, we will engage from the outset with the systemic issues which underlie such cases.”

– Marks & Spencer’s 2017 Human Rights Report

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313 Marks & Spencer, ‘Responding to Stakeholder Concerns on Human Rights.’ Link.

314 Marks & Spencer, ‘Responding to Stakeholder Concerns on Human Rights.’ Link.

315 Marks & Spencer, Human Rights Report 2017, p.27. Link.
Marks & Spencer’s Key Steps: Appropriate Action to Address Alleged Impacts

• Allegations are taken seriously and investigated even when related to third parties
• Working with third parties to attempt to provide remedy, backed up by contracts that give significant leverage to influence business relationships
• Using allegations to identify wider issues, leading to revisions of own approach as well as working with suppliers to reduce likelihood of repeat incidents
• Collaboration with non-profit and multi-stakeholder initiatives to deal with systemic issues

Key Questions for Companies

• Does your company capitalise on learning opportunities? (i.e. when incidents or issues are identified they are used to improve company approaches, or when the company denies involvement or responsibility the issue is used like a ‘near-miss’ to review company approaches)
• How does your company ensure it engages in dialogue with potentially impacted stakeholders?
• How does your company ensure appropriate remediation is achieved for impacted stakeholders?
• How does your company use its leverage to influence remediation for impacts caused by its business relationships?
• How do you know and show that remedy is satisfactory to the impacted parties?

Conclusion to Theme E – Responses to Serious Allegations

Theme E has never been the favourite part of the assessment for most companies, in part because it relies on demonstrating that any remedies were accepted by the impacted parties, taking control for company scores away from the company themselves. The scarcity of this requirement being met suggests that either companies are unable to deliver acceptable remedy or are unwilling to disclose substantive details of the delivery of remedy. However, high scoring companies show that this does not have to be the case.

Key Takeaways for Theme E

• Remedy is frequently the ‘missing piece’ in business and human rights, but without remedy, human rights will not be respected in practice;
• Where companies are alleged to be linked to human rights harms, they should be unafraid to respond in detail to each case and/or declare third party’s responses as a proxy for their own;
• Companies demonstrate leadership by taking responsibility and remedying adverse human rights impacts, and by not being afraid to disclose their approaches and outcomes; and
• Leading companies understand the necessity of using their own leverage to push for investigations, remediation and systems changes when impacts are alleged in their own supply chains.
MEASUREMENT THEME F
TRANSPARENCY
Introduction to Theme F

Transparency lies at the heart of the corporate respect for human rights because companies must be open and genuine about their commitments and actions. As detailed in the UNGPs “The responsibility to respect human rights requires that business enterprises have in place policies and processes through which they can both know and show that they respect human rights in practice. Showing involves communication, providing a measure of transparency and accountability to individuals or groups who may be impacted and to other relevant stakeholders, including investors”.  

Measurement Theme F – Transparency assesses whether companies disclose information related to human rights and the extent to which this information is relevant and specific to stakeholders. It is an overarching Theme that interconnects with all the other Measurement Themes (which are assessed against publicly available information). The indicators in Measurement Theme F contribute to 10% of the total potential Benchmark score. 

This case study highlights the approach by Unilever to transparently and openly communicate on human rights. It first introduces the company, and then outlines Unilever’s practical steps to fulfil the two indicators which have the highest weighting in Measurement Theme F: a company’s willingness to disclose information, and the quality of those disclosures (F1 and F3).

A company’s willingness to disclose information offers insight into its implementation of its human rights commitments and efforts to continuously improve. Disclosing this information may occur using several formats and channels, and CHRB awards points for disclosing information that meets parts of methodology requirements. The quality of the disclosed information is also key to understanding the relevance of disclosed information and provides greater insight into the depth of a company’s commitment to continuously improve and incorporate lessons learnt. Quality disclosure is demonstrated by three types of actions:

- Providing specific and concrete examples;
- Discussing challenges openly; and
- Indicating forward-thinking.

Current Trends and Common Gaps in Theme F

Companies need to take more steps to improve transparency and disclose information, particularly quality information. While Measurement Theme F received the highest average score among all Themes in 2018, there is a disparity in companies’ approaches to transparency, as reflected in the growing gap between low-performing and high-performing companies in the 2018 Benchmark.

