Business & human rights in Africa: Time for a responsibility revolution

A regional overview – September 2014

Executive summary

Investment in Africa is booming, with many countries in Africa celebrating among the highest GDP growth in the world. New finds of oil, gas and minerals, prospects for agricultural expansion, combined with higher commodity prices, suggest that Africa is likely to enjoy a sustained period of economic growth. Equally, democracy has rooted itself in many countries. Citizens are increasingly confident to demand accountability from their leaders, and from companies that they work for, buy from, supply, and live near, in their communities. Growth and democratic reform are already leading to real progress in human rights in many countries: for the first time in over 20 years the number of people in poverty is declining; more children are in school and fewer children are dying before the age of five. These are real grounds for celebration.

But the huge potential for advances in human rights will not be realised with business as usual. Governments and business will have to decisively change how they operate to deliver shared prosperity, growth with equity, and protection and fulfilment of human rights in Africa. Currently, the human development indices of many African countries are well below what should be expected from their GDP. Hunger and illness; exclusion of certain ethnic groups, women and LGBT people; lack of transparency and accountability; insecurity and violent conflict continue to plague many African countries – including some that are most successful at attracting investment. Transforming the business model to integrate respect for basic rights throughout companies' practices will drive more inclusive growth so business will contribute decisively to improving people's lives and avoid involvement in abuses.

The time therefore could not be riper for the United Nations' first-ever Africa Regional Forum on Business and Human Rights, being held 16-18 September in Addis Ababa.

At Business & Human Rights Resource Centre, we invite companies to respond to allegations of human rights abuse raised by civil society. A company's response to human rights concerns may or may not reflect its actual conduct and its full impacts. Nonetheless, a company's responsiveness is an important indicator of its openness to engaging with human rights concerns. In this briefing, we analyse 429 approaches to companies, made by the Resource Centre since 2005, regarding their human rights impacts in Africa. Overall, companies have responded to concerns regarding their operations in Africa 85% of the time that we have invited them. Most of the concerns to which we have sought responses concern companies in the mining & metals; technology, telecom & electronics; oil, gas & coal, and food; and beverage, agriculture & biofuels sectors.

The quality of these responses varies widely. In over 50% of the responses, companies offered only general responses rather than specifically addressing the concerns. Of those that directly addressed allegations, 66% denied the claims, rather than acknowledging them in whole or in part, or committing to investigate them. A company's admission or denial does not reflect whether the alleged abuse actually occurred, but an acknowledgment of some validity of concerns raised is typically a better basis for dialogue than a flat denial. That dialogue is essential to change the dynamic of companies with local communities and workers from an adversarial one, to one where companies partner with stakeholders to create better lives and respect the rights of all. Overall, very few companies committed to changing their conduct, only doing so in 9% of the responses that we obtained. One exception: Unilever committed to improving its policies and practices three out of four times that we invited it to respond. It is then essential, of course, for these publicly-declared actions to then be taken. Finally, companies can assure stakeholders of their respect for human rights by committing to international standards and referring to them in addressing complaints. Too few do. Of hundreds of responses that we have received, 27% refer to some international standards, or multi-stakeholder or industry initiatives. Since the United Nations Human Rights Council endorsed the UN Guiding Principles on Business and Human Rights in 2011, only 4% of responses we have received referred to the Guiding Principles.

Key issues

New investments in oil & gas and agriculture: Opportunities and risks: Africa has recently seen unprecedented investment in oil and natural gas, with major discoveries across eastern Africa, and along much of Africa's western coast. Companies, foreign governments and multilateral bodies are pushing African countries to make land accessible to foreign investors. The G7-supported New Alliance for Food Security and Nutrition's goal is to end food insecurity in Africa by advancing large-scale private investment in agriculture. But some new oil finds have already fuelled conflicts between communities, and have led to disputes between states that could erupt into wars with massive civilian casualties. Some villagers in countries like Ethiopia and Tanzania have opposed new agricultural and oil & gas projects, understandably fearful that they will be left landless and destitute – and some have died for their opposition at the hands of government forces and others. Other projects have caused thousands to lose access to essential land and water resources, from Guinea to Madagascar and Mozambique. Some companies – but too few – have provided for some local ownership of projects, consulted with or, better, sought free, prior and informed consent of communities, and created systems for people with grievances to be heard before they grow into open strife. And in some new investments, companies hire few local people, give preferential treatment to foreign workers, and undermine already-weak labour protections. Better respect for the rights of affected local people and workers is essential for this new-found wealth to result in real benefits rather than contributing to abuses.

<u>Digital revolution in Africa: Freedom of information or tool of oppression?</u> Technology can accelerate the enjoyment of human rights by enabling access to information and empowering civil society to organise. But if abused, it can compromise rights to privacy and freedom of expression and be used as a tool of repression. Some countries in Africa, such as Eritrea, have been flagged by the NGOs like the Committee to Protect Journalists as among the world's worst on censorship and freedom of expression. Human rights NGOs have likewise criticised the Egyptian Government for arbitrary measures to restrict journalists, trade unionists, rights advocates and others. Yet many information & communications technology (ICT) companies operating in countries with repressive governments in Africa fail to respond to human rights concerns about how their technology is used. Too few have subscribed to human rights principles, including those in the multi-stakeholder Global Network Initiative. Technology firms need to do more than just show up in order to contribute to knowledge and communications in Africa in a way that advances freedom; they must commit to protecting human rights.

