

Human Rights and Anti-Corruption: Making the link more explicit

Written inputs to inform the Human Rights Council

About BSR

BSR is a global nonprofit organization that works with its network of more than 250 member companies to build a just and sustainable world. From its offices in Asia, Europe, and North America, BSR develops sustainable business strategies and solutions through consulting, research, and cross-sector collaboration.¹

Over the past 25 years, BSR has worked with companies in multiple industries conducting Human Rights Impact Assessments (HRIAs) that align with the UN Guiding Principles on Business and Human Rights (UNGPs) and developing due diligence methodologies to know, prevent and address Human Rights risks and impacts.

About this note

This note will provide written inputs on question 4 and question 5 of the [call for inputs published by the Working Group on Business and Human Rights](#).²

INTRODUCTION | HUMAN RIGHTS AND ANTI-CORRUPTION: THE STATE OF PLAY

1. Regulatory attention has led companies to implement robust anti-corruption compliance programs

Despite anti-corruption being a more recent field³ than human rights⁴, it has benefitted from earlier regulatory attention on the role of businesses. The US Foreign Corrupt Practices Act (FCPA) came into force in 1977⁵, while significant enforcement measures started being implemented around 2007. After this, a spate of other extra-territorial national laws was created, the most draconian of which was the UK Bribery Act 2010.⁶

Today, there is significant consensus around best practices in corporate anti-corruption programs, and companies that can show they have implemented these get explicit credit from regulators. This is why many companies have

¹ Visit www.bsr.org for more information about BSR's more than 25 years of leadership in sustainability.

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³ The first major event in the development of the global anticorruption norm was the adoption of the U.S. Foreign Corrupt Practices Act ("FCPA") in 1977 followed by the adoption of the [Convention on Combating Bribery of Foreign Public Officials](#) by the Organization for Economic Co-Operation and Development (OECD) in 1997. In 2003, the UN Convention against Corruption (UNCAC) was adopted.

⁴ Documents asserting individual rights, such as the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today's Human Rights documents. The idea of Human Rights emerged stronger after World War II. On December 10, 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the 56 members of the United Nations and propelled Human Rights into the global stage and into the global conscience.

⁵ [U.S. Foreign Corrupt Practices Act](#) ("FCPA"), effective on December 19, 1977.

⁶ [UK Bribery Act](#), adopted April 8, 2010

developed and implemented robust anti-corruption compliance programs. These practices are a business response to national laws and international standards requiring companies to prevent, detect and respond to corruption throughout their global operations.

2. The rise of human rights in business and the shift from “soft law” to “hard law” human rights standards has generated new legal obligations for companies

In contrast, the rise of human rights in business started with an emergence of soft law standards with the adoption of the UNGPs. Now, after over 8 years of the issuing of the UNGPs, there has been an accelerating shift of human rights oversight, with a proliferation of hard law regulations focused on human rights related issues across the world.

Some of these legal texts require company disclosure and reporting across the globe:

- » **The 2017 French Law on the Corporate Duty of Vigilance**⁷ establishes that some companies⁸ must implement and publicly disclose a Vigilance Plan to assess and prevent human rights, health and safety and environmental risks in their direct activities as well those of their subsidiaries, subcontractors and suppliers.
- » **In 2019, the Netherlands** approved a Child Labor Due Diligence law⁹ requiring Dutch companies (or companies with operations in the country) to implement and publish supply chain due diligence procedures against child labor risks.
- » **Other similar legal texts are currently under discussion in Europe.**¹⁰

3. Momentum is growing to link anti-corruption and human rights compliance

The global context suggests an increasing interest and opportunity to make connections between human rights and anti-corruption efforts, explicitly engaging human rights as a framework for justice, transparency and equality.

Examples of such ventures include:

- » **The Global Magnitsky Human Rights Accountability Act** adopted by the United States Congress in December 2016.¹¹ This law builds upon the original 2012 Magnitsky Act by expanding the scope of the authority for economic sanctions and visa bans related to human rights abuses and corruption of global actors.¹²
- » **The Anti-Corruption Sapin II Law**, passed in December 2016, aimed at bringing French legislation in line with the most exacting European and international standards by creating a dedicated French Anti-Corruption agency, *Agence Française Anti-Corruption* (AFA), that can impose sanctions in case of any identified

⁷ [French law on the corporate duty of vigilance for parent and instructing companies](#), Law No. 2017-399, March 27, 2017

⁸ The companies that should be taken into account are, on the one hand, companies registered in France with at least 5,000 employees within the company itself and in its subsidiaries, but only those subsidiaries whose registered office is in France, or, on the other hand, companies registered in France which have at least 10,000 employees, including within their subsidiaries whose registered offices are abroad.

