



Human rights and corporate insurance

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CRO FORUM

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1 Executive summary

The insurance industry supports all sectors of the economy through its insurance and investment activities. As insurers and long-term investors, we have a critical interest in countries' economic, social and political stability and their sustainable development. Respect for, and protection of human rights is at the core of sustainable development.

This relationship implies that the insurance industry has a responsibility and also an opportunity to respect human rights. This is especially important since human rights are no longer considered to be solely the concern of states. Today, respecting human rights has become a global standard¹ that businesses are expected to uphold wherever they operate, regardless of their size, nature or industry sector.

Failure to respect human rights exposes the insurance industry to reputational, legal and transactional risk. The expectations of the industry's stakeholders including civil society and policy makers are rising when it comes to human rights. Human rights standards are increasingly being built into international agreements and local regulations. There is also often a strong correlation between respecting human rights and the quality of insured risks. For these reasons, the insurance industry must include human rights in its risk management framework.

This fifth paper in our series on managing environmental, social and governance (ESG) challenges in business transactions is dedicated to the topic of human rights. It focuses on the core functions of the insurance industry – risk transfer and the investment of insurance premiums.

Human rights is a broad and complex topic. This discussion paper only considers exposure to human rights issues resulting from transactions with corporations – the provision of insurance products and services to corporate customers and investments of group assets in corporate bonds and equity.

The insurance industry began to address human rights concerns some time ago. The industry started this process through voluntary initiatives such as the UN Global Compact,² launched in 2000, followed by the Principles for Responsible Investment³ in 2006 and the Principles for Sustainable Insurance⁴ in 2012. All reference the insurance industry's responsibility to contribute to respecting human rights.

The purpose of this paper is to build an understanding of why the insurance industry has to bring respect for human rights into its risk management framework and how it can address human rights issues in its business relationships with other corporations. This paper is intended to be a basis for discussion between insurance companies and their stakeholders. It aims to help the insurance industry address evolving expectations around its role in respecting human rights and promoting best practice.

¹ In 2011, UN Special Representative Professor John Ruggie published the Guiding Principles which were unanimously adopted by the UN Human Rights Council in June 2011.

² <http://www.unglobalcompact.org/>

³ <http://www.unpri.org/introducing-responsible-investment/>

⁴ <http://www.unepfi.org/psi/>

2 Introduction – human rights and the insurance industry

As risk managers, risk carriers and long-term investors, insurers and re-insurers play an important social and economic role in society. The core function of insurance is to offer risk protection. Insurance allows people and businesses to protect themselves from risk, helping them to become prosperous, resilient and stable. We invest the premiums in the capital markets with a long-term view, helping to finance businesses and public entities.

Because of this active role in the economy, the insurance industry has many links to potential human rights violations. Some examples are:

- Provision of global property insurance cover to a food and beverage company implicated in the use of child labour in its supply chain.
- Provision of project construction insurance cover to a construction company implicated in forced resettlements of local communities or human trafficking.
- Provision of directors' and officers' liability insurance cover to a mining company with operations implicated in inappropriate use of force to protect its facilities.
- Holding shares in a clothing retailer implicated in the use of forced labour in its supply chain.

These links to potential human rights violations not only expose the industry to reputational risk, but also to transactional risk. There is often a strong correlation between respecting human rights and the quality of insured risks. Issues such as labour conditions and management of impacts on local communities can affect companies' insurability. Disregard for safety guidelines will lead to more incidents in the long run and negatively affect business performance. Similarly, disregard for impacts on local communities may lead to public protests and result in a loss of the licence to operate. Poor labour conditions in a mine can result in strikes and riots by workers, leading to business interruptions and potentially unexpected or disputed insurance claims.

There is also evidence that taking ESG considerations – including human rights – into account in investment decisions improves risk-adjusted investment returns in the long term.⁵ Moreover, if poor human rights conditions are prevalent in a country, this will have a negative impact on the economy and society as a whole and will eventually expose the insurance industry to country risk.⁶

Case study: South Africa's platinum miners' strike in 2012

The Marikana miners' strike was an unofficial strike demanding higher wages and improved labour conditions at a platinum mine owned by Lonmin in the Marikana area of South Africa in 2012. The event attracted international attention following a series of violent incidents between the South African Police Service, Lonmin security, the leadership of the National Union of Mineworkers (NUM) and strikers themselves, which resulted in the deaths of 44 people, the majority of whom were striking mineworkers killed on 16 August 2012. At least 78 additional workers were injured.

Due to the importance of the platinum mining industry in South Africa, the strikes had a tangible negative impact on the South African economy. South Africa's key position in the global supply of platinum also meant that the strikes had an impact on the world price of this commodity. Lonmin's share price and ability to service its debt were also affected.