<u>Mining, oil & gas: The troubling history of the "resource curse", unresolved</u>: New investments garner much of the press, but they come against a backdrop of projects that, for decades, have often been accompanied by allegations of abuse. Since we began inviting companies to respond to human rights concerns in 2005, we have sought responses to hundreds of allegations of extractive companies' involvement in abuses in Africa. These include reported pollution affecting human health, and complicity in killings, rape, and other abuses in conflict zones, in countries such as DRC and Nigeria where firms know they will not be held accountable for negative impacts – and where regulation has often failed to protect local people. As vital as new investments are, the legacy of harm from a range of past projects must also be addressed, if business is to gain trust as a vector of inclusive development.

Promising initiatives & the need for action

Last year the Africa Progress Panel, led by Kofi Annan, highlighted how "tax evasion, illicit transfers of wealth and unfair pricing practices" deprive Africa of funds needed for development, and urged investors to "carefully assess…[their] social and environmental impacts". The AU's Africa Mining Vision framework includes steps to eliminate human rights abuses in mining, halt mining's role in fuelling conflict, improve its contribution to community development and women's empowerment, increase participatory decision-making, strengthen protections for the environment and workers, and prioritise poverty reduction in natural resource management. The African Commission on Human and Peoples' Rights has a Working Group on Extractive Industries, and the Network of African National Human Rights Institutions has made business & human rights a priority area. The Kenya National Commission on Human Rights and the Institute for Human Rights and Business have engaged with companies and government on the Nairobi Process, a pact that aims to embed human rights in Kenya's emerging oil and gas sector. And NGOs across Africa are organising around this issue, with the recent launch of the African Coalition for Corporate Accountability.

More resources are needed for all these efforts, and the Africa Mining Vision needs to be translated into concrete action by AU member states. Governments also must adopt and implement National Action Plans on business and human rights, as recommended by the UN Human Rights Council.

Companies operating in Africa will gain in reputation and stability by integrating human rights throughout their business model. They should adopt and implement a human rights policy, and commit to relevant human rights and transparency initiatives and standards, such as the Voluntary Principles on Security & Human Rights, Global Network Initiative, Extractive Industries Transparency Initiative and ILO standards. They should deliver and report on their human rights due diligence, including human rights impact assessments, and seek free, prior and informed consent of affected communities. With workers, local communities and civil society, they should develop grievance systems that are accessible to workers and residents, comply with international human rights, and provide for independent adjudication and effective remedies.

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Note on sources and further information: This briefing draws on previous briefings on Africa published by Business & Human Rights Resource Centre. For these and other briefings, click here.

1. Company responses to human rights concerns

As our work highlighting examples of companies' positive and negative human rights impacts in Africa and the rest of the world shows, major abuses occur on a daily basis. At Business & Human Rights Resource Centre, we invite companies to respond to concerns raised by civil society about their conduct, before linking to the concerns from our website. A company's response rate to human rights concerns may or may not reflect its actual conduct, and the quality of responses varies widely. Still, a company's responsiveness is an important indicator of a firm's openness to engaging with human rights concerns, and in responding, the company provides a public statement that it can be held to.

This briefing analyses 429 such approaches to companies regarding their impacts in Africa. For all instances in which the Resource Centre has sought responses from companies since 2005, click here.

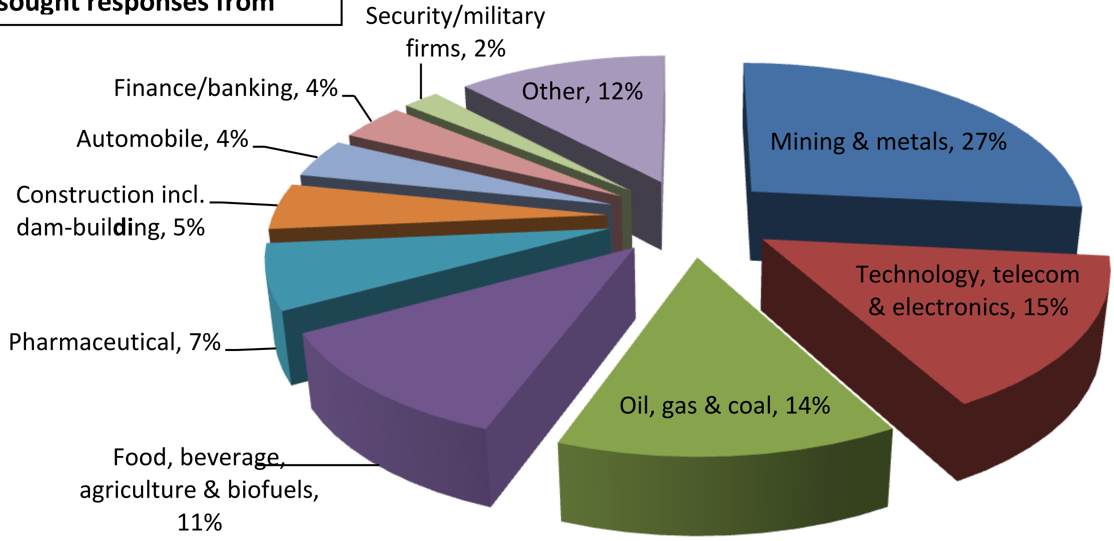
Where companies are headquartered: Of these approaches to companies to respond to human rights concerns, 56 (13%) have been to companies based in Africa, with nearly half of those headquartered in South Africa, and the rest in Angola, Cameroon, DRC, Egypt, Madagascar, Namibia, Nigeria, Senegal, Sudan, Uganda and Zambia. Overall, our approaches have been to:

Companies headquartered in		Africa	13%	Asia	12%
E. Europe, Latin America & Middle East	2%	North America	33%	Western Europe	39%

Overall, companies have responded to concerns regarding their operations in Africa 85% of the time that we have invited them to do so.