Companies’ scores have improved slightly, from an average of 3 out of 10 in 2017 to 3.2 in 2018. CHRB, however, extensively revised the 2018 methodology for Measurement Theme F, which makes it difficult to draw any firm conclusions regarding this trend. Regardless, there is still reluctance among companies to publish information on human rights, with companies scoring an average 1.74 out of 4 points for Indicator F.1 – Company willingness to publish information. This means companies are not disclosing sufficient information for 56% of the CHRB Indicators to even score half a point. This score reflects the extent to which

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318 Corporate Human Rights Benchmark Methodology 2018 p.32. Link.
319 CHRB Indicator F.1.
322 Corporate Human Rights Benchmark 2017 Key Findings, p.41. Link.
323 Corporate Human Rights Benchmark 2018 Key Findings, p.47. Link.
324 Corporate Human Rights Benchmark 2018 Key Findings, p.47. Link.
companies disclose information on human rights topics and does not make claims regarding the quality of such disclosures. 325

Companies tend to perform better overall if they report against an internationally-recognised reporting framework, such as the Global Reporting Initiative (GRI), the Sustainability Accounting Standards Board (SASB) or the UNGPs Reporting Framework (UNGPRF). 326 Companies who did not report against any of these frameworks scored on average 15% less compared to those who did. 327

Even when information on human rights is disclosed, the quality of disclosure is extremely low, with companies achieving an average of 0.32 out of 4 on indicator F.3 (which awards points for meeting certain criteria related to specific examples, discussing challenges and forward thinking disclosures). 328 Yet, quality disclosures are achievable. A small group of companies is leading the way and demonstrating significantly higher results than the average, with Adidas scoring 3, Unilever scoring 2.8 and BHP Billiton scoring 2.4 points. 329 This underscores an important opportunity for companies to not only disclose more information on human rights against recognised reporting frameworks, but to be more specific, relevant and forward-thinking in the information that they disclose. 330

Unilever was selected for this case study because it received the highest overall score for Measurement Theme F overall (8.5 out of 10), with no companies receiving 100%.

Background to Unilever

Unilever, assessed as part of the Agricultural sector, is a British-Dutch consumer goods company that delivers 400 brands within four categories: personal care, foods, refreshment and home care. 331 Established in 1929, Unilever has become one of the world’s largest fast-moving consumer goods company. 332 Its products are distributed to approximately 2.5 billion households in 190 markets daily. 333 Unilever’s operations and supply chains are global, with the majority of its business existing in emerging markets. 334

Unilever demonstrates transparency in its commitment to human rights and related topics. The company, for example, communicates its position on a range of debated issues such as bio-fuels, palm oil and micro-plastics. 335 Unilever adopted a five-year strategy on human rights in 2013 and the following year published its Human Rights Policy Statement. 336 In 2015, it issued its first stand-alone progress report on human rights, called the Unilever Human Rights Report, and was the first company to comprehensively report against the UNGPRF. 337

While Unilever scored 67% overall in 2018, noting high scores for Themes A, B and F in particular, the company scored less than half the available points in themes D and E. More could be done in terms of

327 Corporate Human Rights Benchmark 2018 Key Findings, p.47. Link.
328 Corporate Human Rights Benchmark 2018 Key Findings, p.47. Link.
329 Corporate Human Rights Benchmark 2018 Key Findings, p.47. Link.
330 Unilever website – Annual reports and accounts, 2019. Link.
331 Unilever website – Our History: Interactive timeline, 2019. Link.
332 Unilever website – About Unilever, 2019 Link; Unilever website – Supplier centre, 2019. Link.
333 Unilever website – About Unilever, 2019. Link.
334 Unilever website – Our position on..., 2019. Link.
disclosing how the actions to prevent child and forced labour, and respect freedom of association in the supply chain, apply in Unilever’s own operations, while more detailed responses to allegations and engagement with allegedly impacted parties would be welcome.

**Unilever’s approach to Transparency**

Unilever is one of the highest scoring companies in the 2018 Benchmark, achieving a total score of 67% and a score of 8.5 out of 10 for Theme F – *Transparency*. 338 The company improved its overall performance between 2017 and 2018 by 11 points and increased its score for Measurement Theme F by 4 points.

