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**ОСУЩЕСТВЛЕНИЕ РЕЗОЛЮЦИИ 60/251 ГЕНЕРАЛЬНОЙ АССАМБЛЕИ
ОТ 15 МАРТА 2006 ГОДА, ОЗАГЛАВЛЕННОЙ
"СОВЕТ ПО ПРАВАМ ЧЕЛОВЕКА"**

**Доклад Специального представителя Генерального секретаря по вопросу о правах
человека и транснациональных корпорациях и других предприятиях***

Добавление

**"Признание коммерческими предприятиями прав человека:
общие модели, различия по регионам и отраслям"**

* Резюме настоящего доклада распространяется на всех языках. Сам доклад, который содержится в приложении к резюме, распространяется только на том языке, на котором он был представлен.

Резюме

В настоящем докладе содержится краткое описание стандартов по правам человека, которые упоминаются или используются в политике трех типов организации бизнеса на примере выборки более 300 компаний из всех регионов мира, восьми коллективных инициатив и пяти социально ориентированных инвестиционных индексных фондов. Для каждого из трех указанных типов мы попытались найти индикаторы, прямо или косвенно указывающие на права, содержащиеся в Международном билле о правах человека. Также был рассмотрен вопрос, предусмотрены ли установленными политическими и практическими мерами механизмы подотчетности для компаний, такие, как требования представления отчетности; требуют ли компании от своих поставщиков соблюдения каких-либо стандартов по правам человека; каковы пределы предусмотренного корпоративного сотрудничества с внешними заинтересованными сторонами; на какие нормативно-правовые акты по правам человека ссылаются компании, коллективные инициативы и социально ориентированные инвестиционные индексные фонды (упоминаемые документы/источники содержатся в тексте доклада). Наконец, был рассмотрен вопрос, касающийся стратегий по борьбе со взяточничеством и коррупцией, поскольку они могут препятствовать и препятствуют осуществлению прав человека. В результате исследования были сделаны следующие общие выводы:

Признание трудовых прав

- Трудовые права признаются коммерческими предприятиями в большей степени, чем любые другие права человека. Самым широко признанным трудовым правом является право на недискриминацию: оно учитывается 87% компаний, включенных в настоящее исследование. За ним следует право на безопасные и здоровые условия труда, на свободу объединений и право на заключение коллективного соглашения; запрет принудительного труда и запрет детского труда.
- Европейские и североамериканские предприятия лидируют с точки зрения признания трудовых прав. Компании в Азиатско-тихоокеанском регионе следуют за ними, немного отставая от средних показателей, а латиноамериканские компании в значительной степени отстают в признании практически всех трудовых прав с наиболее серьезными пробелами в области запрещения дискриминации, принудительного и детского труда и признания права на семейную жизнь.
- С показателями, равными 56%, компании розничной торговли потребительскими товарами лидируют с точки зрения признания права на минимальный уровень оплаты труда, превышая общие средние показатели на 20%. Финансовые компании лидируют с

точки зрения признания права на семейную жизнь с показателями, равными 37%, что почти в два раза превосходит показатели многих отраслей. Компании коммунального обслуживания отстают в признании целого ряда прав: запрета принудительного и детского труда, права на минимальный уровень оплаты труда, права на отдых и досуг и права на семейную жизнь, с показателями в отношении некоторых прав, равными всего 11%. Финансовые компании значительно отстают с точки зрения признания запрета принудительного и детского труда с показателями, которые на 20% меньше, чем средние показатели в других отраслях.

- Коллективные инициативы и социально ориентированные инвестиционные индексные фонды зеркально отражают общую картину в области признания трудовых прав.

Признание нетрудовых прав

- Нетрудовые права получают меньшее признание повсеместно. Наибольшую поддержку компаний получает право на неприкосновенность частной жизни с показателями, равными чуть менее 20%, далее следует безопасность личности, включая свободу от пыток и жестокого, бесчеловечного или унижающего человеческого достоинство обращения.

- Североамериканские и европейские компании являются лидерами с точки зрения признания права на неприкосновенность частной жизни и безопасности личности. Компании добывающей промышленности и компании, осуществляющие розничную торговлю потребительскими товарами, признают права, связанные с обеспечением безопасности, в немного большей степени, чем компании из других отраслей, в то время как информационно-коммуникационные компании и компании розничной торговли учитывают право на неприкосновенность частной жизни в большей степени, чем другие компании. Компании добывающей промышленности, финансовые, фармацевтические и химические компании выгодно отличаются от других, признавая право на развитие.

- Показатели учета нетрудовых прав компаниями, коллективными инициативами и социально ориентированными инвестиционными индексами существенно различаются. Политика, осуществляемая компаниями, демонстрирует бóльшую озабоченность в отношении права на неприкосновенность частной жизни, чем политика коллективных инициатив и социально ориентированных инвестиционных индексных фондов. Отчасти в силу представляемых сфер обследованные нами коллективные инициативы уделяют более значительное внимание свободе передвижения и правам меньшинств на культуру, исповедание религии и пользование родным языком. Инициативы в обрабатывающей

промышленности в большей степени фокусируются на традиционных трудовых правах, а компании добывающей промышленности уделяют основное внимание правам коренных народов и общинным отношениям. Социально ориентированные инвестиционные индексные фонды проявляют особую обеспокоенность в связи с правами коренных народов, включая право на культурную жизнь и пользование плодами научного прогресса, и защитой авторских прав. Некоторые социально ориентированные инвестиционные индексные фонды также серьезно поддерживают право на развитие.

- Некоторые права, такие, как право на свободу мысли, совести и религии и право просить политическое убежище, пользуются незначительным признанием со стороны компаний, коллективных инициатив или социально ориентированных инвестиционных индексных фондов или вообще игнорируются.

- Компании настойчиво подчеркивают свою благотворительную деятельность в областях, охватываемых экономическими, социальными и культурными правами. Многие социально ориентированные инвестиционные индексные фонды используют корпоративную благотворительную деятельность в качестве прикрытия для инвестиционных сделок. В отличие от этого, коллективные инициативы, которые были рассмотрены в настоящем докладе, не предъявляют к компаниям требований об осуществлении благотворительной деятельности.

Подотчетность и привлечение внешних сторон

- Компании, коллективные инициативы и социально ориентированные инвестиционные индексные фонды затрагивают вопросы прав человека при осуществлении процедуры отчетности. Вместе с тем, способы отчетности отдельных компаний сильно различаются. В некоторых случаях информация скрывается на сложно составленных вебсайтах, что значительно снижает эффективность как внутренней, так и внешней отчетности. Кроме того, на удивление редко для проверки отчетной информации привлекаются независимые аудиторы или используются независимые механизмы. Преобладающее число компаний, применяющих методы внешних проверок, составляют европейские компании.

- Учет некоторых стандартов по правам человека при управлении производственно-сбытовой цепью является общей чертой политики компаний, коллективных инициатив и социально ориентированных инвестиционных индексных фондов. Вместе с тем, осуществляемые политические меры сильно различаются. Политика некоторых компаний требует от всех участников производственно-сбытовой цепи соблюдения того же широкого круга прав человека, которого придерживается сама компания. Другие требуют

соблюдения этих стандартов только от тех поставщиков, с которыми сотрудничают непосредственно. Некоторые компании применяют требование о соблюдении поставщиками ограниченного числа прав, чаще всего запрета детского и принудительного труда.

- Североамериканские и европейские компании лидируют с точки зрения учета стандартов по правам человека при управлении производственно-сбытовой цепью: это характерно для двух третей рассмотренных компаний Соединенных Штатов и около 60% европейских компаний. Компании Азиатско-тихоокеанского региона и Латинской Америки отстают по данному показателю более чем на 20%. Компании, осуществляющие розничную торговлю потребительскими товарами, лидируют в этом отношении на 35%, опережая другие отрасли.

- Социально ориентированные инвестиционные индексные фонды используют результаты консультаций с общинами и их вовлеченность в качестве критерия отбора, в отличие от компаний и коллективных инициатив, редко прибегающих к указанному процессу. Оценка воздействия на права человека также в наибольшей степени используется социально ориентированными инвестиционными индексными фондами.