Responses from various sectors & issues raised: Since 2005, we have sought responses from companies in a variety of sectors.

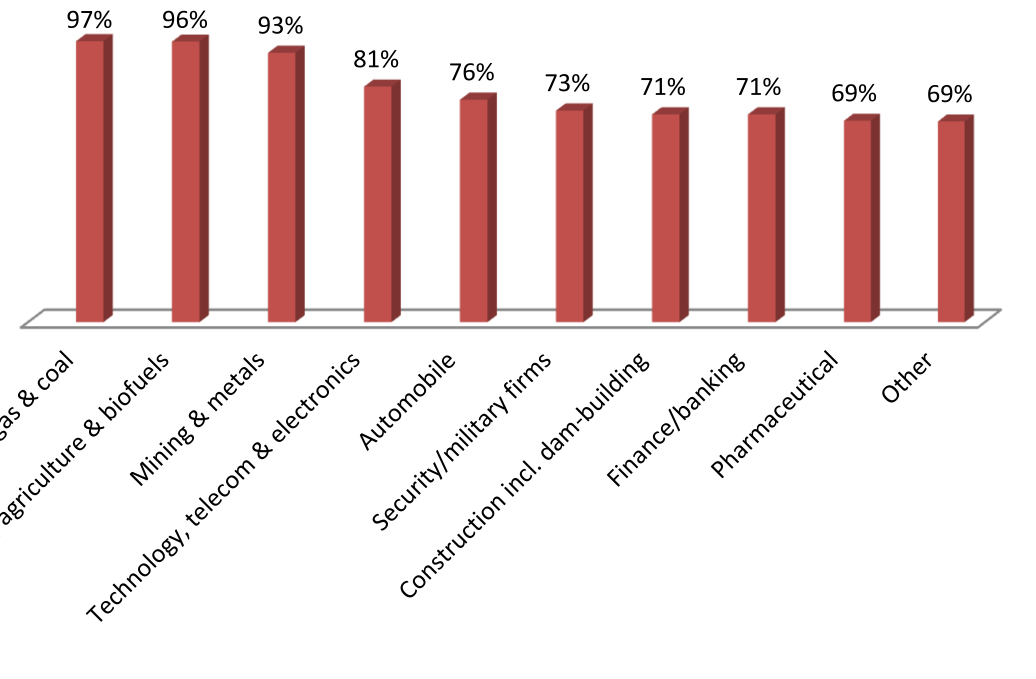
Chart 1: Sectors of companies we sought responses from



The highest percentage (25%) is from companies in **Mining & metals** industries. Concerns for this sector include local impacts on communities, e.g., environmental health impacts such as water pollution; displacement, destruction of housing and harm to livelihoods; abuses by security guards, such as killings, torture and beatings, and complicity in abuses by police, military and armed groups; labour abuses including dangerous working conditions; and governance issues such as tax avoidance, and opacity of contracts with and payments to governments. The next most-represented sector is **Technology, telecom & internet** firms (15%). This reflects concern over their role in funding armed groups by sourcing minerals from conflict areas, particularly in DRC. It also reflects concerns over how they may aid government surveillance and censorship. Third is the **Oil, gas & coal** sector (14%), where primary concerns, as with mining, are impacts on livelihoods, health, land and water; killings, torture and other abuses related to security and conflict zones; labour abuses; and lack of transparency. **Food, beverage, agriculture & biofuels** companies account for 11%. Concerns here are primarily over displacement and other impacts on local communities' livelihoods, and failure to seek and obtain free, prior & informed consent; and working conditions, including forced labour, child labour and sexual harassment. In addition, in many sectors local people concerned about project impacts, environmental and human rights defenders, and workers' rights advocates often are targeted with violence, arbitrary detention, legal harassment, intimidation and threats.

While all sectors have responded over two-thirds of the time that we invited them to, certain sectors have very high response rates, including Oil, gas & coal (97%), Food, beverage, agriculture & biofuels (96%), and Mining & metals (93%).

Chart 2: Response rates by sector



Quality of responses: We evaluated each of over 350 responses we have obtained in four ways: (1) Does the company admit, partially admit, or deny the allegations? (2) Does the company give a detailed "point-by-point" response that directly addresses the specific concerns raised, or only a general response? (3) Does the company commit to change? (4) Does the company response refer to any international standards, or industry-wide or multi-stakeholder initiatives?