**Unilever’s Scores for Measurement Theme F – Transparency**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Description</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>F.1*</td>
<td>Company willingness to publish information</td>
<td>3.7 (out of 4)</td>
</tr>
<tr>
<td>F.2</td>
<td>Recognised Reporting Initiatives</td>
<td>2 (out of 2)</td>
</tr>
<tr>
<td>F.3*</td>
<td>Key, high-quality disclosure</td>
<td>2.8 (out of 4)</td>
</tr>
</tbody>
</table>

*Indicators examined in this case study

Unilever scored nearly full marks for its willingness to publish information publicly, achieving a score of 3.7 out of 4 for disclosing sufficient details to score in 47 out of 51 instances under the CHRB indicators in Measurement Themes A-E.339 It also scored full points in F.2 for reporting against the UN Guiding Principles reporting framework index.

While Unilever scored well on indicators used to provide a proxy for quality disclosures (2.8 out of 4),340 the 2018 Benchmark highlighted some areas for improvement. In particular, Unilever did not score full marks in several key indicators related to quality disclosures for: its monitoring and corrective actions of its human rights policy commitments, stakeholder involvement in the design and performance of grievance mechanisms, and for its evaluation of the effectiveness of its grievance mechanisms.341 Of the four indicators selected as the most ‘forward-thinking’, Unilever was the only company that met all the criteria, indicating a strong focus on setting transparent targets for human rights performance.

The following section details Unilever’s approach to indicators F.1 and F.3.

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338 (Unilever) Corporate Human Rights Benchmark 2018 Company Scoresheet, p.1 Link.
Review of F.1 – Company willingness to publish information

F.1 Company willingness to publish information

By introducing half marks (0.5, 1.5) into various points of the scoring criteria, CHRB will be able to identify where companies are not meeting all the requirements to reach a score of 1, but are disclosing relevant information on a topic. In the case of a half-mark, a company is demonstrating a level of transparency, but is not necessarily reaching the required level of performance on that human rights topic to score a 1 on CHRB’s methodology.

F.1 looks at all of the company disclosures in Themes A-E and identifies where there is sufficient disclosure to warrant a score of a half-mark and above. The score for F.1 is based on the proportion of indicators in Themes A-E which score 0.5 and above. There are 4 points available for F.1 representing 4% of the total CHRB score.

E.g. A company is assessed on a total of 60 indicators across themes A-E. The Company scores a zero in 12 indicators (all other scores are ½, 1, 1 ½ or 2). In other words, it is disclosing on 48 out of 60 indicators, showing a relatively high level of transparency. As Indicator Scoring more than 0 = 48 and Total Indicators scored = 60. Therefore F.1 score = 4(48/60) = 3.2% out of a maximum of 4 %

“We need to be at the forefront of change. This is why Unilever is committed to greater transparency and continue to work with our partners to drive positive change...”

–Paul Polman, past Chief Executive Officer, Unilever

Unilever adopts a transparent approach to communicate on human rights across its policies, reports, websites, speeches and other mediums compared to many peers. Its willingness to disclose information has been recognised with the 2011 Ethical Corporations Responsible Business Award and the Dutch Transparency Benchmark, which Unilever scored 185 points out of 200.


Unilever’s Human Rights Report most clearly demonstrates its dedication to transparently and continuously disclose information on human rights, particularly its progress. It has published Human Rights Reports in 2015 and 2017, which are available on its website. Its 2015 report contains the following chapters:

• Unilever’s approach and commitment to respecting human rights across its business, including its strategy, focus areas, policy frameworks and policies, and governance;
• Salient human rights issues, including the audit process, discrimination, fair wages, forced labour and land rights;
• Compliance, focused on aspects such as training, tracking, responsible sourcing and grievance mechanisms; and
• The road ahead.

342 Unilever website, We take radical step on palm oil supply chain transparency, 2018. Link.
Building upon its first report, Unilever’s updated report in 2017 includes a new chapter, ‘Spotlight on commodities’, which presents its commitments, actions and partnerships for non-renewables, palm oil, tea, vanilla and security.\textsuperscript{348}

Unilever also regularly updates the dedicated human right’s page on its website with new information, such as updated documents, news articles and highlights on its progress. For example, Unilever has published a dedicated page on its human rights progress in 2018, including details and videos featuring its leaders describing the year’s progress and key actions on each identified salient human rights issue.\textsuperscript{349} The page also includes clear hyperlinks to relevant documents, such as its Human Rights 2018 Supplier Audit Update, updated 2018 Modern Slavery Statement, joint memorandum of understanding with unions, and its new Global Women’s Safety Framework in Rural Spaces.