⁵ "The Value of Responsible Investment," Investment Leaders Group, University of Cambridge Institute for Sustainability Leadership, 2014.

⁶ <http://www.thecroforum.org/esg-country-risk-management-a-new-horizon/>

Cases like the platinum miners' strike demonstrate the need for a deeper understanding of the role of the private sector in supporting respect for human rights. The introduction of the "Guiding Principles for the implementation of the United Nations 'Protect, Respect and Remedy' Framework" ("Guiding Principles")⁷ was a milestone in this debate. Subsequently, expectations that businesses respect human rights have clearly been raised and several developments show that the Guiding Principles are more than simple voluntary guidelines:

- The latest version of the OECD Guidelines for MNEs (multinational enterprises), published in 2011, contains a new human rights chapter which is consistent with the Guiding Principles.
- The European Union and the United States agreed to promote responsible business conduct and adherence by third countries to the OECD Guidelines for MNEs.⁸
- The European Commission expects all European companies to fulfil their corporate responsibility to respect human rights, as defined in the UN Guiding Principles, and invited EU member states to develop action plans for implementation.⁹
- Several countries have introduced, or are in the process of introducing regulations on corporate human rights responsibility.¹⁰

These developments and rising expectations increase the exposure of the insurance industry to legal and reputational risk.

The Guiding Principles explicitly and clearly set out the responsibilities of businesses to respect human rights alongside the obligations of states to protect human rights. The Guiding Principles provide a framework of responsibilities for respecting human rights in a business context, setting out clear requirements for businesses to develop:

- a policy commitment to respect human rights;
- due diligence processes to identify, prevent, mitigate and account for human rights impacts; and
- processes to enable the remediation of any adverse human rights impacts.

Businesses may be involved with adverse human rights impacts either through their own activities or as a result of their business relationships with other parties. Where the involvement in adverse human rights impacts is through a business relationship, the responsibility to respect human rights does not require that the insurance company itself provides for remediation, though it may take a role in doing so.

Companies are expected to look at human rights not only from a business risk perspective (potential reputational, legal and transactional risks as a consequence of adverse human rights impacts) but also from the rights-holder's perspective. A company bears responsibility for respecting human rights regardless of its ability (or lack thereof) to influence those impacts.

⁷ In 2011, UN Special Representative Professor John Ruggie published the Guiding Principles which were unanimously adopted by the UN Human Rights Council in June 2011.

⁸ April 2012, agreement on Shared Principles for International Investment between the European Union and the United States, http://trade.ec.europa.eu/doclib/docs/2012/april/tradoc_149331.pdf

⁹ October 2011 "Renewed EU Strategy 2011-14 for Corporate Social Responsibility"

¹⁰ US Dodd-Frank Act, Section 1502-1504, UK Corporate Law Act (2013 Revision)

OECD case study: Dutch and Norwegian pension fund managers

In 2013, several international NGOs led by Both Ends and SOMO (Centre for Research on Multinational Corporations) in the Netherlands filed a case with the Dutch National Contact Point (NCP) of the OECD regarding APG, the Dutch pension fund manager. The claim related to plans by South Korean steel producer POSCO to build a steel plant in the Indian state of Odisha. There was large-scale local resistance to the plan, which according to several NGOs would involve the forced displacement of more than 22,000 people from their homes. APG holds a minority stake in POSCO of 0.084%. A similar case was filed with the Norwegian NCP regarding the Norwegian Pension Fund manager NBIM.

The Dutch NCP published its final statement in the POSCO case in September 2013. It followed the Norwegian NCP by concluding that the OECD Guidelines apply to investors including minority shareholders. This means that investors and other financial institutions have a responsibility, wherever possible, to exert influence on companies they invest in to help prevent or mitigate possible adverse impacts of these companies' operations. The question is therefore not if investors and other financial institutions have a responsibility to respect human rights but how this responsibility can be defined. Both NCPs concluded that where an investor holds shares in a large number of companies such as the Dutch or Norwegian pension fund, a generic approach with regard to exercising human rights due diligence is appropriate. In addition, where a shareholder has only a minority interest, expectations as to the influence it can exert must be realistic.

In the Dutch case, the NGOs, APG and POSCO agreed to conduct an independent investigation of the situation in India and POSCO's role in it. In the Norwegian case, the Norwegian government asked the OECD Investment Committee for a clarification of the scope of the OECD guidelines. This clarification was adopted in June 2014 and confirmed the applicability of the Guidelines to investors, including minority shareholders.

OECD, Working Party on Responsible Business Conduct, SCOPE AND APPLICATION OF "BUSINESS RELATIONSHIPS" IN THE FINANCIAL SECTOR UNDER THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES, Note by the Secretariat, 27 June 2014.