Most companies that directly address allegations of involvement in abuse do so by **denying the alleged facts**, or their responsibility for the situation. Of 173 responses that directly address allegations, 10% admit the validity of the allegations, 12% partially admit their validity, and 14% commit to investigate the claims (some of these also partially admit the validity of allegations). In the remaining 66%, the companies simply deny the validity of the allegations. The company's admission or denial may not reflect whether the alleged abuse actually occurred. However, the company's response steers the dialogue around the allegation, and can play a vital role in resolving the dispute. An acknowledgment of some validity of the concerns is generally a more productive basis for dialogue. And such dialogue is vital to change the dynamic of companies with local communities and workers from an adversarial one, to one where companies partner with stakeholders to create better lives and respect the rights of all.

We assessed whether the companies sent us **detailed "point-by-point" responses**[1] or merely general

[1] We define a "point-by-point" response as one in which the company addresses most or all of the concerns raised by civil society in some detail.

statements. In 47% of the cases, companies offered point-by-point responses to the concerns raised. There was a notable difference between agricultural firms, including biofuel producers, which gave detailed, point-by-point responses 64% of the time, and food & beverage firms, which often face very similar issues but in supply chains rather than their own operations, and only responded point-by-point 30% of the time. Point-by-point responses tend to provide more information to stakeholders and demonstrate companies' greater openness to dialogue, which, again, can help transform the companies' operations so that they provide shared prosperity and respect affected people's rights.

Overall, few companies **committed to changing** their conduct in their responses – unsurprisingly since most did not admit the validity of allegations against them. Of 352 responses we assessed for this question, companies committed to change in only 31 responses (9%). No sector stood out, but Unilever did commit to making some changes in its practices three out of four times that we invited it to respond.

The companies that did commit to change stated they would take steps including:

- new measures to protect the environment and health, people's livelihoods and workers' rights;
- agreeing to monitoring and training employees to prevent future abuses;
- pushing suppliers and other business partners to better respect human rights, or terminating relationships when they do not;
- calling for a public inquiry into violence against those opposed to a company's project;
- publicly rejecting the positions of industry associations lobbying against measures to better protect or fulfill human rights, e.g., to improve access to essential medicines.

These commitments present an opportunity for affected people including victims of abuse, workers and advocates, to take steps to verify that the steps are then taken. This follow-up is essential to ensure that companies actually improve their conduct and contribute to the realisation of basic rights.

Some companies' responses **referred to international standards**, such as the UN Declaration of Human Rights, UN Global Compact Principles, as well as multi-stakeholder and industry-wide initiatives. Strikingly, out of 217 responses from companies operating in Africa that we obtained since the UN Guiding Principles were endorsed in 2011, only 9 (4%) have referred to the Guiding Principles. Overall, 27% of all company responses refer to some international standards, multi-stakeholder or industry-wide initiatives. When companies do refer to international norms, they allow stakeholders to see both how the company measures its own performance, and that the company understands its responsibility not only to obey local law, but to respect global standards.

2. New investments in oil & gas, agriculture & mining: Opportunities and risks

The boom in new investments and the opportunities for growth that it presents are threatened by protests and conflicts, many due to exclusion of local people from their benefits, lack of respect for communities' and workers' rights, and gaps in transparency. Better respect for the rights of affected local people and workers is needed for new-found wealth to result in real benefits rather than contributing to abuses

Displacement & local conflict: Displacement and destruction of cultural sites linked to oil exploration have been reported in Uganda, as has violence against residents attempting to claim their land rights.

In Tanzania's Mtwara region, residents violently protested the construction of a gas pipeline; four died in clashes with police. Recently, Tullow Oil had to temporarily suspend activities in northern Kenya after protests by local communities concerned about lack of adequate consultation.

In Ethiopia, the government's "villagisation" scheme has reportedly included forceful evictions of indigenous communities in the Gambella region to pave the way for agricultural projects, many with foreign investment. Reported abuses include violence, killings, forced displacements, rape and other sexual violence, and arbitrary detention.

And in Sierra Leone, eight protesters against African Minerals Ltd. were killed by police in April 2012.

A large oil palm plantation to be operated by SG Sustainable Oils Cameroon, a subsidiary of US-based Herakles Capital, and originally planned to be 60,000 hectares, would reportedly displace thousands of small-scale subsistence farmers without adequate compensation. In response the company says local NGOs misstate its impacts and exaggerate local opposition. NGOs produced a film about the project's impact; Herakles responded to it. The government cut the company's concession in 2013 by 70%, questioning whether the company had necessary permits. Local NGOs say the reduced project size does not address their concerns. In January 2014, 18 Cameroonian and international NGOs wrote to UN experts on right to food, freedom of association, and human rights and environment, to urge an inquiry into government persecution of local NGOs who have raised concerns about Herakles's impacts.

credit: Neil Palmer, CIAT, via Creative Commons

Food security: The G7-supported New Alliance for Food Security and Nutrition includes Benin, Burkina Faso, Côte d'Ivoire, Ethiopia, Ghana, Malawi, Mozambique, Nigeria, Senegal and Tanzania. Critics say it disregards local farmers and could compromise food security. Tanzania has signed off huge tracts of land for commercial investment – the 2.2 million hectares allocated to investors represent nearly a quarter of the country's arable land, according to the World Bank. A global NGO coalition has raised concerns that this will escalate conflict and cause deepening food insecurity.

On large oil palm concessions to Golden Veroleum and Sime Darby in Liberia, local NGOs said villagers were not directly forced off the land, but the companies were "cutting down so much cropland that people choose to leave". The companies responded here.