Unilever’s transparent tone is set from the top. In 2013, Unilever appointed Marcela Manubens as the Global Vice President for Integrated Social Responsibility, who has responsibility to lead the company’s human rights agenda.\textsuperscript{350} Both Marcela Manubens and Unilever’s (now former) CEO Paul Polman made frequent public appearances and keynote speeches to underline the company’s commitment to advancing human rights.\textsuperscript{351} For example, Paul Polman attended the UN Forum on Business and Human Rights in 2014 and delivered the opening keynote statement.\textsuperscript{352}

Unilever is not only vocal about its commitment to respect human rights but also openly discusses the risk for systemic human rights abuses within the business and across the supply chain, including its salient human rights and case studies on commodities.\textsuperscript{353} Paul Polman articulated this ambition in Unilever’s first Human Rights Report in 2015:

“I use the word ‘promoting’ consciously. Respecting human rights is the necessary foundation. We must build on it and engage actively in the promotion of rights to ensure that we succeed in our commitment.”\textsuperscript{354}

\textbf{Unilever’s Key Steps: Public Disclosure}

- CEO led external engagement on human rights and recognisable global point of contact for human rights issues at a senior level within the company
- Detailed disclosures of policy, progress, and progress, in line with recognised frameworks
- Frequently updating website (i.e. not limited to annual/two-yearly reporting cycle with clear hyperlinks to relevant information

\textbf{Key Questions for Companies}

- Do you have a culture of transparency on human rights, driven from the top? If not – what are the barriers to reporting and disclosing more detailed information on human rights?
- Does your company disclose information in a way that can be accessed easily by all relevant stakeholders?
- Does your company regularly update its human rights information on its website, reports and other communication channels?

\textsuperscript{348} Unilever Human Rights Progress Report, 2017. \url{Link}.
\textsuperscript{349} Unilever website – Understanding our human rights impacts, 2019. \url{Link}.
\textsuperscript{350} Unilever website - Advancing human rights in our own operations, 2019. \url{Link}.
\textsuperscript{351} See for example: Skoll World Forum – Getting beyond business as usual, 2016. \url{Link}; BSR Conference 2018, \url{Link}.
\textsuperscript{352} Unilever Human Rights Report - Advancing Livelihoods, Advancing Human Rights, 2015, p.1. \url{Link}.
\textsuperscript{353} Unilever Human Rights Report - Advancing Livelihoods, Advancing Human Rights, 2015, p.1. \url{Link}.
\textsuperscript{354} Unilever Human Rights Report - Advancing Livelihoods, Advancing Human Rights, 2015, p.1. \url{Link}.
Review of F.3 – Quality of disclosures

F.3 Key, high-quality disclosure

** Whereas F.1 looks at total overall disclosure to demonstrate transparency, F.3 looks at ‘high-quality’ disclosures and CHRB has selected several key indicators within the Methodology that show companies are willing to be transparent in certain areas that indicate high quality reporting on human rights performance. **

** In order to assess the quality of reporting, the CHRB Methodology draws from the Shift Project’s publication ‘Human Rights Reporting: Are Companies Telling Investors What They Need to Know?’ according to which good human rights reporting: **

- Is specific and supported by concrete examples
- Discusses challenges openly
- Demonstrates a forward focus

** Therefore, CHRB has selected 10 indicators which indicate specificity of the information disclosed and use of concrete examples (F.3.a), openness in discussing challenges (F.3.b) or a forward focus (F.3.c) - note that some may cut across several of these areas. These 10 indicators are listed below and include at least one indicator in each Theme (A-E). **

** Points in section F.3 will be awarded to companies as described in F.3.a, F.3.b and F.3.c in the table on the next page*. Each ‘high performance’ indicator that is met results in a score of 1. The sum of the relevant indicators, divided by the total number, is used to assign a proportion of the maximum 4%. **

Indicator F.3 can effectively award additional points for scoring well on key indicators that are pulled from Themes A-E. See the relevant section of the CHRB Methodology for full details.

**F.3.a Specificity and use of concrete examples**

Unilever’s public disclosure on human rights covers a breadth of specific matters, including its salient human rights issues, auditing processes, ongoing progress, actions and analysis. The specificity of the information allows stakeholders to easily follow Unilever’s work and progress from year to year.

Unilever, for example, openly discloses the human rights topics discussed at Board level and provides information on both the processes and concrete examples of such discussions. According to the Annual Reports, which are available on its website, provide a high level of detail on the Board meeting timeline, agenda and clear examples of human rights discussions, future priorities and targets. Another example is Unilever’s public details on grievance mechanism and statistics on non-conformances with the Responsible Sourcing Policy. Unilever’s 2017 Human Rights Report features a ‘Spotlight on Commodities’ section, providing detailed case studies with qualitative and quantitative data across non-renewables, palm oil, tea, vanilla and security.