- Большое количество компаний, за исключением латиноамериканских, уделяет серьезное внимание вопросам борьбы с коррупцией. Из последних только 21% сообщили о наличии у них антикоррупционной политики. Некоторые из социально ориентированных инвестиционных индексных фондов также учитывают вопросы взяточничества и коррупции. В отличие от них, коллективные инициативы не уделяют приоритетного внимания борьбе с коррупцией.

Annex

**REPORT OF THE SPECIAL REPRESENTATIVE OF THE
SECRETARY-GENERAL ON THE ISSUE OF HUMAN
RIGHTS AND TRANSNATIONAL CORPORATIONS
AND OTHER BUSINESS ENTERPRISES
BUSINESS RECOGNITION OF HUMAN RIGHTS: GLOBAL
PATTERNS, REGIONAL AND SECTORAL VARIATIONS**

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Table of acronyms

CoP	Global Compact Communication on Progress
CSR	Corporate Social Responsibility
DJSI	Dow Jones Sustainability World Index
EICC	Electronic Industry Code of Conduct
ETI	Ethical Trade Initiative
FLA	Fair Labor Association
FTSE4Good	Financial Times Stock Exchange 4 Good Index
GC	Global Compact
GRI	Global Reporting Initiative
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICMM	International Council on Mining and Metals
ICTI	International Council of Toy Industries
IFC	International Finance Corporation
ILO	International Labour Organization
IT	Information Technology
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
SA8000	Social Accountability 8000
SRI	Socially Responsible Investment
SRSG	Special Representative of the Secretary-General
UDHR	Universal Declaration of Human Rights
WRAP	Worldwide Responsible Apparel Production

Introduction

1. The resolution establishing the SRSG's mandate asks him to identify and clarify standards of corporate responsibility and accountability with respect to human rights. This request was not confined to legal standards that may impose direct or indirect obligations on companies, but was also meant to include the realms of social expectations and moral obligations. A key indicator of the latter consists of the human rights standards that business itself adopts, triggered by its assessment of human rights-related risks and opportunities in the social and political environments in which it operates. This report summarizes the human rights standards referenced or invoked by a cross-section of companies, collective initiatives, and socially responsible investment funds.

2. The present study complements the SRSG's survey of the human rights policies and management practices of the Global Fortune 500 (FG500) companies.¹ But it differs from that survey in three important respects. First, it is based on actual documentation of such policies and practices rather than on questionnaire responses. Second, it includes a broader cross-section of companies, including transnational and national companies domiciled in emerging markets and developing countries. Third, it provides information about the human rights standards of business entities other than firms. The two studies together comprise the most comprehensive analysis yet conducted on the subject of business and human rights.

3. Part I of this report summarizes the publicly available information of more than 300 companies that have human rights policies and management practices in place - setting out how they address the broad spectrum of rights as evidenced in company reports, websites, codes of conduct, and general policies. Part II identifies the human rights standards included in selected collective initiatives, both industry-based and multi-stakeholder. And Part III examines the human rights criteria employed by SRI indices when selecting companies for investment.

4. For each of our three units of analysis - individual companies, collective initiatives, and SRI indices - we looked for indicators expressing or referencing rights included in the International Bill of Human Rights.² We also examined whether the prescribed policies and practices include accountability mechanisms for companies, such as reporting requirements; whether they hold the companies' suppliers to any human rights standards; the extent to which they stipulate corporate engagement with external stakeholders; and the human rights

¹ See *Human Rights Policies & Management Practices of Fortune Global 500 Firms: Results of a Survey*, Business and Human Rights Resource Centre, available at <http://www.reports-and-materials.org/Ruggie-survey-Fortune-Global-500.pdf>.

² See *Fact Sheet: The International Bill of Human Rights*, United Nations High Commissioner of Human Rights, available at <http://www.unhcr.ch/html/menu6/2/fs2.htm>, stating, "The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols."

instruments to which companies, collective initiatives, and indices refer. Finally, we examined policies concerning bribery and corruption because they can and do impede the realization of rights.

5. Two caveats should be noted. First, it is possible that some companies do not make public all of their human rights-related policies and management practices, in which case they would have escaped our attention and the companies would not receive their due credit. This is unlikely to affect collective initiatives or the SRI indices, which tend to display their policies prominently in the public domain. Second, it is well beyond the scope of the present report to assess how effectively the stated policies and practices are actually implemented. Thus, by “business recognition” of human rights we mean the policies and management practices described in publicly available sources.

6. Finally, some of the findings in this study differ from those in the SRSG’s FG500 survey - the reported uptake of non-labor rights and accountability mechanisms by companies was higher in the survey than we found in the present research. Two factors may explain the difference. First, respondents to the FG500 survey tended to be “best in class,” leaders in corporate social responsibility including human rights, whereas the current study deliberately looked at a broader cross-section of firms - although still limited to those known to have human rights policies. We cannot say with any degree of certainty whether these differences represent anything more than a time lag between OECD country-based firms and others. Second, the FG500 survey was based on a questionnaire whereas the current research examined actual company policies. Questionnaire responses may have been exaggerated or the actual policies may be poorly described or inaccessible in companies’ publicly available sources of information, making it impossible for us to code them. Nevertheless, the overall patterns reported in the two studies are consistent with one another: the discourse of human rights is making inroads into the corporate sphere.

I. COMPANY POLICIES AND PRACTICES

Introduction

7. Beyond the realm of legal compliance, the human rights policies and management practices that business adopts signal its understanding of what society expects of responsible corporate citizens. This report summarizes the human rights standards for corporate responsibility and accountability that are referenced or invoked by a cross-section of companies, collective initiatives, and socially responsible investment funds. Part I focuses on companies.

8. The report presents the results of a snapshot taken at one moment in time (June-July 2006); subsequent studies may well discover somewhat different patterns because this is a rapidly evolving field.

Our Sample

9. The sample of companies for this report was drawn from an original list of almost 500 firms that included: (i) the 103 Global Fortune 500 that responded to the SRSG’s questionnaire; (ii) the nearly 100 companies listed on the Business and Human Rights Resource

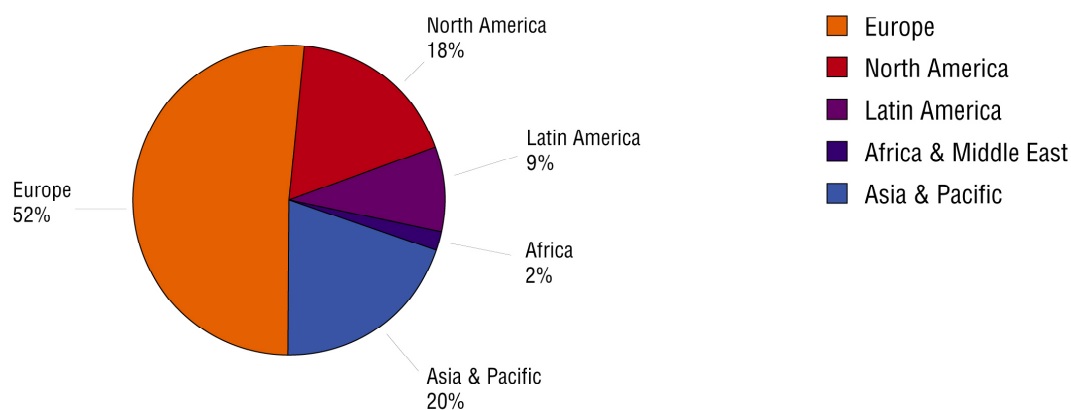
Centre's website as having human rights policies; and (iii) the 512 Global Compact (GC) companies that had submitted a Communication on Progress (CoP) for 2005 or later. We chose these sources because there was every reason to expect that these companies would have publicly accessible human rights policies enabling us to document the standards they embodied. Once we eliminated multiple listings, we were left with nearly 500 companies.

10. The list became shorter for several reasons. Language resource constraints meant that we were unable to include companies with information solely in Japanese, Russian, and Chinese - although companies from those countries that had English sources were included. For the rest, we excluded companies for which we were unable to find information about their human rights commitments in any publicly accessible source. Also, we generally included parent companies and excluded subsidiaries and holding companies to avoid duplicate recognition.