⁹ [Dutch Child Labor Due Diligence Law](#), effective on February, 2017 (in Dutch).

¹⁰ Following the precedent of France's 2017 law on corporate duty of vigilance, discussions have taken place in Denmark, Finland, Germany, Luxembourg, the Netherlands, Switzerland and the UK.

¹¹ [Global Magnitsky Human Rights Accountability Act](#), Public Law 114-328, December 23, 2016

¹² United States Department of the Treasury, "[Press Release: United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe](#)" US Treasury, December 21, 2017

breaches.¹³ The Sapin II Law is mostly preventive in nature and stipulates that companies must establish an anti-corruption program to identify and mitigate corruption risks. Similarities and overlapping requirements exist between the Anti-Corruption Sapin II Law and the French Law on the Corporate Duty of Vigilance to prevent corporate human rights abuses. Both laws include requirements on risk mapping to identify, analyze and prioritize risks, procedures to evaluate third parties, whistleblowing program/system of alerts, and a monitoring scheme.

It is important to acknowledge, however, the potential pitfalls of anti-corruption regulation and practices. Regulation can lead to an obsession with meeting requirements at the expense of wider systemic change.¹⁴ Even more importantly, the field of human rights has given far more consideration to questions of respective business and governmental responsibility than the anti-corruption field, while also making more progress with collective action.¹⁵

BENEFITS FOR COMPANIES ON COORDINATING THEIR EFFORTS TO MANAGE ANTI-CORRUPTION AND HUMAN RIGHTS COMPLIANCE

With a few exceptions, companies still address human rights and corruption via separate oversight processes, rarely acknowledging the connections and similarities. However, the human rights field can also learn from the anti-corruption field's work on integration into corporate practice, and there are opportunities to align and strengthen oversight processes without necessarily developing a single integrated compliance program.

1. Enterprises that effectively link human rights and anti-corruption compliance are better prepared to manage liability risks

Although the liability associated with adverse effects on human rights remains considerably lower and less expensive for companies than that associated with violations of anti-corruption laws, a range of high-profile extraterritorial lawsuits have expanded the sphere of responsibility for companies, especially around complicity in gross human rights violations.¹⁶ As a result, legal and compliance professionals who have historically focused on traditional compliance areas are becoming increasingly involved in the management of human rights issues. The growing liability and reputational risks facing businesses, along with commercial pressure, have forced companies to move away from “window dressing” compliance programs toward those seeking to deliver tangible and measurable impacts.

¹³ [French Anti-Corruption Sapin II Law](#), Law No. 2016-1691, December 9, 2016.

¹⁴ New developments such as the UK Modern Slavery Act 2015, provide opportunities for greater attention and resources from companies to tackle risks. However, this is already driving a reporting-based focus and efforts to protect the corporate entity from liability.

¹⁵ For instance, the Voluntary Principles on Security and Human Rights Initiative, a multi-stakeholder coalition to address security and Human Rights issues in business operations is composed of governments, key international non-governmental organizations, and companies in the industries of extracting, harvesting, developing natural resources, or energy. This multi-stakeholder approach is a successful example of how collective and coordinated initiatives can lead to concrete change on the field. By working together, stakeholders are better equipped to address concerns collectively: see the [Voluntary Principles on Security and Human Rights Initiative](#), established in 2000.

¹⁶ Companies are being subjected to legal action domestically for practices that violate human rights overseas, with lawsuits considering that business should be held accountable for operations of its subsidiaries across the world. In a groundbreaking judgement, the UK Supreme Court ruled that a petition brought by inhabitants of a Zambian village against the British mining company Vedanta and its local subsidiary KCM could be trialed at English courts even if the violation occurred in Zambia: see [UK Supreme Court's decision against Vedanta on parent company liability](#). Appeal from: [2017] EWCA Civ 1528. Similar cases are currently under judgement in Canada, against the mining firm Nevsun Resources for Human Rights violations in Eritrea, and in France, for abuses allegedly perpetrated by the supermajor Total in Uganda: see also [Supreme Court of Canada, Case number 37919](#), February 28, 2020 and [A Canadian company is accused of Human Rights abuses overseas. Can it be sued in Canada?](#); The Washington Post, January, 2019; [“Total in court for Human Rights violations in Uganda: Historic hearing in France under the duty of vigilance law.”](#), Friends of the Earth, December, 2019.