OECD, Working Party on Responsible Business Conduct, DUE DILIGENCE IN THE FINANCIAL SECTOR: ADVERSE IMPACTS DIRECTLY LINKED TO FINANCIAL SECTOR OPERATIONS, PRODUCTS OR SERVICES BY A BUSINESS RELATIONSHIP, Note by the Secretariat, 27 June 2014]

3 Human rights and the insurance industry: approaches to integration

3.1 Policy development for human rights

The first step in meeting the responsibility to respect human rights is to develop a policy commitment and supporting governance structure. In doing so, it is important to consider the company structure and business model under which the policy will be governed and implemented. For example, within the insurance industry, the structure and model will differ between direct insurers, reinsurers and intermediaries or brokers. It is important to integrate the policy in the company's risk management framework. Generally there are two approaches:

Approach	Pros	Cons
A separate, stand-alone human rights policy	Clear and transparent corporate position on human rights	Ownership for implementation and ensuring compliance may be less clear
Integration of human rights into existing policies	Facilitates implementation by building on existing policies and processes	Meeting external stakeholders' expectations is more difficult, for example, the Guiding Principles call for a policy commitment to respect human rights

No matter which approach is chosen, the basis of any policy commitment to respect human rights is top management's full endorsement and buy-in. The next step is to implement processes that can be put into practice and more importantly, the policy must be embedded in the business culture. Since stakeholder expectations, public opinion and regulation are constantly changing, regular reviews of the policy and approach are needed.

3.2 The human rights due diligence process

The second step is to develop and implement a human rights due diligence process, which includes:

- Identifying and assessing any actual or potential adverse human rights impacts.
- Preventing and mitigating adverse human rights impacts.
- Accounting for how adverse human rights impacts are addressed.

The Guiding Principles acknowledge that human rights due diligence is more complex where the link to an adverse human rights impact is through a business relationship with another company.

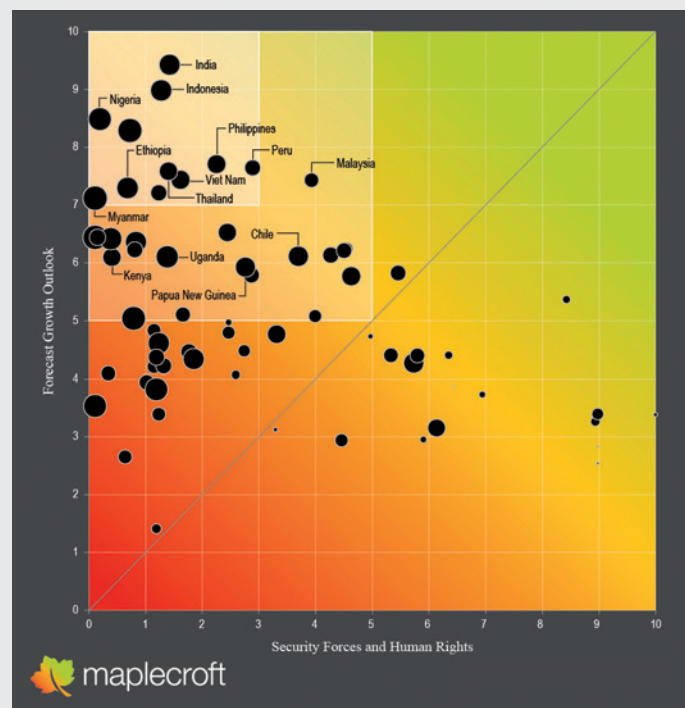
A flexible approach that is tailored to the insurance industry is therefore needed to address human rights concerns resulting from insuring or investing in other corporations. A risk-based approach that enables the highest-risk transactions and investments to be made a priority, while at the same time focusing on the most adverse human rights impacts helps ensure that the due diligence process is practical and feasible.

To identify and prioritize potential adverse human rights impacts, the following risk factors can be taken into account.

Industry risk: exposure to human rights violations differs by industry. Some industries such as manufacturing, agriculture, construction, and mining, are particularly exposed to human rights risks.

An insurance company can identify and prioritize areas of highest exposure to potential human rights abuses by conducting an industry-based due diligence process for investments and corporate and commercial insurance business. For example, when considering insuring the construction of a large hydroelectric dam, an insurance company may choose to pay special attention to the risk of forced relocation of local communities – a human rights issue that is likely in large construction projects.

Security forces and human rights vs forecast growth outlook, with plot sized for indigenous peoples' rights



Countries in the top left quadrant of the graph are projected to enjoy significant economic growth – but their security forces often have poor human rights records, indicating that violence may be used to force communities to relocate or accept government or business development plans.