11. Our final sample consists of 314 companies from 5 regions: Africa, Asia and the Pacific, Europe, Latin America and North America. It includes companies from some of the major emerging economies like the People's Republic of China, India and Brazil. We sorted the companies into 9 industry sectors: Extractive; Financial Services; Food and Beverage; Heavy Manufacturing, Infrastructure and Utilities; Information Technology, Electronics, and Telecommunications; Pharmaceutical and Chemical; Retail and Consumer Products; and a residual category (Other). The following figures illustrate the composition of our sample by region and by sector.³

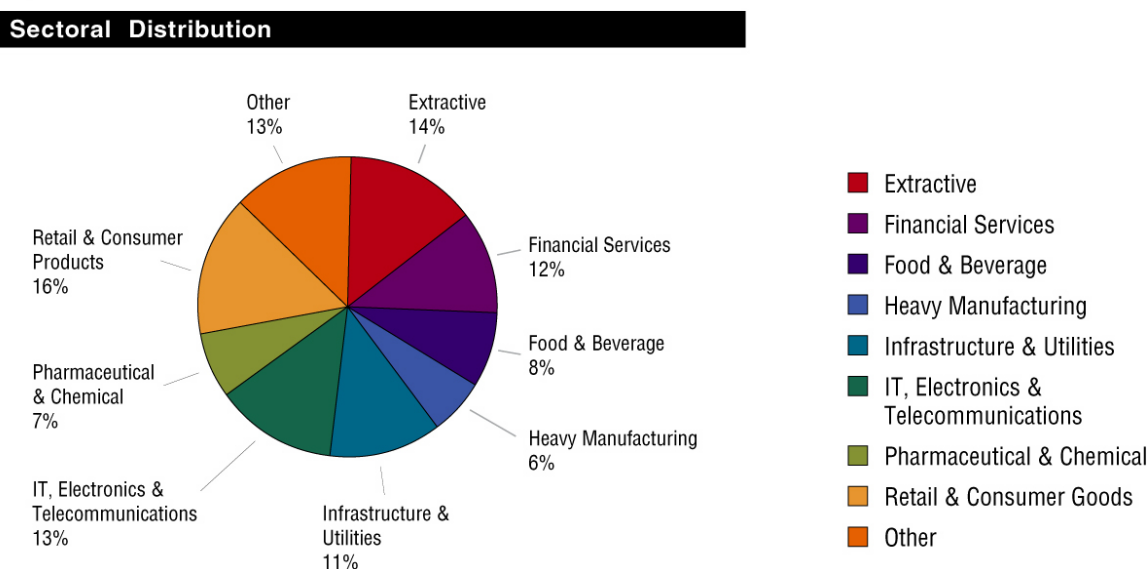
Figure 1.

Regional Distribution



³ The percentage of companies from Latin America and Africa participating in the Global Compact is slightly higher than in our sample. Many of those companies have only recently joined the GC and have not yet submitted a CoP or devised their own means of reporting, and thus, they were excluded on the basis that they had little or no publicly available information.

Figure 2.



Our Coding Method

12. We drew information about individual companies from the companies' websites; their Annual or Corporate Social Responsibility (CSR) Report (if published separately); and their 2005 (or later) GC CoP where applicable. As stated above, we looked only at publicly available information (with the exception of the responses to the SRSG's questionnaire, which have been separately reported on by the SRSG). Therefore, we were unable to include recognition of rights by companies that exists only as internal company policies or unpublished practices. And as already noted, the scope of this study did not include the extent to which policies and practices are actually implemented.

13. We considered both formal policies as well as references to company "practice" in our searches. We searched first for a specific human rights policy before considering other sources, such as corporate codes of conduct, human resources policies, and sustainable development commitments. Many of the companies were members of CSR initiatives, ranging from the broadly applicable principles of the UNGC to the industry specific Voluntary Principles on Security and Human Rights. We recorded membership but did not assume that membership entailed automatic recognition of the rights promoted by the initiative. We also sought to reflect companies' level of support for particular rights by recording wherever possible the exact language used.

14. We codified support for a range of rights included in the UDHR, the ILO Core Conventions, the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Declaration on the Right to Development. We also recorded company reporting practices and supply chain human rights requirements, as well as community consultation and impact assessment policies in relation to the companies' human rights commitments.

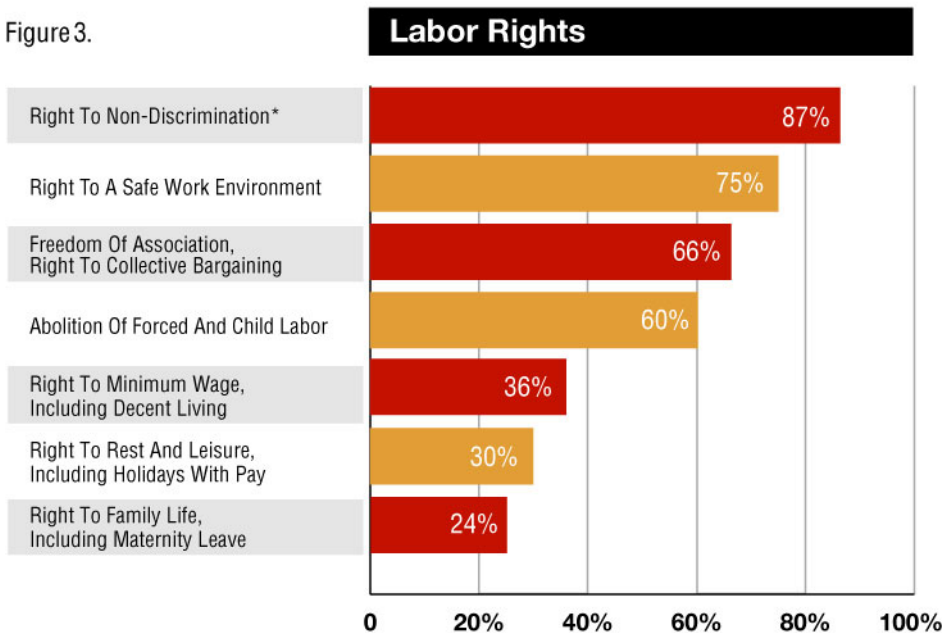
15. Because corporate philanthropy is not an explicit focus of this project (or the SRSB’s mandate), we only considered philanthropic programs when they were clearly linked to a human rights purpose (typically health, education or development). We also included anticorruption policies and practices because of the potential for corruption to impede the realization of many if not all rights.

16. This section of the report first presents the human rights companies themselves recognize, including labor and non-labor human rights. Next, we show how companies hold themselves, and their suppliers, accountable to their human rights standards by looking at reporting practices as well as supply chain management policies. Third, external engagement by companies is measured through examination of community consultation practices, human rights impact assessments and philanthropic activity. Anticorruption policies are considered next. Finally, we set out the sources that companies look to for guidance regarding human rights.

A. Labour Rights

17. Companies recognize labor rights with greater frequency than any other human rights. The highest rate of recognition is for non-discrimination, at almost 90 percent of all companies in our sample, and the lowest, for the right to family life, at just below 25 percent. As shown in Figure 3, there is also strong recognition of the right to a safe work environment, followed by freedom of association and the right to collective bargaining, the elimination of forced or compulsory labor, and the abolition of child labor.

Figure 3.



* The right to equality at work (39%) and the right to equal pay for equal work (23%) are frequently expressed in conjunction with nondiscrimination policies.

A more detailed discussion follows.

Nondiscrimination

18. Almost 90 percent of the companies in our sample have a *nondiscrimination* policy. Over 90 percent of North American and European and over 80 percent of Asia & Pacific companies have such a policy. In contrast, Latin America lags with only 61 percent. Four of the five African companies also have a nondiscrimination policy. No significant sectoral variations were found.

19. Most companies make firm commitments to nondiscrimination in the workplace. Statements are made in absolute terms, using language like, “does not discriminate,” “employees are not subjected to discrimination”, and “will not [permit] or [tolerate].” A small number of companies make less firm commitments, using the language “respects diversity” or “promotes nondiscrimination.”