In 2018, Unilever announced that it was the first consumer goods company to publicly disclose the direct and indirect suppliers and mills of its palm oil. This information gives Unilever better visibility of the origins of its supply chains, identification and resolution of issues. It also allows others to raise human rights issues and impacts to Unilever.

“*We are making a real step change towards greater transparency in the industry. We strongly believe that being open and transparent is key to achieving a fully traceable supply chain.*”

–Unilever’s website

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355 Annual reports and accounts, 2018, p.43. Link.
356 Related to Indicator A.2.2; Unilever website – Annual reports and accounts, 2019. Link.
357 Annual reports and accounts, 2018, p.43. Link.
359 Unilever website, We take radical step on palm oil supply chain transparency, 2017. Link.
360 Unilever website, We take radical step on palm oil supply chain transparency, 2018. Link.
361 Unilever website, We take radical step on palm oil supply chain transparency, 2018. Link.
Unilever’s publication of specific human rights information and examples demonstrates an openness for stakeholders to access its human rights data and information. Such disclosure provides greater insight into the company’s approach to human rights, rather than generic statements and commitments. The use of case studies and examples provide a more authentic dimension to reporting.

F.3.b Discussing challenges openly

Unilever is willing to discuss challenges openly, which demonstrates an evolving understanding of the specific human rights issues at hand, as well as a desire to listen and learn. A key way for Unilever to share its challenges is by disclosing its response to human rights risks and impacts. Unilever regularly tracks human rights issues through code breaches, grievance reporting and worker engagements.

In 2017, it established the Social Sustainability Dashboard to better understand the challenges and risks within its supply chain. The Dashboard tracks the number of breaches against each Fundamental Principle in Unilever’s Responsible Sourcing Policy, with the data grouped into cluster, category and portfolio. The Dashboard highlights salient human rights and hotspots, enabling Unilever to prioritise issues, create relevant guidance and webinars, and identify and support portfolios and regions with the greatest need. To ensure senior oversight, the data is shared with all procurement Vice-Presidents, Directors and Managers.

Unilever, for example, is transparent about ongoing challenges in its palm oil supply chains, acknowledging that significant environment and social issues continue to exist in the industry and more work is needed to achieve a truly sustainable palm oil industry.

Unilever also provides examples on how it has incorporated lessons learnt from monitoring and evaluating its actions. For instance, Unilever’s 2017 Human Rights Report discusses a 2016 report by Oxfam, which highlighted Unilever’s progress and systemic challenges with labour rights in Vietnam. Unilever acknowledges that more work is needed to increase opportunities for female factory workers and increasing supplier engagement to respect human rights.

“Open, frank dialogue and understanding of the challenges and opportunities, particularly at the local level, have been a key part of this work with learnings on both sides.”
—Unilever’s 2017 Human Rights Report

By disclosing its challenges and lessons learnt, Unilever openly communicates the challenges it currently faces, as well as its efforts to maintain and improve the effectiveness of its actions.

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364 Related to Indicator B.2.4; Corporate Human Rights Benchmark Methodology 2018, p.109. Link.
367 The Fundamental Principles in Unilever’s Responsible Sourcing Policy (pg.3) are: Business is conducted lawfully and with integrity; All workers are treated equally and with respect and dignity; Work is conducted on a voluntary basis; All workers are of an appropriate age; All workers are paid fair wages; Working hours for all workers are reasonable; All workers’ health and safety are protected at work; All workers have access to fair procedures and remedies; Work is conducted on the basis of freely agreed and documented terms of employment; All workers are free to exercise their right to form and/or join trade unions or to refrain from doing so and to bargain collectively; Land rights of communities, including indigenous peoples, will be protected and promoted; and Business is conducted in a manner which embraces sustainability and reduces environmental impact.

369 Unilever website, We take radical step on palm oil supply chain transparency, 2018. Link.
F.3.c. Demonstrating a forward focus

“Human rights, and our work to embed and promote respect for them, cannot be separated from the changing economic and political conditions in the markets where we operate.”

–Unilever’s 2017 Human Rights Report

Unilever’s communication on human rights is focused on the future and continuous improvement. It publishes information on remuneration for Board and senior management staff that is linked to human rights performance, demonstrating a commitment to incentivise ongoing progress. In the Human Rights Report, Unilever also discloses its specific plans, targets and progress on its eight salient human rights issues: discrimination, fair wages, forced labour, freedom of association, harassment, health and safety, land rights and working hours.