Source (caption and chart): www.maplecroft.com, © Maplecroft 2014

Country or location risk:¹¹ Track records on governance and enforcement mechanisms regarding the protection of its citizens' human rights vary widely among countries. An insurance company's exposure to human rights issues will therefore vary depending on its investments, and on corporate and commercial customers' location. Taking human rights issues into consideration in country risk management helps insurance companies to identify and prioritize areas of highest exposure to potential human rights abuses.

The identification and prioritization will also be influenced by a company's values and commitments to voluntary principles, risk management framework and risk appetite.

¹¹ <http://www.thecroforum.org/esg-country-risk-management-a-new-horizon/>

Once the areas of highest risk exposure to human rights issues have been identified based on these risk factors, the insurance company has to access relevant information and research on which to base its assessment of human rights issues.

There are several external providers of ESG research and data that enable companies to access information for their assessments. Insurance companies can also use their own ESG research and data.

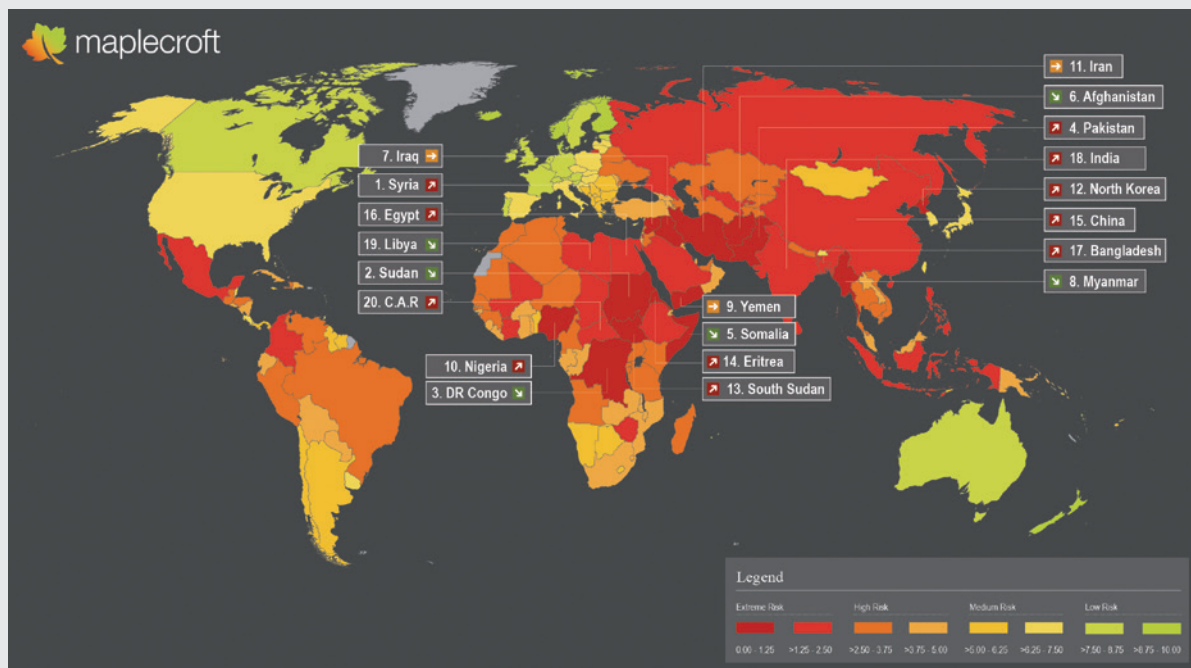
Insurance companies also can and should access information through engagement and continuous dialogue with investee companies, brokers, other intermediaries, corporate and commercial customers, civil society organisations, peers, policy-makers and regulators on human rights matters.

The assessment of human rights issues related to a transaction will involve looking at, among other risk factors, the nature and impact of the potential adverse human rights abuse and the customer's and/or investee company's commitment and capacity to address the human rights issue.

Finally, insurers should be transparent by explaining what they do, how they do it and why. Tracking and reporting (e.g. in an annual report or website) is key to ensuring effectiveness and managing reputational risk.

Existing reporting frameworks such as the UN Global Compact Communication on Progress or external assurance can help to increase stakeholders' trust in the human rights due diligence process.