Policies include commitments not to discriminate on the basis of:

- Gender;
- Disability;
- Ethnic or racial status;
- Age;
- Religion;
- Caste;
- Sexual orientation;
- Union membership;
- Political affiliation;
- HIV/AIDS status;
- Parental status.

Notably, no company policy includes all dimensions; however, some companies do make a general commitment to nondiscrimination on all grounds.

20. Several companies have affirmative action policies related to people with disabilities, Gay, Lesbian, Bisexual and Transgender individuals, ethnic minorities, the long-term unemployed, and women. Some companies also use affirmative action to achieve supplier

diversity. To support a diverse supplier base, one North American retailer has a “Minority and Women Business Development Program” to provide mentoring for minority general contractors.

21. Commitments to the *right to equality at work* (roughly 39 percent of the total sample) and the *right to equal pay for equal work* (roughly 23 percent) are frequently integrated into nondiscrimination policies or occur as separate statements alongside the policy. Equal pay for equal work is often articulated as an “achievement based” or “merit based” pay scale - looking narrowly at performance to determine compensation.

22. One Swiss infrastructure and utility company makes a commitment to nondiscrimination that includes recognition of the right to equality at work and the right to equal pay for equal work:

“To offer equality of opportunity to all employees and not to engage in or support discrimination in hiring, compensation, access to training, promotion, termination or retirement based on ethnic and national origin, caste, religion, disability, sex, age, sexual orientation, union membership, or political affiliation.”

Right to a Safe Work Environment

23. Around 75 percent of companies commit to the *right to a safe work environment*. At 86 percent, North American companies report safe work environment policies more frequently than any other region. European companies are a close second at 79 percent, with Asia & the Pacific at 67 percent, and Latin America at 46 percent. No significant sectoral variations were found.

24. To address this right, companies use language like, “strives to provide” and “dedicated to” - possibly to avoid liability issues related to accident occurrences. The following is a common example of what is found:

“it is our responsibility to provide safe and healthy working conditions. [The Company] strives to prevent any injuries at work, both for our own employees and contractors.”
Quote from a Dutch Chemical Company.

25. One Spanish Telecommunications Company stands out because of its use of health and safety committees, comprised of an equal number of workers and company representatives. The committees monitor workplace conditions and routinely receive itemized reports on risks, including psychological and social risks.

Freedom of Association, Right to Collective Bargaining

26. Some 66 percent of the companies recognize both *freedom of association* and the *right to collective bargaining*. Nearly 75 percent of European companies recognize both rights. In contrast, 63 percent of North American companies and around 50 percent of companies from each of the remaining regions recognize these rights. No significant sectoral variations were found.

27. Companies almost always recognize the freedom of association and the right to collective bargaining in tandem. Commitments are made using language like, “respects,” “allows,” “recognizes,” or “does not impede” with regard to these rights.⁴

28. In addition, freedom of association and the right to collective bargaining are frequently recognized in broad terms, with no limitations. Several companies even commit to the freedom to organize and bargain in the presence of local laws restricting the rights:

“In situations or countries in which the rights regarding freedom of association and collective bargaining are restricted by law, parallel means of independent and free organization and bargaining shall be facilitated.” (Quote from a German Retail Company.)

29. However, some companies narrow the rights. For example, some limit recognition to the scope of national law or only recognize unions that represent a certain percentage of employees.

Abolition of Forced and Child Labour

30. Around 60 percent of the companies recognize the *prohibitions against forced and child labor*. European and North American firms average around 65 percent recognition for both prohibitions, Asia & Pacific companies around 50 percent, while 3 of the 5 African companies address the prohibitions. In contrast, only 29 percent of Latin American companies mention the prohibitions against slavery and forced labor, and a mere 25 percent mention the abolition of child labor. For all companies, the prohibitions are often recognized in concert. Several also hold their supply chain to these prohibitions specifically.

31. Most sectors recognize the prohibitions between roughly 60-70 percent of the time; however, two sectors fall short: the Financial Services sector at around 40 percent, and Infrastructure & Utility at around 45 percent. In addition, even though the majority of retail sector companies recognize the prohibitions against forced and child labor, less than a quarter of Asia & Pacific companies in this sector recognize the prohibition against child labor and only around 30 percent recognize the prohibition against forced labor.

Minimum age policies that support the prohibition against child labour

32. Almost 30 percent of companies also state a *minimum age policy* that further supports the prohibition against child labor. By region, North American and European companies state the minimum age of employment around 30 percent of the time, with Asia & Pacific companies following at 25 percent. In contrast, Latin American companies only mention the minimum age of employment around 14 percent of the time. Two of the five African companies also have such statements.

⁴ To recognize Freedom of Association and the Right to Organize, companies merely are required to not impede or frustrate the individual/collective exercise of these rights, versus actually providing the right as in the case of rights like the minimum wage.

33. By sector, the Retail & Consumer Products and Food & Beverage sectors state the minimum age of employment most frequently, both with 42 percent of their companies having minimum age policies. At the low end, only 14 percent of Pharmaceutical and Chemical companies and 11 percent of Infrastructure & Utility companies have such policies.

34. Of those companies with a minimum age policy, many follow the standards of the ILO Minimum Age Convention.⁵ These companies often set the minimum age of employment at 15 or 18 years of age or the “age of ...the end of compulsory schooling.” Other companies commit to the national law standard, which also frequently reflects the ILO standard. A few companies specify the ILO Convention as their official policy.

Right to Minimum Wage, Including Decent Living

35. The *right to a minimum wage* is recognized by just 36 percent of the sample. At 46 percent and 40 percent respectively, North American and European companies address the right to a minimum wage more often than companies in other regions. Asia & Pacific companies address the right to a minimum wage at a rate of 29 percent, while Latin American companies follow closely behind at 25 percent recognition. Two of the five African companies address the right. By sector, Retail & Consumer Products firms lead with 56 percent having policies addressing minimum wages. The Extractive and Infrastructure & Utility sectors trail at 27 percent and 20 percent respectively.

36. Companies vary greatly in their approach to a minimum wage. While some make commitments to the national minimum wage, others commit to “fair compensation” or “adequate compensation” - almost always requiring a second inquiry into what “fair” or “adequate” would be. In addition, some companies claim to follow the “industry standard,” which is also largely unidentifiable without further inquiry. A few companies commit to exceed the local minimum wage. At least two companies also expressly prohibit “illegal or unauthorized” deductions.

37. Very few companies express their commitment to a minimum wage in relation to the needs of employees. The following policy is an atypical commitment that connects the two:

“To ensure that wages paid meet or exceed the legal or industry minimum standards and are always sufficient to meet basic needs of personnel and to provide some discretionary income.” (Quote from a Swiss Engineering Company.)

Work/Life Balance

Right to Rest and Leisure, Including Holidays with Pay

38. The *right to rest and leisure* is recognized by approximately 30 percent of the companies. Recognition ranges from a high in North America of 38 percent to a low in Latin America of 21 percent. While most sectors recognize the right to rest and leisure at rates in the 30 percent

⁵ *ILO Minimum Age Convention*, ILO, available at http://www.ilo.org/public/english/employment/skills/recomm/instr/c_138.htm.

range, the Infrastructure & Utility Sector and Pharmaceutical & Chemical sector are exceptions, at 14 percent and 23 percent respectively. Companies frequently address the right in terms of maximum work hours and limitations on overtime. Few companies discuss policies for paid holidays and vacation.

39. Of those discussing maximum work hours and overtime limitations, a Swedish appliance manufacturer stands out in its attempt to balance the ILO standard with national requirements and business needs:

“[The Company] recognizes the need for a healthy balance between work and free time for all employees. Unless national regulations require a lesser maximum hours of work, and except under extraordinary business circumstances, employees shall not, on a regularly scheduled basis, be required to work a standard work week of more than 48 hours per week or a total work week of more than 60 hours (including overtime). Except in extraordinary business circumstances, all workers shall be entitled to at least one day off in every seven day period.”