2. Integrated human rights and anti-corruption efforts can enhance third-party risk management

More and more companies are looking at risks jointly in their third-party risk management programs to ensure that any overlapping risks are identified. Supplier risk assessments are increasingly considering both potential human rights and corruption risks using combined questionnaires, interviews and training sessions.

3. A human rights-based approach enhances employee engagement and commitment

As corruption practices are often portrayed as a victimless crime, its social impacts can be overlooked, as company programs often emphasize the legal and reputational penalties of bribery. Corporate policies governing expenses and gifts may appear to be a legal box-ticking exercise for employees. From a behavioral standpoint, providing employees a better understanding of how corruption drives conflict, terrorism, social disruption and poverty can galvanize them toward anti-corruption efforts.¹⁷

4. How can anti-corruption compliance and human rights due diligence be better coordinated within companies as part of an overall approach to responsible business conduct? What are examples of good practice?

RECOMMENDATIONS ON EXPLORATORY EMERGING PRACTICES

1. Enhancing compliance programs by developing understanding of the human impact of corruption

Despite the increasing awareness of the nexus between corruption and human rights, most corporations' anti-corruption efforts follow a compliance-focus approach, aimed at avoiding the payment of bribes, without fully understanding how corruption impacts their ability to respect human rights.

Companies need to think differently about what it means to combat corruption, by also taking into consideration its social cost.¹⁸ Implementing internal control systems only to ensure that employees and agents do not engage in corrupt practices, fails to address the systemic negative impact these practices may have on societies and on the human rights of citizens.¹⁹ There are limits to using the structure of anti-corruption compliance programs to guide human rights impact management, or to understand the wider social context in which companies are operating. Companies increasingly need to understand and incorporate political and social dynamics into their decision-making, and one way to do this is by creating a more integrated approach to human rights and anti-corruption.

By understanding and increasing awareness of the social cost of corruption, companies can engage in an approach that takes into account the people and communities that have been negatively impacted by corruption, highlighting how practices such as fraud, bribery and the embezzlement of public resources, prevent access to much needed

¹⁷ Alison Taylor, [Compliance Alert: Anti-corruption and human rights efforts will converge in 2020](#), published on January 3, 2020.

¹⁸ See for example, [The Cost of Non-Europe in the Area of Corruption](#), EPRS | European Parliamentary Research Service, March 2016

¹⁹ Corruption fuels terrorism, drives poverty, increases conflict and deprives people of key social services. Corrupt practices also contribute to the reduction of a country's competitiveness and economic opportunities. See for example: International Council on Human Rights Policy and Transparency International (prepared by Magdalena Sepúlveda Carmona), [Corruption and Human Rights: Making the Connection](#), 2009 ; M. Boersma and H. Nelen, [Corruption and Human Rights: Interdisciplinary Perspectives](#), 2010 and Peters, Anne, [Corruption as a Violation of International Human Rights](#). European Journal of International Law, Volume 29, Issue 4, November 2018.

public services and goods. This approach shifts the attention of anti-corruption efforts away from a repressive approach toward one of prevention by using human rights as a normative framework in the fight against corruption.

2. Integrating human rights into companies' codes of conduct

Codes of conduct are written statements of principles that identify employers' expectations regarding appropriate behavior from employees and business partners. Codes of conduct represent a commitment to ethical and fair behavior in the business environment to ensure the continued confidence of shareholders, customers, suppliers and employees. They are often publicly communicated to external stakeholders and engage the company.

There is a strong opportunity for aligning a company's anti-corruption and human rights commitments in codes of conduct by making references to companies' existing human rights and anti-corruption policies. Companies should acknowledge the risk of potential implication in corrupt business practices and their associated negative human rights impacts and recognize companies' responsibilities toward addressing both illegal corrupt practices and adverse human rights impacts arising from business activities. Additionally, codes of conduct should refer to all relevant corporate policies and clearly list key human rights commitments as well as other specific codes applicable (such as the supplier code of conduct etc.).

Even if there is no standard wording or approach toward drafting a code of conduct, they are increasingly values-based rather than rules-based, covering both voluntary standards and legal requirements including human rights. This trend necessitates greater understanding of human rights risks and voluntary obligations from compliance teams, who typically design and disseminate codes of conduct within organizations.