In Uganda, local environmental NGOs, international groups and local leaders from Kalangala Island report that an oil palm project is causing food insecurity, displacement without compensation and water pollution. The project consortium, Oil Palm Uganda, responded, as did Wilmar International, a principal shareholder that defended the project's local benefits.

Local communities in eastern DRC and international NGOs oppose oil drilling in Virunga National Park, primarily over concerns about fish stocks in Lake Albert. Soco, which holds the main rights to drill in the park, responded. The NGO WWF filed a complaint with the UK Government alleging violations of the OECD Guidelines for Multinational Enterprises. The UK Government accepted the complaint in February 2014; Soco responded and has said it will not drill in the park, but Global Witness says Soco's commitments are ambiguous and urges the company to definitively pull out. In Ghana fishermen claim that new oil installations exclude them from the most productive areas, reducing their catches and that oil vessels crash into and destroy their much smaller boats.

Pollution & other local impacts: Other concerns in Uganda include environmental health effects including gas flaring, and waste disposal processes that threaten livelihoods and health. Tunisians and South Africans have raised concerns over harmful pollution if Shell's plans in both countries to extract natural gas with hydraulic fracturing come to pass; Shell responded regarding Tunisia here.

Conflict over new oil finds: Tension between countries has been reported in areas with oil potential, most notably Sudan and South Sudan's border war, the dispute between Malawi and Tanzania over Lake Malawi, and conflicts between communities on the Uganda-DRC boundary. Oil prospects have reportedly stoked inter-communal tensions in Kenya and a UN monitoring group warned that oil exploration could fuel further conflict in Somalia.

Some farmers in oil-rich regions find they are inadequately compensated for destruction of crops due to oil exploration and displacement for petroleum operations, such as those interviewed by International Alert in Uganda; the organization warned of potential escalation into violent local conflict. In Kenya, opposition to a jatropha farming project by Bedford Biofuels contributed to inter-ethnic violence between agriculturalists and pastoralists in which over 200 people died in 2012; the company pulled out of the project in 2013.

Tax justice & transparency: The Africa Progress Panel, led by Kofi Annan, has focused on tax avoidance by multinational companies and how it deprives Africa of revenue that could improve health, education and livelihoods. The panel has called on multinationals and governments to take strong measures to stop the practice.

Just a few recent examples: The UN Special Rapporteur on the Right to Food recently raised concerns about the tax arrangements between Malawi and mining companies, claiming the country loses out on millions. Similar concerns have been raised by religious groups and local leaders. Paladin Energy said it pays substantial and fair royalties, employs locals and funds development projects. It pledged to make its agreement with the government public. In 2012, an NGO in DRC reported that, according to an audit by BDO, Tenke Fungurume Mining was hiding its books, and overvaluing investments to minimise its tax bill – and TFM's auditor, Ernst & Young, was complicit in these irregularities. In response, TFM denied the accusations; Ernst & Young did not respond. A government report leaked in January 2014 estimated the

DRC Government is owed US$3.7 billion by mining firms operating in Katanga Province, although some companies named and some officials questioned its accuracy. ActionAid has accused Barclays of assisting food, beverage and agricultural firms investing in Africa to avoid taxes needed to pay for health care and education; Barclays responded here. Many more such cases are available on the Tax avoidance section of the Resource Centre's site.

Some governments and companies have joined the Extractive Industries Transparency Initiative (EITI) and committed to disclosure. The massive new oil finds have led to calls for transparent national revenue management in eastern Africa, to help ensure the resources actually transform the lives of ordinary people. The Ugandan government has committed to join the Extractive Industries Transparency Initiative (EITI), but the speaker of Parliament recently decried delays in joining EITI. Global Witness and local NGOs such as Africa Institute for Energy Governance (AFIEGO) have long urged joining, concerned that secret agreements between government and business allow oil revenues to enrich the elite rather than bringing broad prosperity. Tullow Oil stated to us that it preferred to reveal the terms of its contracts but the government insisted on keeping the terms confidential. Guinea, which has long been plagued by deep poverty and violence despite extraordinary mineral wealth, was recently admitted to EITI; local NGOs campaigning for transparency welcomed this, but also underlined the need for still greater transparency in the mining sector. In some EITI countries such as Cameroon and Republic of Congo, civil society has criticised governments for producing minimal reports that do not fulfil the requirements of the initiative or fail to explain irregularities.

There is a great need for local transparency as well. In Uganda, communities in oil-rich regions where Tullow Oil and Total are planning to drill have decried lack of information about the oil development process and its impact on their livelihoods.

Legal and policy developments overseas shape companies' disclosure of payments. Section 1504 of the US Dodd-Frank Act requires companies listed on US stock exchanges to disclose their payments for natural resources to foreign governments. Following legal reversals, the US Securities and Exchange Commission (SEC) is drafting implementing rules. Global Witness, US legislators, and investors have urged the SEC to require robust disclosure. The American Petroleum Institute has recommended that individual companies' data should not be made public. Following the adoption of the Dodd-Frank Act, the European Union and UK Government adopted requirements for oil, gas, mining and logging firms to disclose their payments to governments, broken down by country and by project. Anti-poverty and transparency activists cheered both the EU and UK moves.