Unilever’s Human Rights Report also has a dedicated ‘Looking Ahead’ section centred upon the themes of reflection, focus and innovation. It outlines innovative ways to improve its human rights programmes and next steps, including technological impact on human rights, digital tools to increase transparency, and the roll-out of its Responsible Sourcing Policy to its entire extended supply chains. By sharing its reflections and future actions, Unilever is seen to communicate its intention to improve efforts and further embed human rights throughout the company.

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Unilever’s Key Steps: Quality of Disclosures

- Specific details including qualitative and quantitative statistics, targets and case studies
- Disclosure of business relationships, such as suppliers
- Comfort with discussing issues and challenges (culture of transparency)
- Disclosure of responses to human rights issues and impacts, including challenges, lessons learnt and next steps
- Specific plans, targets and progress on salient human rights issues

Key Questions for Companies

- Is your company mature enough to disclose its human rights challenges, actions in detail and lessons learnt?
- Does your company publish its plans to improve its approach to human rights?
- Does your company disclose specific focus areas and targets, as well as actions to reach the targets, or reasons for not meeting those targets?

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374 Related to Indicators A.2.3 and B.1.2; Corporate Human Rights Benchmark Methodology 2018, p.109. Link.
375 Related to Indicator D.1.1.a.
376 Related to Indicator D.1.7.a
**Conclusion to Theme F – Transparency**

“Unilever believes that complete transparency is needed for radical transformation. We want this step to be the start of a new industry-wide movement.”

–Marc Engel, Chief Supply Chain Officer, Unilever

Transparency underpins everything CHRB does and it is a key part of implementing the UNGPs. For most companies in the early stages of their human rights journey, Theme F may not be the most useful group of indicators to focus on. However, looking at F.1 will quickly indicate the proportion of key human rights issues that you are disclosing on. F.3 should draw attention towards a subset of indicators that reflect high quality disclosures. A high score in F.1 but a low score in F.3 may reflect a ‘high-volume, low-quality’ approach to disclosure that should be investigated.

While CHRB does not advocate for standalone bespoke reporting, the UNGP Reporting Framework\(^{381}\) provides an excellent starting point to understand what should be disclosed.

**Key Takeaways**

- Transparency and high-quality disclosures are fundamental to demonstrating respect for human rights and is a critical part of implementing the UNGPs.
- Frameworks exist to guide the types of information that should be disclosed.
- The better scoring companies show that disclosure is not to be feared and should be seen as something to support your company brand, rather than endangering it; now more than ever, companies should articulate their roles in society and show why they deserve a license to operate.

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\(^{380}\) Unilever website, *We take radical step on palm oil supply chain transparency*, 2018 [Link](https://www.unilever.com/content/dam/unilever/pdf/External_relations/palm_oil/We_Take_Radical_Step_On_Palm_Oil_Supply_Chain_Transparency.pdf)

FINAL NOTE

As the case studies show, ‘doing well’ is neither impossible nor detrimental to the business. With ever increasing public scrutiny, diminished trust in corporations and more numerous and robust legislation appearing each year, the pressures on companies to behave in a manner that respects rights is unlikely to decrease. Companies implementing a framework to respect human rights will enable them to get ahead of the legislative curve, manage potentially material risks while avoiding negative impacts on people, and demonstrate that they are a business worth working for, a brand worth supporting and a stock worth buying.

CHRB recognises that many companies are on a journey when it comes to respecting human rights and we know that implementing the UN Guiding Principles is an ongoing process that requires commitment, resources and in some cases the bravery to shine the light on issues that will often make people uncomfortable. Conversely, CHRB believes that there has been enough time since the UN Guiding Principles were rolled out for all companies to already be managing their human rights issues, providing remedy for adverse impacts and communicating transparently to the world on their efforts.

With this in mind, we encourage companies to review the case studies in this document and dig into the details provided in the links, to see where they can learn from their peers and make adjustments to their commitments, systems, resourcing and/or disclosures, depending on their current gaps.

Finally, we encourage companies, both those within the benchmark and those outside of the assessments, to contact CHRB regarding the report, the rankings, the methodologies or their approaches to respecting human rights.

The Corporate Human Rights Benchmark (CHRB):
Harnessing the competitive nature of the markets to drive better human rights performance.