Some companies acknowledging the link between human rights and anti-corruption compliance have already integrated zero tolerance for fraud, bribery and corruption in their codes of conduct as well as their commitment to respect human rights.²⁰

3. Training and capacity development

Integrated codes of conduct suggest that employee training on these codes should incorporate both corruption and human rights considerations clarifying how the two processes of compliance relate to each other and overlap. Integrating human rights into existing compliance training modules for employees and top management (using realistic scenario-based questions) will drive deeper contextual understanding and integration across voluntary initiatives and compliance directives.

Joint training sessions on anti-corruption and human rights need to be instructive and accessible to all audiences, particularly for new employees. The training should clarify the conceptual relationship between human rights, good governance and anti-corruption, demonstrate the negative impact of corruption on the protection of human rights, and highlight the company's existing policies, procedures and confidential ethics hotlines. They also should seek to clarify expectations from employees in particular situations, specifically when operating in conflict-affected and high-risk areas.

It is fundamental that those sessions are clear and easy to understand for all employees. A list of all laws and regulations applicable will not be helpful for employees who do not need a complete legal understanding of the

²⁰ See for example the [Code of Conduct of Total](#), published in December 2018 and [Danone's code of conduct for business partners](#), published in April 2016.

applicable anti-corruption and human rights framework (except for those in charge of legal and compliance) but rather a strong understanding of company's policies, procedures and expectations in a practical situation.²¹

4. Integrating corruption risks into Human Rights Impacts Assessments (HRIAs)

HRIAs represent an efficient way for a company to identify, prioritize, and address human rights impacts, risks, and opportunities related to its operations and business relationships.

Some operating environments increase the risk of being complicit in gross human rights abuses committed by other actors and third parties, notably contexts where there is a significant amount of corruption. Indeed, it is commonly known that countries where perceived corruption levels are the highest also suffer high rates of grave human rights abuses. In situations like these, traditional human rights due diligence is often insufficient.

In BSR's methodology for identifying salient human rights risks, we consider scale, scope and remediability of impacts specifically looking at the operating context: when considerations around corruption risks are added to the broader human rights picture, the scale of impacts can look drastically different as certain human rights impacts may be exacerbated by lack of access to basic services, absence of reliable and fair judicial systems, severe security risks and absence of the rule of law. To help identify impacts, risks, and opportunities specific to the company and its operating context, BSR recommends companies enhance human rights due diligence that is corruption-sensitive and consider gathering the following key contextual and internal information:

- » **Existing socio-political data or indices on the country-level human rights risks and proxy indicators**, such as armed conflict, corruption levels, or rule of law and government capacity to enforce relevant laws²²
- » **Legal and regulatory framework governing human rights and anti-corruption**
- » **Mapping of all the steps that involve a relationship with public authorities** – this means assessing which types of activities need permits, licenses and government authorizations. This process would allow a company to address the potential at-risk situations where corruption practices could take place, as well as related potential human rights impacts, and implement internal controls procedures²³
- » **Mapping of key stakeholders** to understand key relationship risks and identify priorities for third party due diligence and supply chain oversight
- » **Key internal stakeholders' perception of human rights and corruption** in a particular country or region, in collaboration with compliance and government relations teams within the company
- » **Key external stakeholders' perception (local expert, NGOs etc.) of corruption risks** in the country and operating region

²¹ United Nations Global Compact, [Linking Human Rights and Anti-Corruption compliance](#), Prepared by Joanna Drewert and Kaustuv Banerjee, A Good Practice Note endorsed by the United Nations Global Compact Human Rights and Labour Working Group on December 21, 2016

²² Examples include [the Corruption Perceptions Index \(CPI\)](#) published annually by Transparency International and [World Bank Worldwide Governance Indicators](#) as well as information from the [Business Anti-Corruption Portal](#)

²³ For example, infrastructure projects where environmental and social impact assessments are required by law – but bribes are used to speed up the process, and construction is conducted without proper assessment, impacting local communities' resources and violating human rights (i.e. Belo Monte Dam in Brazil). Impacts of corruption on human rights in these cases can be severe.

- » **Human rights risk drivers in the country** including armed conflict, poverty, and the availability of natural resources in cooperation with the compliance team to identify key business processes, business relationships and transactions where corruption risk is high
- » **Information on global and regional business model and anti-corruption programs in place** to tackle corruption risks
- » **Joint risk task force teams responsible for producing aligned risk assessments of current operations**, market prospects, and divestment markets, to ensure that commercial teams receive the right level of information and risk detail before important business decisions. These should also include considerations on risk management throughout the course of the project and operations.