Human Rights Risk Index 2014



The Human Rights Risk Index, a central part of the Human Rights Risk Atlas 2014, is an annual product of Maplecroft. The HRRRI assesses and visually presents the extent and the nature of human rights violations across 197 countries, down to a level of 25km². Twenty-four specific human rights categories are analysed over four key areas. Human security, civil and political rights, labour rights and protection, and access to remedy. The HRRRI is designed to help businesses, investors and international organisations assess, compare and monitor human rights risks with a view to understanding trends, implication and mitigation requirements. For more information see www.maplecroft.com

Source (caption and chart): www.maplecroft.com, © Maplecroft 2014

Developing a human rights due diligence process: key considerations

- Compatibility with existing investment management, risk management and underwriting processes.
 - Investment analysts, investment managers' and underwriters' ability to apply the process (how will investment analysts, investment managers, and underwriters be trained, what tools and resources will be developed for the underwriters?).
 - How best to integrate human rights considerations into existing risk management, investment management and underwriting policies and processes? For example, if the asset owner or asset manager is a signatory of the Principles for Responsible Investment, human rights could be addressed as part of active ownership, investment restrictions, or ESG integration.
 - Whether to establish a specialized role or team to assess human rights or ESG issues more broadly. What would be the responsibilities of such a role or team?
 - Whether to apply exclusions or restrictions. How should the scope of any exclusions or restrictions be defined – e.g., how long does an exclusion or restriction apply and to what part of a business relationship does it apply: the Group, a specific business unit, a specific transaction? How can alignment between the underwriting and investment sides be ensured?
 - What will the decision and escalation process look like, especially in cases where there is no agreement as to the right course of action: what gets escalated when will decisions be taken and who makes them?
 - What will the reporting process will look like? What information is needed, how should it be captured, for whom and for what purpose is it needed, e.g., management information versus external reporting?
 - When, where and how is there a need and/or opportunity to ensure alignment between the underwriting and investment side, e.g., with regard to sharing of human rights information and engaging with companies on human rights issues?
 - Periodic review of the approach and ensuring continuous improvement.
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3.3 Due diligence: approaches for underwriting

How can insurance companies use their influence to prevent and mitigate human rights violations in their business relationships with corporate customers? Several factors affect an insurer's ability to apply influence, including:

- whether cover is for single projects or sites, versus multiple sites or territories (e.g. global liability or property cover);
- whether the insurer is the primary or lead insurer, versus a non-lead member of a panel or pool; and
- whether there is a direct customer relationship, versus a broker relationship.

As primary insurer or lead insurer of a panel for a single project, the insurance company is in a relatively good position to access information, engage with customers and influence the management of any human rights concerns (e.g. through brokers, direct customer contact and site visits). On the other hand, when providing global cover to multiple sites for a customer through a broker, it becomes more challenging to influence the customer's human rights impacts at a single location.

When dealing in high-risk sectors or locations, the insurance industry has an opportunity to help prevent and mitigate human rights violations by pro-actively engaging brokers and other intermediaries and corporate and commercial customers on the topic of human rights and other material ESG issues. The integration of human rights and other material ESG issues into a continuing risk management dialogue with corporate and commercial customers and brokers can help to promote human rights industry standards and practices (such as the Voluntary Principles on Security and Human Rights). It can also help the insurance industry and its customers to manage their exposure to human rights risks and protect their reputations.

Insurers, re-insurers and their brokers also have an opportunity to collaborate and jointly influence projects, companies or industry sectors to prevent and mitigate potential adverse human rights impacts.

The Principles for Sustainable Insurance provide a platform that can enable such collaboration. Collaboration with banks providing corporate or project finance offers a further opportunity.

For example, in the case of large construction projects, there will normally be one or more banks involved in providing the financing and one or more insurers providing the insurance cover. In such cases, the insurers could, as part of their human rights due diligence, assess whether the banks providing financing are signatories of The Equator Principles¹² and have already conducted human rights due diligence. If a human rights concern comes to light, the insurers could use their influence with the banks to attempt to mitigate the situation.

Practical guidance: the status of ESG integration in underwriting

While a few leading companies in the insurance industry have started to integrate ESG considerations into underwriting, the practice of formally and systematically integrating ESG issues, including human rights, into underwriting decisions and processes is still in its infancy.

This is especially the case in comparison with ESG integration into investment management. There are many studies, best practices, and established frameworks when it comes to ESG integration on the investment side. There is also a growing body of research looking at the link between ESG issues and investment performance.

On the underwriting side, there is much work to be done to reach the same level of maturity. Once the practice becomes more established in the industry and there is a growing body of practical cases and data, there will be an opportunity to develop and disseminate best practices. This will also facilitate research on the link between ESG issues and underwriting pricing and claims.

Following are some examples of established approaches to ESG integration in underwriting:

Allianz

(https://www.allianz.com/en/sustainability/topics/esg_approach.html)

- Thirteen group-wide ESG guidelines for sensitive business areas are in place. These guidelines include industry specific human rights aspects, e.g. child labour in agriculture or forced labour in mining.
- When a human rights risk is identified by an underwriter, a mandatory referral to a central team of experts is triggered. This central team conducts further due diligence and consists of risk, communication and ESG experts.
- Where an issue is confirmed and Allianz can apply influence (i.e. as the lead insurer or via strong relationship with the customer/broker/ investee company), dialogue is encouraged to address the human rights issue.
- On the basis of a holistic analysis of the underlying risk and potential mitigation measures, the central team decides to approve, approve with conditions or veto the transaction.