40. Of the few companies discussing other benefits, such as paid leave, a footwear and apparel company commits to provide workers with paid leave and holidays, the “greater of what is required by law or industry.”

Right to Family Life, Including Maternity Leave

41. Slightly under a quarter of the companies address family life in their policies. Both European and Asia & Pacific region companies recognize the right around 25 percent of the time. In contrast, North American and Latin American firms address family life at a rate of 14 percent; none of the African companies mention family life in their policies. By sector, Financial Service firms lead, at 37 percent recognition of the right to family life. While other sectors follow closely and fall between 20-30 percent recognition, there are significant differences. The Food & Beverage sector marks the start of the bottom tier at 16 percent, with Infrastructure & Utility companies following at 14 percent and Heavy Manufacturing companies at 11 percent.

42. Admittedly, detailed policies that illustrate commitments to family life are hard to find in public searches. Companies with policies primarily discuss work and family life balance. Many state that they “ensure,” “support,” and “encourage” a family life. Of the few companies with more specific policies, most provide for benefits such as: maternity leave, parental leave, flex time, and condensed workweeks. One company goes beyond this by providing assistance in the event of a serious illness of a family member. Several companies also offer child care facilities on site.

Right to Work

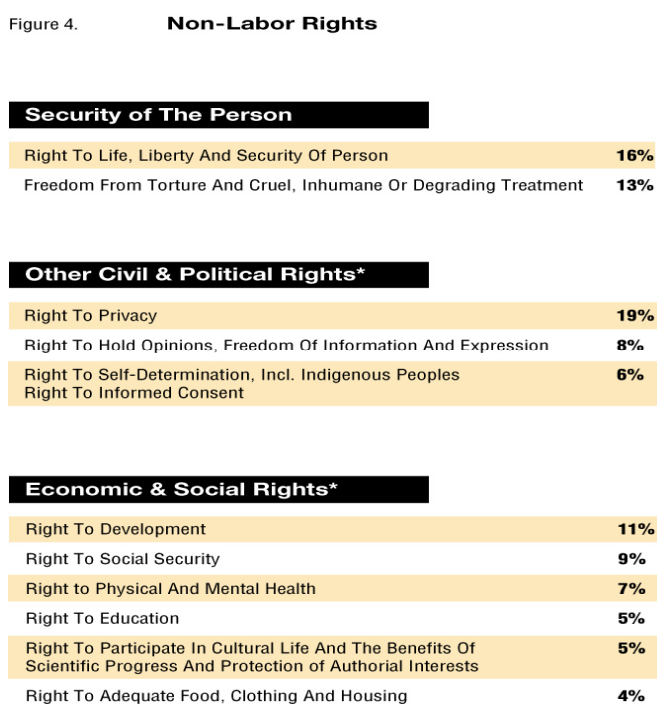
43. Codification of support for the right to work is particularly difficult. Under the ICESCR, the steps that states must take in ensuring the progressive realization of the right include the

provision of vocational training. While over 50 percent of companies have policies dealing with training, most concern necessary on-the-job training, or promotion within the company, and cannot reliably be characterized as support for the right to work.⁶

44. Despite the company focus on training, a handful of European companies make broader commitments, which could be seen as supporting the right to work. For example, in the event of restructuring, a few European companies commit to the protection of employees through redeployment. One European company also commits itself to target, train, and help reintegrate the long-term unemployed into the workforce.

B. Non-Labour Rights

45. Recognition of non-labor human rights is far less common in company policies (see Figure 4), with the highest rate of recognition in this grouping at roughly 19 percent for the right to privacy. Although we considered all non-labor rights appearing in the UDHR, ICCPR, ICESCR, and Declaration on the Right to Development, here we note only those with greater than 4 percent recognition by companies. Because of the already low levels of recognition, sectoral and regional variations became statistically less meaningful but are addressed where interesting differences occur.



*Drawn from the ICPR/ICESCR, UDHR, and the Declaration on the Right to Development

⁶ Training policies of this type are slightly more prevalent in Europe, with 62 percent of companies having a policy. North American and Latin American firms mention training policies around 50 percent of the time, Asia & Pacific Companies report training policies at a rate of 38 percent, and 2 of the 5 African companies report such policies.

Security of the Person

46. Around 16 percent of companies recognize the right to life, liberty, and security of the person and 13 percent recognize the freedom from torture and cruel, inhuman or degrading treatment. The slightly higher recognition of the right to life, liberty, and security of the person is due to a few companies that explicitly link their guidelines governing the behavior of their security forces, or prohibitions on involvement in armed conflict, to the right to life. Also, several companies make a general commitment to “protect” the right to life.

47. In addition, policies that prohibit physical and/or mental harassment in the workplace were coded as support for both the *right to life, liberty, and security of the person* as well as the *freedom from torture and cruel, inhuman, or degrading treatment*. Such harassment policies account for the bulk of corporate recognition of these security-related rights.

48. North American and European companies have a higher rate of harassment policies than companies in other regions. Thus, when these companies’ harassment policies are combined with their other policies recognizing security-related rights, they score roughly 30 percent and 16 percent, respectively, on the right to life, liberty and security of the person; and 25 percent and 14 percent, respectively, on freedom from torture and cruel, inhuman and degrading treatment. Companies in the remaining regions recognize these rights less than 7 percent of the time, with only 1 of the 5 African companies have a policy that addresses the right to life, liberty, and security of the person and none address the freedom from torture and cruel, inhuman, or degrading treatment.

49. The Extractive and Retail & Consumer Products sectors have slightly higher rates of recognition of these rights relative to other sectors. Thirty-one percent of extractive companies recognize the right to life, liberty, and security of the person and 20 percent recognize freedom from torture. The latter could be due to the inclusion of 15 of the 16 extractive companies that are members of the Voluntary Principles on Security and Human Rights,⁷ which “require” contracted security forces to not violate human rights. Retail & Consumer Products companies recognize both the right to life, liberty, and security of person and the freedom from torture approximately 25 percent of the time.

50. In the following policy, a Dutch international supermarket operator defines a safe work environment as one free from violence, threats, or intimidation, thereby simultaneously recognizing the right to a safe work environment and the security of the person:

“All [] Group Companies are committed to providing you with a safe and secure work environment. A safe and secure work environment also means a workplace free from violence. Threats (whether implicit or explicit), intimidation and violence have no place at any [] company and will not be tolerated.”

⁷ *Voluntary Principles on Security & Human Rights*, available at <http://www.voluntaryprinciples.org/>.

Other Civil/Political and Economic/Social Rights

Right to Privacy

51. Around 19 percent of companies recognize the *right to privacy*. Regionally, over 20 percent of European and North American companies recognize the right while less than 10 percent of companies address it in the remaining regions. By sector, the right is most often recognized in the IT, Electronics & Telecommunications and the Retail & Consumer Products sectors, with 30 percent recognition in each. In addition, companies in the Infrastructure and Utility sector recognize the right to privacy, but do not recognize any other non-labor rights.

52. Commitments to the right to privacy are made primarily in relation to employees and consumers. Several IT, Retail, and Financial Services companies have stand-alone consumer privacy policies, while others have one policy for both employees and consumers.

Right to Development

53. Eleven percent of the companies address development in their policies and programs. While no regional disparities are apparent, three sectors concentrate on development more often than others. Extractive and Pharmaceutical and Chemical Companies address development at a rate of 27 percent, and Financial Services at a rate of 18 percent. The remaining sectors mention development related policies and programs at rates below ten percent. Companies primarily “strive” and “aim” to promote development in the communities or countries in which they operate. Some companies have specific programs that use their business expertise to support development efforts. For instance, several Financial Services firms have favorable policies ranging from promoting small business and housing loans to third world debt relief.

54. A French heavy manufacturing company illustrates the most common commitment to development:

“[The Company] seeks to make a contribution to the economic, social and educational well-being of the communities in which it operates through local and sustainable business development, and by providing opportunities for employment, improvement to Infrastructure & Utility, technology acquisition and training.”

55. One British extractive company goes further and indicates the percentage of expenditures to be used locally:

“Using local suppliers and contractors is the most sustainable ways for us to encourage development in areas where we operate... At least a third of our expenditure will continue to be spent directly on a local basis, benefiting indigenous businesses and supporting the regional economy.”