This contextual and internal information will help to assess the impacts of systemic corruption on human rights at country and site-levels, identify how those impacts are amplified in likelihood and severity when they happen in conflict-affected and high-risk areas and understand whether the company is causing, contributing or directly linked to both the human rights impact and potential corrupt practices. Without a human rights lens, too many companies are pursuing one size fits all compliance approaches.

A corruption-sensitive human rights assessment will also help the compliance and corporate responsibility/human rights teams to coordinate resources and efforts, and will aid compliance officers in understanding where to focus their training, as well as third party oversight and review of political exposure, including directing their attention to key areas of supply chain risk.

5. Governance and oversight structures to combat corruption and respect human rights

Reputational risk and regulatory risks are increasing, and regulation is also increasingly complex, dynamic, globally misaligned and unpredictable. By strengthening the capacities of their governance structures and adjusting practices, companies are more equipped to address growing overlapping human rights and anti-corruption issues and to build stakeholder trust. Listed below are some emerging best practices that companies are effectively utilizing:

- » **Creating cross-functional working groups to address new legal obligations:** for instance, to address both requirements of the French Sapin II Law and the French Law on the Corporate Duty of Vigilance, more France-based companies are starting to establish cross-functional working groups, teams or committees to identify shared risks, draft a risk mapping that considers the risks in both fields and strengthen whistleblowing systems in place to comply with both laws' requirements
- » **Creating management committees with mixed competencies:** some companies are also pursuing new governance approaches involving the creation of board or management committees that include representatives from compliance, risk, investigations, sustainability, human resources and human rights. One company has recently appointed an integrity officer who considers the ethical risk of business relationships, including human rights exposure
- » **Multi-company dialogue:** Finally, companies should also consider enhancing and strengthening peer-to-peer dialogue on human rights and anti-corruption issues. BSR encourages companies to develop industry-specific working groups to address the challenges of corruption and human rights particularly in conflict-

affected and high-risk areas. This will allow companies to share challenges, difficulties, lessons learned and best practices on collaborating toward the development of tools.

5. How do corruption and corrupt activities impact the ability of victims to seek access to an effective remedy (both judicial and non-judicial)? What measures can States, and companies take to address these challenges?

Access to remedy is one of the fundamental pillars of the UNGPs, however, through judicial or non-judicial means, corruption plays a significant role in preventing the victims of human rights abuses from being able to access remedy through judicial and other existing accountability mechanisms.

In the most extreme situations, the judicial system can be captured by political elites, and acts merely as an arm of the established vested interests of the ruling elites of that country. At the same time, judges and court officials can be bribed or otherwise influenced to make certain decisions or to block or refuse to accept charges brought by community members. Therefore, victims could perceive the system as being corrupt and avoid using it. Companies can take several actions to address these challenges:

1. Understanding the remedy ecosystem and identifying the opportunities for corruption to block victims from receiving remedy

Understanding the remedy ecosystem and identifying the opportunities for corruption is of vital importance to ensure victims are not prevented from accessing the effective remedy they need. Companies must look at all possible pathways to map this ecosystem, including state-based judicial, state-based nonjudicial, company and third party, and internationally based options.

By assessing the existence of these barriers, long-term systemic fixes can be put in place to improve judicial and non-judicial means of remedy including, where appropriate, involving local and national government in long-term solutions.

2. Strengthening the remedy ecosystem to improve remedy pathways and tackle corruption

Once having identified remedy barriers in the area, including corruption, it is crucial to collaborate with local and national governments (where appropriate) to implement long-term systemic fixes to improve access to remedy and tackle corruption in judicial and non-judicial remedy pathways.

Unremediated impacts may act as conflict-drivers in conflict-affected and high-risk areas and contribute to a vicious cycle. For corruption-related impacts in a conflict-affected context for example, there is a high-risk that unremediated human rights abuses may act as a driver of further conflict.

3. Combining existing confidential grievance mechanisms/hotlines

Employee whistleblowing hotlines were previously designed to prevent corruption or fraud and reduce corporate exposure to corruption liability. Sometimes these whistleblowing hotlines are available to third parties, and usually they are overseen by external third parties to protect anonymity. However, the development of parallel grievance

mechanisms is significantly lagging, and this may partly be an outcome of a failure to explain and address differences and similarities with existing corporate speak up efforts.

Combined confidential grievance mechanisms and hotlines can be used to identify corruption and human rights issues simultaneously. This, for instance, is a tendency observed in France, where both the anti-corruption legislation Sapin II²⁴, and the French Law on the Corporate Duty of Vigilance²⁵, require the creation of specific complaint processes.