¹² The Equator Principles is a risk management framework adopted by financial institutions, for determining, assessing and managing environmental and social risk in projects and is primarily intended to provide a minimum standard for due diligence to support responsible risk decision-making. For more information visit: <http://www.equator-principles.com/>

Swiss Re

(http://www.swissre.com/corporate_responsibility/managing_env_risks.html)

- A group-wide Sustainability Risk policy framework (eight policies on sensitive industries), which includes an overarching human rights policy and specific human rights criteria in each sub-policy. The framework applies group-wide and to all business activities (direct corporate insurance, reinsurance and asset management).
- A governance structure, which includes trained business experts conducting first level screening of potential links to human rights violations, a Sensitive Business Risk (SBR) referral process to a central group of sustainability risk experts with veto right conducting the due diligence of sensitive transactions and managing customer / stakeholder dialogue on related issues, and an escalation process to the Group CRO and Group Executive Team for final decision making.
- The framework includes a company and a sensitive country exclusion list (beyond ITC sanctions control).
- Decisions taken are either to proceed, proceed under conditions or to abstain from the transaction. Conditions can include actions agreed with our clients (corporates or cedent insurance companies) to mitigate potential human rights risk exposures.
- Statistics are reported as part of the yearly Corporate Responsibility report, which includes a third party assurance by PwC.

Zurich Insurance Group

(<http://www.zurich.com/en/corporate-responsibility/doing-business-responsibly/working-with-customers>)

- Zurich has a group-wide framework which it uses to manage corporate responsibility (CR) risks in business transactions (four CR issue briefs on sensitive business areas), including human rights issues in dam construction, mining and the oil and gas industry such as involuntary relocation of local communities or support for regimes with poor human rights records.
 - This framework applies to the provision of life and general insurance products and services to corporate and commercial customers.
 - These group-wide CR issue briefs are supported by more detailed guidance for underwriters, including a CR checklist and country corruption and human rights rankings. Underwriters are trained to apply the guidance.
 - If the underwriter identifies a CR issue, this triggers a referral process involving the local chief underwriting officer and local CEO as well as CR and risk management experts. Decisions are taken to proceed, proceed with conditions or abstain from the transaction.
 - The approach places a strong emphasis on working with customers and brokers to mitigate any issues and promote best practices.
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Case study: preventing human rights concerns through collaboration and engagement

Munich Re provided insurance coverage for the construction of a hydroelectric power plant. The underwriter's decision to provide the coverage took into account environmental and safety risks, as well as the impact on local communities. At that early pre-construction stage, no environmental or social issues were identified. During the construction phase Munich Re's risk engineers visited the site regularly to monitor the conditions. During these visits, the risk engineers noticed poor site safety conditions and waste management issues, which could have put workers and the project at risk. Munich Re raised its concerns with the construction company but the conditions did not improve. Munich Re then decided to informally join forces with the finance providers (the insurance cover was mandatory for the credit lines) to demand improvements in site safety. This collaboration between Munich Re and the finance provider increased the pressure on the construction company and soon resulted in significant improvements at the site.

3.4 Due diligence: approaches for investments

How can insurance companies apply influence to prevent and mitigate human rights concerns in their equity and corporate bond investment portfolios?

Since insurance companies globally have over USD 24 trillion assets under management,¹³ their potential influence could be substantial. But how can this potential be translated into actions that will help prevent and mitigate human rights issues?

There is an opportunity to play a key role in preventing and mitigating human rights issues through ESG integration and active ownership. Integration means that material ESG issues, including human rights, become a standard part of investment management decisions and processes.

Active ownership means constructive engagement with investee companies and the exercise of voting rights at annual general meetings. In this way, insurers can influence the practices of the companies they invest in and contribute to improving the human rights situation.

This is most effective when done in collaboration with other investors. A single investor might not have enough influence over a company, but if human rights issues are of concern to other investors, together they can create an impact. The Principles for Responsible Investment, for example, provide a platform to facilitate collaboration among investors.

¹³ PwC Asset Management 2020: A Brave New World, www.pwc.com/assetmanagement. Please note that of the USD 24 trillion only part will be allocated to corporate bonds and equity, which are the focus of this paper.

Case study: mitigating human rights issues through active ownership

The Dongria Kondhas is an indigenous tribal group of India. They live along the streams of the Niyamgiri hills in Odisha, a state in Eastern India.