56. As an example of the financial services sector’s approach to development issues, one Canadian bank partners with aboriginal communities to develop “agency” branches thought to fuel economic development:

“The agency works with a host [] branch to provide basic banking services. Agency management decides on its own hours, language of service and business objectives, and it can reinvest the revenue it earns in the community. This means community members no longer need to travel long distances to do their banking and more money stays in the community for economic development.”

Right to Social Security

57. Companies often commit to follow the national requirements for pensions and retirement funds, with only one company in our sample expressly stating that it goes beyond the legal minimum. Additionally, three companies specifically mention that they provide for short and long-term disability payments, while another company provides a lump sum payment to employees exiting the company.

Right to Hold Opinions, Freedom of Information and Expression

58. While few companies commit to the *right to hold opinions, freedom of information and expression*, of those that do, most commit to “ensure,” “guarantee,” and “protect.” Two companies qualify their policy: one guarantees protection within the bounds of the law and the other provides an exception for hate speech.

59. One South African extractive company commits to “[r]espect local communities ... freedom to articulate their thoughts, concerns and anxieties about [its] operations.”

Right to Self-Determination, Including Indigenous Peoples’ Right to Informed Consent

60. Extractive companies make more extensive commitments to indigenous communities relative to other sectors. Commitments range from statements of “respect” for local communities and cultures to obtaining their free and informed consent.

61. The following policy guides a Chilean mining company in its relationships with indigenous communities. The Company “commit[s]” to:

- Respect Indigenous peoples’ rights, customs and beliefs in all aspects of operations under national and international law;
- Ensur[e] prior knowledge and to keep them informed;
- Contribute to economic development of Indigenous communities;
- Cooperate in preserving and disseminating Indigenous knowledge and culture; to encourage Indigenous employees to join.

Right to Physical and Mental Health

62. Companies generally have policies of some sort regarding the health of employees; however, these policies were not counted as recognizing a broader *right to health* because they constitute more of an employee benefit.

63. Some policies do move closer toward recognizing a broader right to health. One South African extractive company provides medical care to employees, contractors “and, to some extent, [] the *communities* in the areas where the group operates.” The company also coordinates outreach HIV/AIDS programs with NGOs, other companies, and various levels of government in South Africa. One Filipino Food & Beverage company operates a hospital, not only for staff and their dependents, but also for emergency cases from the surrounding community.

64. For several companies, HIV/AIDS is a specific concern. A Brazilian pharmaceutical company addresses it through the mechanism of Social Service Health Areas, serving both employees and the community:

“Social Service and Health areas [] are responsible for assessing the needs of HIV/AIDS patients and for offering the necessary support to the collaborator and his/her family in terms of treatment and access to medication, transport, legal assistance and psychological support. The company continuously observes the health conditions of HIV positive collaborators or those suffering from AIDS so as to keep them integrated and engaged in a kind of work appropriate to their condition.”

Right to Education

65. Companies acknowledge the *right to education* almost exclusively through philanthropic programs. Nevertheless, one company does provide scholarships and other educational support to employees, suppliers, and partners, and another states that it “takes care of the school education of employees’ children”. The Brazilian operation of a Spanish Telecommunications company states that it “assures [that] employees’ children under 18 years of age are in school.”

Right to Participate in Cultural Life, the Benefits of Scientific Progress, and Protection of Authorial Interests

66. Article 15 of the ICESCR groups together the rights to 1) *participate in cultural life*, 2) *the benefits of scientific progress*, and 3) *the protection of authorial interests*. However, companies often only address one part of the article and, if more than one part is addressed, the parts are typically handled in separate policy statements. To illustrate, one North American Extractive addresses only part 1 of article 15 in its CSR Policy:

“We will identify and assess our contributions to social and cultural changes in the areas where we operate and develop appropriate strategies to respect the rights and cultures of local communities.”

A European Pharmaceutical company addresses two parts, part 2 & 3 of Article 15. However, it does so in separate statements, one in its human rights policy and the other in its research and development policy:

“We believe that all humanity should share in the benefits of science and will work to make that possible.” [Human rights policy]

“In the event that we do develop a commercial product using traditional knowledge, we will ensure a clear benefit is returned to the country of origin, for example through royalties or a share of net profits.” [Research and Development Policy]

Right to Adequate Food, Clothing, and Housing

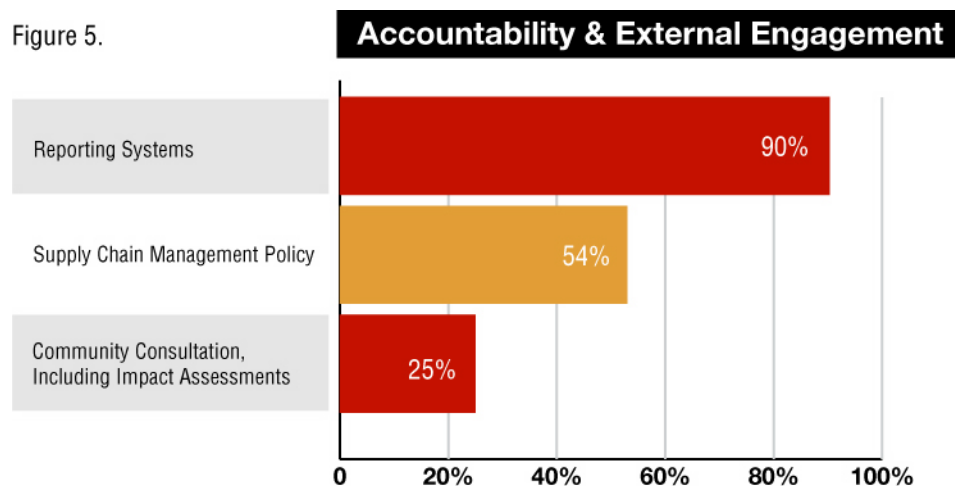
67. Although the *right to adequate food, clothing, and housing* receives little attention, one American science and technology firm aims to use its intellectual property to improve nutrition and alleviate hunger.

“[The Company] will endeavor to be socially and culturally responsible as it shares knowledge and appropriate technology in developing economies to help improve food, nutrition and the quality of life. [The Company] will seek to utilize its intellectual property in ways that help alleviate hunger.”

C. Accountability and External Engagement

68. To better understand how companies account for the above mentioned human rights commitments, we looked at: 1) how they report on their human rights standards and performance and 2) the degree to which they hold supply chains accountable to human rights standards. In addition, we examined how companies address the human rights of communities through a review of community consultation practices, impact assessments and philanthropic activities.

69. The following graphic presents the percentage of companies that report on human rights, have supply chain management policies addressing human rights, and engage in community consultations to address the rights of affected communities.



Accountability

Reporting

70. Nearly all companies report on their human rights performance in some form. However, the quality and format of reporting varies greatly.

71. With Global Compact companies being one of our main sources of information, roughly two thirds of the companies in our sample report on human rights through the GC CoP.⁸ The CoP describes company progress toward meeting the GC's ten principles, including the two human rights principles. The CoP is not intended to be a complete report of all company human rights activity, and a great deal of discretion is afforded the company when deciding what to include. As a result, the contents of CoPs vary greatly. Many companies simply commit to the GC principles in their CoP, report on labor rights alone, or on their human rights related philanthropic activity. Very few report on progress toward non-labor human rights as they appear in the ICCPR, ICESCR, and UDHR.

72. Although they are few in number, the most comprehensive reports include specific policies, their effectiveness in quantitative and qualitative terms, current and future human rights aims, and some measurement for progress toward those aims. Even then, however, reporting is typically focused on labor rights.

73. We found that companies producing annual reports using the Global Reporting Initiative's (GRI) guidelines had the most accessible and comprehensive reports, as the GRI covers many of the labor rights and a number of the human rights considered in this study. The GRI is the second most used reporting scheme in our sample, with almost 150 companies in our sample applying it.⁹ Also, even when they do not follow the GRI's precise requirements, some companies state that they are inspired by its framework. A number of other companies follow the GRI guidelines on environmental reporting only.