Access to water & climate risks: Companies contribute to climate change globally, but the impacts on farmers and others, including decreased access to water, occur locally across the continent. Asda (part of Walmart) reported this year that 95 percent of its fresh produce is at risk from climate change, including much that is sourced in Africa. To address these issues, it is taking steps such as helping a citrus supplier in Morocco cut water use by 60 percent.

Labour – workplace hazards, sexual harassment, child labour: A recent investor in the Liberian mining sector, WISCO of China, has been accused of beatings, unhealthy working conditions and discrimination against its Liberian employees; the company responded. A Tanzanian MP recently said that the government's participation in the G7's New Alliance initiatives is "turning small farmers into mere labourers". Sexual harassment and abuse of women have been reported on flower and tea farms in Kenya. In response to credible NGO reports of sexual harassment on its Kericho plantation in 2011, and a 2013 documentary finding that the problem was on-going, Unilever has undertaken a new action plan to stop sexual harassment and strongly discipline the perpetrators.

Reports have detailed the frequency of abusive child labour practices on farms that supply international firms. A recent Al Jazeera documentary on tobacco farms in Malawi showed the severe health impacts of children absorbing toxic quantities of nicotine through their skin. We secured responses from British American Tobacco, Japan Tobacco International and Philip Morris International, who denied complicity and affirmed their commitment to fight child labour in their supply chains.

3. Digital revolution in Africa: Freedom of information or tool of oppression?

Communications technology has leap-frogged a generation in Africa; over one billion Africans are expected to have mobile phones by 2015, and many Africans access the Internet on mobile networks. Mobile technology promises to speed economic growth and enable freer communications, but ICT companies investing in Africa also need to be mindful of human rights, or risk being complicit in government censorship and privacy intrusions. Human Rights Watch recently documented technology companies' role in providing the Ethiopian Government with surveillance capabilities used to repress political dissidents. ICT firms Hacking Team, Huawei and Orange responded directly to Human Rights Watch. We invited Finfisher, Gamma Group, Sinovatio and ZTE to respond; only Sinovatio responded to the allegations of complicity. In Sudan, the international NGO Access called on MTN and other companies to report on whether they shut down internet service at the government's request, during protests in September 2013. And the Committee to Protect Journalists recently ranked Eritrea as the "most censored nation in the world" in its most recent ranking.

In 2011, an internet service blackout took place during anti-government protests in Egypt. Human Rights First asked telecommunications and internet providers operating in Egypt how they respond to government interruption orders and communicate their decisions publicly. The Resource Centre obtained responses from LINKdotNet, Noor Group and Vodafone; Etisalat and Telecom Egypt did not respond. Five Libyans tortured by the Gaddafi administration have sued Amesys (part of French company Bull) in French court. They allege that it provided Libya with communication equipment used to identify Gaddafi opponents, who were then detained and tortured. Amesys claims that the equipment provided did not enable telephone surveillance and its activities complied with relevant laws.

Technology firms need to do more than just show up in Africa in order to contribute to knowledge and communications in a way that advances freedom, but too few have committed to human rights principles.

4. Mining, oil & gas: The troubling history of the "resource curse", unresolved

Some mining, oil & gas regions have been plagued by allegations of abuse for decades, including in countries where firms know that impunity for violations of law and human rights is commonplace. The legacy of past harms must be addressed for business to gain trust as a vector of inclusive development.

Local impacts of oil & gas and mining

Environment: In Nigeria, vast areas encompassing hundreds of Niger Delta communities are polluted by oil spills, poisoning water and essential fishing stre ams, and making farming impossible. The EJOLT project summarised the history of Shell's pollution in the Niger Delta; we obtained a response from Shell. Reuters and Al Jazeera also reported on impacts on the Bodo community after 2008-09 spills, for which Shell accepted responsibility. Villagers have sued Shell in UK court for this spill. This BBC video shows oil from an Agip/Eni pipeline destroying fishing areas; we secured a response from Eni. Fishermen in Nigeria have complained of pollution by ExxonMobil destroying coastal fishing areas; we obtained a response from ExxonMobil. Companies say armed groups stealing oil cause many spills. Local and international NGOs have challenged this claim, saying Shell and Agip/Eni manipulate oil spill investigations to avoid responsibility. The companies deny this.

In August 2013, the Government of Chad suspended CNPC's operations citing a spill of thousands of barrels of crude. It is now seeking to annul CNPC's operating licences over non-payment of $1.2 billion in fines for environmental damage.

Areva, which mines uranium in Niger, has long been accused by NGOs of radioactive pollution. In January 2014 Al Jazeera reported that many near the mines suffer from sicknesses due to dispersal of radioactive dust. Areva responded to Al Jazeera in detail.

Housing: NGOs filed a complaint in Belgium against George Forrest International in April 2012, under the OECD Guidelines for Multinational Enterprises, regarding the alleged destruction of homes by George Forrest's subsidiary at the time, CMSK. The Belgian OECD National Contact Point (NCP) negotiated with George Forrest to carry out community improvements but the NCP did not seek compensation for those who lost their homes; FIDH said in 2013 that the NCP had failed the victims.