4. Applying the UNGPs effectiveness criteria to enhance grievance mechanisms in place

In addition, grievance mechanisms can also be improved by applying the UNGPs effectiveness criteria outlined in Guiding Principle 31, which guides the design and implementation of these alert systems. Specific improvement actions include the assessment of Operational Grievance Mechanism against the UNGPs effectiveness criteria; consideration of complaint submission, assessment, and resolution phases; creation of user surveys for identification and closing of gaps.²⁶

5. Enhancing access to remedy by using a human rights lens

The possible remedies for victims in the anti-corruption field are insufficient, because corruption is commonly seen as a victimless crime. Therefore, when restitution occurs, it normally goes to the litigating country, not to the victims of corruption. One emblematic example of this are the record-breaking penalties imposed on Airbus by French, UK and US authorities for bribery practices overseas, where none of the EUR 3.6 billion settlement payment were shared with the countries where these practices took place.²⁷

To provide proper remediation to victims, companies need to look at remedy with a human rights lens. In a compliance-based approach, remedies for breaches of corporate anti-corruption standards are often focused on the regulatory aspects of the violation and the issue of whether to terminate an employee or business relationship. By contrast, a human rights-focused remediation, as prescribed by the UNGPs, also envisages termination of a relationship as one method of remediation, but only after the company has considered whether it can build the capacity of the partner to better respect human rights.

²⁴ [French Anti-Corruption Sapin II Law](#), Law No. 2016-1691, December 9, 2016.

²⁵ [French law on the corporate duty of vigilance for parent and instructing companies](#), Law No. 2017-399, March 27, 2017

²⁶ One example of how grievance mechanisms and access to remedy can be improved using the under the UN Guiding Principles effectiveness criteria is the [work conducted by BSR with Barrick Gold in their Porgera Gold Mine operations in Papua New Guinea](#).

²⁷ [“Why don't the victims of bribery share in the record-breaking Airbus settlement?”](#). Transparency International, February 2020

Appendix 1 | Corporate Anti-corruption and Human rights: Comparison

	Anti-Corruption	Human Rights
Definition	Narrow: TI definition is broad, but corporate/legal focus on ‘technical’ commercial bribe payments, primarily to government officials.	Broad: UNGP and due diligence frameworks incorporate International Bill of Human Rights, 11 core conventions.
Assessment Approach	Risk: Focus is exclusively on risk to the corporate from bribe payments , leads to rhetoric/reality gap especially on facilitation payments.	Impact: Impact on rights holders is key, not just risk to company – however, risk/impact definitions are soft, and companies struggle to work with impact.
Regulatory Maturity	High: Well developed global regime and corporate expectations, though enforcement remains patchy.	Low: Plethora of emerging regulatory moves focused on trafficking and slavery – inconsistent and poorly enforced.
Ethical Imperative	Limited: Originally seen as a victimless crime. Now mentioned in passing, focus is on cost to company of enforcement and reputational damage , to a lesser extent the business case.	Strong: Originally driven by ethical imperative. Predominates, business case is secondary and focused on benefits of wider stakeholder engagement and trust.
Organizational Responsibility	Clear: Sits in Legal and/or Ethics and Compliance, growing interest in incentives and culture, Suite/Board direct oversight is considered ideal.	Unclear: Might sit in Legal, CSR/Sustainability, Government Affairs, HR, Corporate Affairs – cross functional team is considered ideal.
Role of Civil Society	Limited: Limited consideration, though this is growing.	High: Direct engagement with rights holders is critical to any meaningful corporate human rights approach.
Role vis a vis Government	Unclear: Focus is on protecting corporate entity from rapacious governments but concept of political exposure and role of government in remediation are both unclear.	Clear: Relative role of governments and corporates is tightly defined in UNGPs.
Collaboration	Limited: Competitive considerations still dominate.	High: Much higher multi-stakeholder energy and higher achievements.

Appendix 2 | Access to remedy

Conduct a process and outcome assessment to determine access to remedy	
Process Assessment: Assess if the victim had a fair and independent process. Did they have:	
<ul style="list-style-type: none"> • Access to information • Legal Representation • Evidence requirements 	<ul style="list-style-type: none"> • Victim protection • Prompt hearing • Equality of power structures
Outcome Assessment: Assess if the victim has been restored to the extent possible. Is the remedy they received:	
<ul style="list-style-type: none"> • Proportional to harm • Culturally appropriate 	<ul style="list-style-type: none"> • Provide full restoration • Collective and individual