74. In addition to annual reports, a number of companies produce separate annual corporate citizenship or sustainability reports that address their human rights related policies and efforts. Again, these reports tend to focus on labor rights, philanthropic activities, and, in the case of a sustainability report, the company's environmental performance.

75. Companies rarely use external auditors or other assurance processes to verify reported information; only 18 companies of the 314 report that they employ such measures. Of those 18 companies, 13 are European. Where external verification takes place, the majority of companies use a private consulting firm. However, one company is piloting a review of their annual sustainability report by an expert External Review Committee, which includes representatives from organizations like Transparency International and the Danish Institute for Human Rights.

⁸ For a GC company to be included in our sample, they must have a CoP in the year 2005 or later. Therefore, the number of CoPs is roughly equivalent to the number of GC companies in the sample.

⁹ See *GRI Guidelines*, GRI, available at www.globalreportinginitiative.org. In addition, the new G3 guidelines are set for release in October 2006 and also available on the GRI website.

Supply Chain Management

76. Around 54 percent of companies report that they include human right standards in their supply chain management. European and North American firms do so more frequently than others, at 67 percent and 59 percent respectively. In contrast, 37 percent of companies from Asia & the Pacific and 29 percent of Latin American companies address supply chain issues. Two of five African companies also have such policies.

77. The Retail & Consumer Products sector stands out from all the other sectors with 80 percent of its companies reporting some management of their supply chain. Over half of the companies from most other sectors report on a system for managing human rights within their supply chain - IT, Electronics and Telecommunications (65 percent), Food & Beverage (63 percent), Heavy Manufacturing (58 percent), Infrastructure and Utility (58 percent), and Pharmaceutical & Chemical (55 percent). The Extractive and Financial Services sectors are slightly lower (with 45 percent and 39 percent of companies respectively).

78. Despite the emphasis on promoting human rights standards through supply chain management, companies are not consistent in their expectations of suppliers. Their commitments can range from “encourag[ing]” to “requir[ing]” suppliers to meet standards, and the actual human rights standards often are not expressed in detail.

79. Of the few companies that do elaborate on standards, most define them in Vendor Codes of Conduct or other guidelines that set out the parameters of specific rights, like the right to a minimum wage and freedom of association, and require that suppliers comply with the code. One British communications company expressly uses international standards to gauge supplier performance, stating that “we want working conditions in our supply chain to meet the standards of the Universal Declaration of Human Rights and the International Labour Organisation”.

Commitments are made in the following ways. Companies either:

- (1) Encourage the supply chain partners to meet human rights standards;
- (2) Require adherence only to specific principles like the abolition of child and forced labor or the right to a safe work environment; or
- (3) Require suppliers to adhere to the same standards as the company, or more broadly, human rights standards.

80. Finally, supply chain management systems seem to activate at two phases of the supplier relationship, the *time of tender* and the *time of contracting*. A third alternative is the use of an *ongoing monitoring mechanism*; however, relatively few companies use monitoring as a means to manage their supply chain. The following cases illustrate how these systems play out:

Time of Tender

81. When selecting a supplier, a French electric company factors whether the suppliers participate in the GC, stating that 60 percent of its suppliers currently are GC participants. A few companies review the human rights performance of suppliers, and the reputation of the countries

where they operate before entering into agreements. For example, an Italian extractive company states that “suppliers in countries with poor human rights records will be expected to provide evidence of their systems for safeguarding their employees’ rights.”

Time of Contracting

82. Illustrating the promotion of human rights at the time of contracting, an American department store conglomerate states that:

“All of the company’s vendors are required to sign written affirmations, agreeing to comply with the company’s [Vendor/Supplier] Code of Conduct, that are designed to protect workers in this country and abroad. Among other things, the Code requires [the company’s] vendors to allow unannounced factory inspections for contractual compliance, as well as for compliance with laws and regulations dealing with child or forced labor and unsafe working conditions.”

Many companies also reserve the right to terminate contracts in the case of human rights related breaches.

Ongoing Monitoring Mechanism

83. Companies in the sample primarily address monitoring at the time of contracting, where they reserve the right to monitor their supply chain through random and, in some cases, unannounced site visits. Few companies indicate the regularity of such visits. The following two examples are exceptions and represent a more ongoing monitoring process, inclusive of remediation procedures:

84. Although the combination of monitoring and remediation is rare, one Danish technology firm states that it maintains a database of supplier CSR performance. The company utilizes a system of site visits and adjustment of factory conditions to maintain compliance. Another company, a Chinese merchandise sourcing group, has a Social Compliance Program that requires every supplier to satisfy a “comprehensive social compliance evaluation” based on voluntary initiative SA8000 guidelines. Results are shared with clients and, where needed, suppliers are put on a “comprehensive corrective action plan” with continued monitoring.

85. Another tool is the use of third party auditors. One company from the sample partners with NGOs, while another partners with an industry association to conduct routine random audits of their suppliers. Companies also participate in certain collective initiatives, such as the Fair Labor Association, which requires ongoing monitoring and auditing, including surprise visits by third parties.

External Engagement

Community Consultations, Including Impact Assessments

86. Around a quarter of the sample makes some commitment to consult with affected communities. By region, European and North American companies commit to consultation most

frequently, both at around 30 percent. Only 18 percent of Latin American and 10 percent of Asia & Pacific companies make such commitments. No African companies mention community consultation.

87. Most companies that commit to community consultation do so by means of dialogue with stakeholders; only few go beyond dialogue and include some type of human rights impact assessments as part of the community consultation process. Companies in the Financial Services and Extractive sectors stand out because they conduct or require impact assessments more frequently than those in other sectors.

88. In a typical illustration of the commitment to consult with affected communities, one German based construction company states:

“We integrate the local community into our daily work as much as possible ... including supporting the local economy ... or talking with communities about how to design construction projects such that the sites important to their cultural heritage are best preserved.”

Another company, an American extractive, formalizes the community consultation practice through its use of “Community Advisory Councils,” which ensure ongoing community input.

89. Although impact assessments are relatively rare, one American automobile manufacturer commits to conducting an impact assessment to support “joint decision-making” with the community:

“The Community Impact Assessment and Engagement model uses data gathering and analysis to support joint decision-making by the community and the Company, thereby helping put community relationships on a more equal footing with more measurable business imperatives.”

90. Eleven Financial Services companies in our sample have signed on to the Equator Principles, which gauge the social and environmental impacts of projects.¹⁰ Other financial companies curb impacts by withholding investment in specific industries, such as defense, and genetically modified organism-related companies. One Norwegian financial firm recognizes its power as an investor to influence company actions:

“The Company is in continual dialogue with companies suspected of acting contrary to the Global Compact or the OECD Guidelines ... [The Company] uses its influence as an investor to attempt to guide companies in a positive direction, often in cooperation with other investors. In certain cases, shareholder rights are used actively in order to influence companies.”

¹⁰ See *Equator Principles*, available at <http://www.equator-principles.com/>.

91. Finally, Extractive sector companies routinely make broad commitments to consultations, addressing the culture, health, and environmental concerns of surrounding communities. Two policies provide for post-closure plans. For example, one American extractive company commits to:

- Work continuously to understand the culture of the host country and especially indigenous peoples;
- Undertake social, cultural, and health studies;
- Consult with local populations about important operational issues that will impact their communities;
- Work with the host country's government, the local people, and responsible NGOs to create and periodically update social integration and/or sustainable development plans for all operational sites; [and]
- Address the issue of economic and social viability of each operating area after cessation of operations.

A South African extractive specifically states that it aims to ensure “prompt delivery” of any benefits or protections agreed to with communities.

Philanthropic Programs

92. Most companies in our sample engage in some form of philanthropic activity, including cash giving, company managed community programs, partnership programs, in-kind support to charitable organizations, and encouragement and/or incentives for employees to engage in community work.

93. Companies in the sample overwhelmingly focus their philanthropic activity on education and health. Education-related philanthropy ranges from support for the education of underprivileged populations to more specific issues like financial literacy. Health-related philanthropy focuses on providing food and clean water in addition to health-related education. A number of companies also have specific projects addressing HIV/AIDS in their countries of operation.