Rich countries, poor people: Cameroon, Gabon, Republic of Congo, and Equatorial Guinea have licensed extraction of massive oil reserves. But there are huge gaps between oil revenues and human development. Most people remain in deep poverty; their rights to health, water, food, education and other basic needs are not met. Gabon and Equatorial Guinea are especially striking: high oil revenues should help meet basic needs for their small populations, but do not. Equatorial Guinea's per capita income is similar to Europe's – but living standards for nearly all its people are dismal. Already-high child mortality rates *increased* to over 20% since oil was discovered in the 1990s. Even in relatively developed South

Africa, discontent among blacks over their exclusion from the benefits of mining has fuelled violence and killings that have shut down mines.

Extractive industries & conflict

Conflict minerals in DRC: Minerals sourced from DRC have fuelled conflict there, according to the UN Group of Experts on DRC and many NGOs. In 2012 Global Witness surveyed mining communities in eastern DRC about significant issues they faced, and found that the communities rated insecurity as the main reason for poverty. Despite efforts to sever the link between conflict and minerals in eastern Congo, in January 2014, the Group of Experts stated, "armed groups and FARDC [the DRC national army] continue to control many mining sites and to profit from mining and the minerals trade."

The US Dodd-Frank Act requires companies registered on US stock exchanges that use minerals from DRC to report annually what they are doing to ensure that revenues from minerals they purchase do not support armed groups in DRC. The SEC adopted implementing regulations in 2012. The US Chamber of Commerce and other business organizations have sued the SEC over the rule. In April 2014 a US court invalidated the requirement that companies disclose publicly whether their products contain conflict minerals, but the SEC has sought a rehearing. Meanwhile, numerous firms have filed public reports disclosing the extent of conflict minerals in their products, and steps they are taking to address the situation. The Automotive Industry Action Group, in contrast, commended the SEC for issuing the rules. In March 2014, the European Commission proposed a voluntary "system of self-certification for importers of tin, tantalum, tungsten and gold." The voluntary character of the proposal has been criticised by former UN Special Representative on business & human rights John Ruggie, human rights NGOs, and others

Conflict diamonds: Well before the overthrow of the Central African Republic Government in 2013, an International Crisis Group report identified diamonds as funding the nascent conflict and urged the Kimberley Process on conflict diamonds to keep diamond firms from purchasing stones mined or sold by rebel groups. The Kimberley Process suspended CAR in 2013, intending to shut CAR's diamonds out of international "conflict-free" markets, but a UN panel reported in November 2013 that brokers still trade diamonds trafficked from CAR. Zimbabwe's armed forces have reportedly tortured and beaten local villagers and artisanal miners in the diamond fields of Marange district, and mining companies have also taken part in abuses. Soldiers and company guards have committed similar abuses against villagers in militarised diamond-producing zones of Angola. NGOs urged the Kimberley Process to suspend Angola and Zimbabwe over these abuses, but it did not. Global Witness has urged the EU to subject diamond companies operating in Zimbabwe to sanctions due to close ties to the Zimbabwean military and strong risks that diamond revenues could fund human rights abuses.

Oil & conflict: In the Niger Delta, militant groups thrive on stealing oil from pipelines, and the military fights the militant groups and protect installations. All sides commit abuses against civilians. Some firms have been linked to increasing violence: Platform, an NGO, has reported that Shell has fuelled conflict by paying militant groups, leading to killings and the destruction of a town; through its close relationship with the Nigerian military; and with its payments to security contractors. Shell and the contractors responded.

Killings, rapes & other abuses by security forces: Government soldiers and police have also been committed killings, rapes and other abuses against local people protesting over lack of benefits from forestry and mining firms operating on their land, including at Yalisika, DRC (protests against Siforco, which was then owned by Danzer Group) and Zogota, Guinea (protests against Vale).

Mistreatment of workers, labour violence, forced & child labour

Uranium mining in Niger, Gabon & Malawi: Areva agreed with NGOs including Sherpa in 2009 to establish "observatories" in Gabon and Niger to study impacts on current and former workers, protect nearby residents, provide improved health care, and eventually compensate workers for any harms. At the end of 2012, Sherpa withdrew, saying Areva had reduced the observatories to mere public relations. With local NGOs, Sherpa denounced Areva for not compensating a single African worker for workplace-related illness, out of over 600 screened by the observatories. Areva insisted that its judgments were based on science, and said it will continue the observatories. Paladin Energy has also been accused of failing to protect its workers from uranium exposure in Malawi; it has denied the allegations.

Marikana massacre: On 16 August 2012, police opened fire on striking miners at Lonmin's Marikana mine, killing 34 and injuring dozens of others. A judicial commission of inquiry is probing the conduct of Lonmin, the South African police and the unions. Two witnesses have died shortly before being due to testify, one by apparent suicide and one in an execution-style killing. Bench Marks Foundation and other human rights groups have pledged to "never again" allow another injustice like the Marikana massacre to occur, by protecting the rights of workers and communities vis-à-vis mining firms.

Forced labour: Eritrea has sought to become a major foreign investment destination in Africa. But its mining projects have been repeatedly accused of using forced labour, including recently on a road being built as part of the Colluli Mining Share potash project (co-owned by South Boulder Mines and Eritrean National Mining Co.; South Boulder Mines responded), and previously by a fcontractor at Nevsun Resources' Bisha mine (Nevsun's response is here).

Child labour: Hazardous child labour is endemic in artisanal mines, including in Burkina Faso, DRC and Mali, which supply minerals and metals to international markets.