The Niyamgiri hills are rich in bauxite, which is why Vedanta Resources (Vedanta), a UK based mining company, has sought to expand its operations in the area. Vedanta has an alumina refinery in Odisha and had planned to develop a bauxite mine in the Niyamgiri hills to provide raw material to the adjoining refinery. The Dongria Kondhas tribal community has strongly opposed this expansion of operations due to the threats to its livelihood, the environment, destruction of sacred tribal lands, and displacement. Supporters of the indigenous group, including local and international non-government organizations and investors, helped to increase media coverage of the struggle for this contentious land. Human rights advocacy groups including Survival International, ActionAid and Amnesty International, as well as environmental groups, have raised concerns over the social and environmental impact of the proposed bauxite mining project.

In 2013, the planned bauxite mine was deemed so controversial by India's Supreme Court that it allowed the affected tribal community to decide the future of the mine, with the proposal being ultimately rejected by all 12 village councils. Given this overwhelming opposition by the indigenous tribal group, in January 2014 the Ministry of Environment and Forest declined to issue Vedanta a Stage II forest clearance for the bauxite mine project.

Using active ownership to mitigate the human rights issues

In 2010, Aviva Investors (Aviva) began a dialogue with Vedanta regarding breaches of the OECD Guidelines for Multinational Enterprises with respect to engagement with the Dongria Kondhas.

Aviva commissioned an independent report which proposed seven key recommendations for improving Vedanta's management framework. Aviva presented them to the Vedanta Board at their annual general meeting (AGM) in 2010. Since 2010, Aviva has commissioned annual follow-up reports assessing progress against these recommendations and hosted an annual investor roundtable bringing together investors, Vedanta representatives and a critical NGO.

In August 2013 Aviva attended the Vedanta AGM and welcomed the progress that the company had made in setting up systems, having met all the recommendations at a basic level.

Despite these improvements, Aviva highlighted concerns regarding the speed of progress and questioned whether the Vedanta Board was devoting sufficient time to this issue. Aviva withheld support for all non-executive directors due to concerns that they were not providing sufficient independent challenge or expertise on sustainability issues.

Aviva continues to monitor how these policies lead to better performance by Vedanta on the ground. This engagement is also the subject of a Harvard Business School MBA case study.

4 Conclusion

Today, respect for human rights has become a global standard that businesses are expected to uphold wherever they operate, regardless of their size, nature or industry sector. As risk managers and long-term investors, the insurance industry supports all sectors of the economy and has a critical interest in countries' stability and sustainable development, at the core of which lies the protection of and respect for human rights.

Failure to respect human rights exposes the insurance industry to reputational, legal and transactional risk. The expectations of the industry's stakeholders including civil society and policy makers are rising when it comes to human rights. Human rights standards are increasingly being built into international agreements and local regulations. There is also often a strong correlation between respecting human rights and the quality of insured risks. For these reasons, the insurance industry must include human rights in its risk management framework.

While the insurance industry has started to address human rights concerns in its business transactions, facilitated through voluntary initiatives such as the UN Global Compact, Principles for Responsible Investment and Principles for Sustainable Insurance, there is more work to be done.

The insurance industry should adopt a more pro-active approach to dialogue and collaboration with its stakeholders – especially brokers, corporate customers and investee companies – to promote improvements in human rights due diligence. Central to this dialogue and collaboration is facilitating better integration of human rights issues in the risk management frameworks of the industry and its customers. Collaboration could be facilitated through platforms such as the CRO Forum, Principles for Responsible Investment and Principles for Sustainable Insurance. At the same time, a dialogue about human rights needs to be a standard part of broker and corporate customer relationship management, risk management as well as the investment process.

Extending the coverage of insurance products and services to include human rights issues could also help improve management of human rights issues. This is uncharted territory, but for example one could envision extending insurance products and services related to workers' health & safety such as workers compensation or employee benefits or integrating human rights into risk engineering practices and services.

We hope that this discussion paper will trigger further dialogue and collaboration between insurers and their stakeholders, including civil society and policymakers, about how to ensure that we play our role in respecting human rights and managing the associated reputational, legal and transactional risks.

5 Annex

5.1 Annex 1 – what are human rights?

For the purposes of this paper, we use the definition of human rights included in the “Guiding Principles for the implementation of the UN ‘Protect, Respect and Remedy’ Framework” (principle 12).