5. Positive initiatives

The African Union's Africa Mining Vision framework includes steps to eliminate human rights abuses in mining, halt mining's role in fuelling conflict, improve its contribution to community development and women's empowerment, increase participatory decision-making, strengthen environmental and labour protections, and prioritise poverty reduction in natural resource management. The African Commission on Human and Peoples' Rights has a Working Group on Extractive Industries, and business & human rights is a priority area for the Network of African National Human Rights Institutions. The Zimbabwe Environmental Law Association participates in the "Pillars in Practice" programme to operationalise the UN Guiding Principles on Business and Human Rights. The Kenya National Commission on Human Rights and the Institute for Human Rights and Business have engaged with companies and government on the Nairobi Process, a pact that aims to embed human rights in Kenya's emerging oil & gas sector. Under the auspices of the Kenya Association of Manufacturers, several companies signed a Code of Ethics for Businesses which spells out businesses' responsibilities to the community and the environment and commits companies to respect for human rights. And NGOs across Africa are organising around this issue, with the recent launch of the African Coalition for Corporate Accountability.

Some companies' global commitments will have a major impact in Africa, such as Coca-Cola and PepsiCo's "zero tolerance" for land grabs in their own supply chains and their bottlers'. Oxfam is in dialogue with Illovo, Africa's largest sugar producer, on implementation of a new policy committing to seek and obtain free, prior & informed consent of affected communities.

Nestlé was the first food company to join the Fair Labor Association, primarily to address child labour in its supply chain in Côte d'Ivoire and Ghana, and now cooperates with FLA in on-going monitoring.

Motorola Solutions, AVX, DRC-based mining firm MH Internationale, and Global Advanced Metals have joined with Enough Project to mine, refine and use tantalum in a certified conflict-free chain that other electronics firms also plan to use. Intel recently became the first company to announce that it was producing conflict-free technology products.

HP, Zain, Orange, pharmaceutical firms and African governments have joined to found mPedigree, with the support of Ashoka and World Economic Forum. mPedigree lets African consumers verify authenticity of drugs by text message, helping fight the dangers of counterfeit drugs. Microsoft has worked to create "IT tools adapted to development and microfinance, to fight against poverty [and] reinforce girls' education" in Africa. It also has launched the 4Afrika initiative to support education aiming to help develop the local IT sector in Côte d'Ivoire and other countries. Samsung has pledged to train 10,000 electronics engineers across Africa by 2015.

In contrast to many other biofuels projects, a project by Mali Biocarburant to produce biodiesel from jatropha was described as "best practice" in a report by the Center for Human Rights & Global Justice at New York University. It commended the inclusion of local farmers' cooperatives, which have an equity stake, and of food crops; and protections of farmers' land rights.

In Uganda, Tullow Oil won the Responsible Investor Award for its role in promoting education, health and infrastructural development, and has committed to train more locals to ensure they gain employment in the oil sector. Total similarly pledged to help train engineers in Gabon. In Ghana, Tullow Oil has voluntarily disclosed its payments to government for each project including taxes, fees, and infrastructure improvements, earning praise from civil society.

6. Recommendations

More resources are needed for all these efforts, and the Africa Mining Vision needs to be translated into concrete action by AU member states. Governments also must adopt and implement National Action Plans on business and human rights, as recommended by the UN Human Rights Council.

Companies operating in Africa should:

- Adopt and implement a human rights policy based on internationally accepted principles
- Implement human rights due diligence, including commissioning independent human rights impact assessments and taking findings into account in planning and implementing projects, and reporting on human rights performance
- Commit to seeking free, prior and informed consent of communities affected by projects
- With workers, local communities and civil society, develop grievance systems that are accessible to workers and residents, comply with international human rights, and provide independent adjudication and effective remedies
- Take steps to follow decisions of the African Commission on Human and Peoples' Rights (ACHPR) and other regional bodies such as the ECOWAS Court of Justice, even if they are not directly binding on companies
- Commit to relevant human rights and transparency initiatives and standards, such as the Voluntary Principles on Security & Human Rights, Global Network Initiative, Extractive Industries Transparency Initiative and ILO standards
- Pay a fair share of taxes
- Cooperate with the ACHPR Working Group on Extractive Industries, Environment & Human Rights Violations
- Join and implement the Voluntary Principles on Security & Human Rights

About Business & Human Rights Resource Centre and this paper's authors

Business & Human Rights Resource Centre is an independent non-profit organization – our aims are:

- Transparency: We track the human rights conduct of over 5600 companies worldwide – including abuses and advances
- Accountability: We invite companies to respond publicly to allegations by civil society (with a global response rate of 70%)
- Empowerment: We equip people in NGOs, companies, and governments with the information they need to make the right decisions, and stimulate informed debate.

We provide the leading information hub on business & human rights: www.business-humanrights.org. Our researchers are based in Brazil, Colombia, Hong Kong, India, Japan, Kenya, Lebanon, Senegal, South Africa, Thailand, UK, Ukraine and USA – soon also in Mexico. Mary Robinson, former UN High Commissioner for Human Rights and President of Ireland, is Chair of the Centre's International Advisory Network. The Centre does not accept funding from companies or company foundations, in order to maintain its independence and to prevent any possible perception of a conflict of interest. For further details, see the "About us" section of our website.

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