Human rights refers to internationally-recognized human rights – understood, at a minimum, as those expressed in:

- 1) the International Bill of Human Rights (IBHR). The IBHR consists of
 - the Universal Declaration of Human Rights (UDHR) and the main instruments through which it has been codified:
 - the International Covenant on Civil and Political Rights (ICCPR); and
 - the International Covenant on Economic, Social and Cultural Rights (ICESCR).
- 2) the principles concerning fundamental rights in the eight International Labour Organization (ILO) core conventions as set out in the ILO’s Declaration on Fundamental Principles and Rights at Work. The Declaration covers four fundamental principles and rights at work:
 - Freedom of association and the effective recognition of the right to collective bargaining.
 - Elimination of all forms of forced or compulsory labour.
 - Effective abolition of child labour.
 - Elimination of discrimination in respect of employment and occupation.

In connection with the human rights of individuals belonging to specific groups or populations that require particular attention, UN instruments have further elaborated on the rights of indigenous peoples; women; national or ethnic, religious and linguistic minorities; children; persons with disabilities; and migrant workers and their families. Moreover, in armed conflict situations, the standards of international humanitarian law apply.

5.2 Annex 2 – overview of the Guiding Principles

In early 2011, UN Special Representative Professor John Ruggie published the “Guiding Principles for the implementation of the United Nations ‘Protect, Respect and Remedy’ Framework” (“Guiding Principles”), which were unanimously adopted by the UN Human Rights Council in June 2011. The Guiding Principles do not set out new human rights norms, but provide a framework of responsibilities for respecting human rights in a business context.

They contain a total of 31 principles that are structured under three headings – the “protect, respect, and remedy” framework:

- **First pillar/principles 1-10: State duty to protect human rights**
States must protect against human rights abuses by third parties, including companies, within their territory and/or jurisdiction. This requires them to take appropriate steps to prevent, investigate, punish, and redress such abuses.
- **Second pillar/principles 11-24: The corporate responsibility to respect human rights**
Companies have a responsibility to respect human rights. This responsibility includes putting in place (a) a policy commitment to respect human rights, (b) due diligence processes to identify, prevent, mitigate and account for how they address human rights impacts; (c) processes to enable remediation of any adverse human rights impacts they cause or to which they contribute.
- **Third pillar/principles 25-31: Access to remedy**
As part of their duty to protect against human rights abuses, states must take appropriate steps to ensure that, when such abuses occur, those affected have access to effective remedies. Companies should also establish or participate in grievance mechanisms for individuals and communities who may be impacted adversely.

6 References & resources

- Guiding Principles for the implementation of the United Nations 'Protect, Respect and Remedy' Framework, 2011, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf
- OECD Guidelines for Multinational Enterprises, <http://mneguidelines.oecd.org/>
- The International Bill of Human Rights:
 'Universal Declaration of Human Rights', 1948, <http://www.un.org/en/documents/udhr/>
 'International Covenant on Civil and Political Rights', 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>
 'International Covenant on Economic, Social and Cultural Rights', 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- ILO's Declaration on Fundamental Principles and Rights at Work, 1998, <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang-en/index.htm>
- UN Global Compact website – human rights tools and resources, http://www.unglobalcompact.org/Issues/human_rights
- "Human Rights Translated – A Business Reference Guide", Castan Centre for Human Rights Law, International Business Leaders Forum, and Office of the United Nations High Commissioner for Human Rights, 2008, http://human-rights.unglobalcompact.org/doc/human_rights_translated.pdf
- "Investing the Rights Way: an Engagement Tool", Institute for Human Rights and Business, March 2013, <http://www.ihrb.org/publications/reports/investing-the-rights-way.html>
- "UN Guiding Principles on Business and Human Rights – Discussion Paper for Banks on Implications of Principles 16-21", The Thun Group of Banks, October 2013
- "Environmental, Social and Governance factors in Country Risk Management – a new horizon", the CRO Forum, 2013, <http://www.thecroforum.org/wp-content/uploads/2013/10/CRO-Forum-ESG-Country-Risk-Paper-October-2013-final-2.pdf>
- "Equator Principles III", 2013, http://www.equator-principles.com/resources/equator_principles_III.pdf
- "Statement of the European Union and the United States on Shared Principles for International Investment", 2012, http://trade.ec.europa.eu/doclib/docs/2012/april/tradoc_149331.pdf
- "UN Global Compact", <http://www.unglobalcompact.org/>
- "PRI – Principles for Responsible Investment", <http://www.unpri.org/>
- "PSI – Principles for Sustainable Insurance", <http://www.unepfi.org/psi/>
- "Brave New World – New frontiers in banking M&A" – PwC, 2013, http://www.pwc.com/en_GX/gx/banking-capital-markets/journal/pdf/pwc-the-journal-brave-new-world-new-frontiers-in-banking-m-and-a-pdf.pdf

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Laan van Langerhuize 1, 1186 DS Amstelveen, or
PO Box 74500, 1070 DB Amsterdam
The Netherlands

www.thecroforum.org