94. Other companies relate their philanthropic activity to their business expertise. A German media corporation states that “it is important to us that our commitment be sustainable and closely identifiable with our business expertise and core competencies”.

95. Additionally, some companies partner with NGO's and governmental organizations. A large Spanish utility company works with the ILO in youth employment programs throughout Latin America and commits to the following:

“in the case of particularly disadvantaged environments or communities [we] will endeavour to provide for urgent social needs that cannot be adequately met by other institutions.”

D. Anticorruption

96. Bribery and corruption are often considered part of the human rights agenda since they are such significant impediments to the realization of rights, and many companies have adopted anti-bribery policies - almost 60 percent of the companies in our sample. Accordingly, we included these policies in our study.

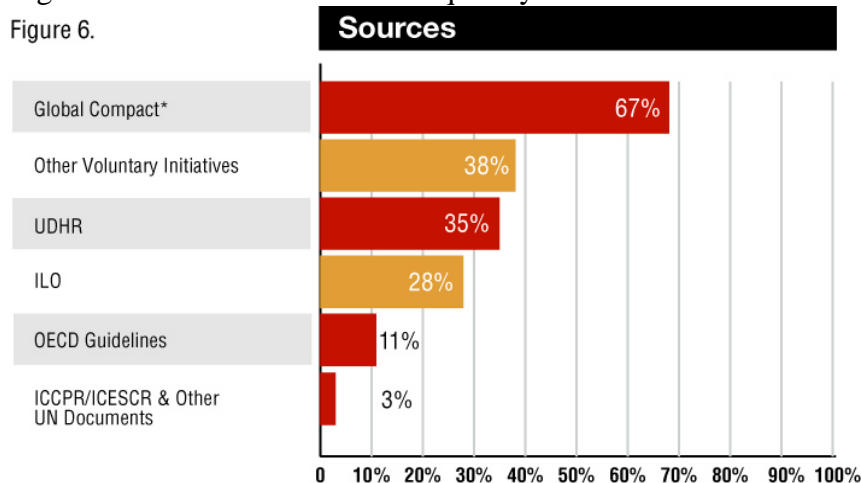
97. North American companies report their anticorruption policies most frequently, at a rate of 71 percent, with European companies slightly behind at 62 percent. Almost half of the companies from Asia & the Pacific have anticorruption policies, while Latin American companies report significantly lower rates at 21 percent. Four of the five African companies have anticorruption policies. There are slight sectoral differences. At the high end, Extractive, Heavy Manufacturing, Pharmaceutical & Chemical, and Retail & Consumer Products firms state their policies on corruption at rates of 68-77 percent. Not far behind, Food & Beverage companies state their policy on corruption at a rate of 58 percent; the remaining sectors are IT & Telecommunications and Financial Services, which both address anticorruption 50 percent of the time, and Infrastructure & Utility companies, which address anticorruption 43 percent of the time.

98. Policies mainly prohibit the acceptance of “excessive” or “lavish” gifts, money, or special favors from business partners. A few policies prohibit company contributions to political parties or candidates. Others prohibit unethical business practices in general.

99. Several companies note that social amenities, reasonable entertainment, and other courtesies *may* be extended to customers, suppliers, or employees, reasoning that such nominal exchanges are beneficial to business. A few companies also reserve space for “culturally appropriate” gifts, without defining what this would include.

E. Sources

100. Finally, we sought to determine what instruments or sources inform company human rights commitments. Figure 6 summarizes the most frequently cited.



* The CoP database was a main data source, which accounts for the high reference to the Global Compact.

The Global Compact

101. Sixty-seven percent of companies in the sample participate in the Global Compact (GC), a voluntary initiative based on ten principles covering human rights, labor, environment, and anticorruption.¹¹ Of those companies, all regions are represented, with 4 African companies, 49 Asia & Pacific, 119 European, 24 Latin American, and 20 North American companies. North American GC participants are concentrated in two sectors, 6 in the IT, Electronics and Telecommunications sector and 6 in the Extractive sector.

Other Voluntary Initiatives

102. A range of other voluntary initiatives are cited by companies: SA8000, Transparency International, the Ethical Trading Initiative, the Business Social Compliance Initiative,¹² the Sullivan Principles, Fair Labor Association (FLA), the Extractive Industries Transparency Initiative (EITI), the Electronics Industry Code of Conduct (EICC), the International Council on Mining and Metals (ICMM), and the Kimberley Process.¹³

103. While there was generally no uniformity of citation or membership within individual sectors, companies in the Extractive and Financial Services sectors do stand out for their adherence to industry-specific initiatives.

104. Of the Extractive companies, 50 percent refer to the Voluntary Principles on Security and Human Rights (VPs), which aim to reconcile the need for security with the protection of human rights. 10 of the 12 North American extractive companies cite the VPs. Slightly fewer European companies, 11 of 17, reference them. Notably, not all companies that reference the Voluntary Principles are active participants in the initiative.¹⁴ In addition to the VPs, 4 extractive companies refer to their membership in the ICMM, 6 to the EITI and 4 to the Sullivan Principles.

105. In the Financial Services sector, 11 of the 38 companies in our sample cite the Equator Principles.¹⁵ Additionally, a significant number of companies commit to the UNEP/GC Principles for Responsible Investment.¹⁶

¹¹ The GC's CoP database was a main data source, which accounts for the high reference to the GC. The GC has nearly 3000 corporate participants and other stakeholders.

¹² See Business Social Compliance Initiative website, available at <http://www.bsci-eu.org>.

¹³ See *infra* Part II, Voluntary Collective Initiatives of this report.

¹⁴ See *Company Participants, Voluntary Principles On Security & Human Rights*, available at <http://www.voluntaryprinciples.org/participants/companies.php>.

¹⁵ *Equator Principles*, available at <http://www.equator-principles.com/>.

¹⁶ *The Principles for Responsible Investment*, developed by the Global Compact & the UNEP Finance Initiative, were launched in April 2006, available at <http://www.unpri.org/principles/>.

UDHR

106. At a rate of almost 50 percent, European companies reference the UDHR most frequently. North American companies reference it at a rate of 36 percent. In contrast, only 20 percent from the Asia & Pacific region and 11 percent of Latin American companies refer to the Declaration. Two of the five African companies also reference it. Companies typically “respect,” “support,” or “recognize” the UDHR.

107. Extractive, IT, and Financial Services companies cite the UDHR more frequently than companies in other sectors - 27 of 44 in the Extractive sector, 19 of 40 in IT, and 16 of 38 in Financial Services. One French insurance firm states that:

“Although governments have the primary responsibility to promote, ensure the respect of and protect human rights, the Group, as an international enterprise, recognises its responsibility to promote and guarantee human rights, as set forth in the United Nations’ Universal Declaration of Human Rights.”

ILO

108. Forty percent of European companies reference the ILO. North America comes second, referencing the ILO at a rate of 25 percent. In contrast, only 7 percent of companies from Latin America, and 6 percent from Asia and the Pacific mention ILO standards. Three of the 5 African companies in the sample also reference the ILO.

109. Sectorally, companies in the Extractive, IT, and Retail & Consumer Products sectors cite the ILO most frequently. Company commitments are generally framed as “support”, “recognition”, and “respect” for ILO standards. Where companies commit to “comply” with ILO standards, they most often make a specific commitment to the Fundamental Rights at Work Convention or other well-known conventions, like the Convention Concerning the Minimum Age for Admission to Employment or Hours of Work conventions.

110. Illustrating an unusually high level of commitment, a German based retailer “assur[es]” it will meet ILO standards:

“The Company voluntarily commits itself to assuring, in all its subsidiaries, the terms of employment and working conditions recommended by the ILO”.

OECD Guidelines

111. Almost all of the companies citing the OECD Guidelines are European (29 of 34). Companies generally referred to the Guidelines as a whole and made no specific commitments to individual principles. Demonstrating a typical level of commitment, one European pharmaceutical company states that it operates “in the spirit of” the Guidelines, while another company commits only to what it perceives as “relevant sections”, while failing to elaborate on what those are.

ICCPR/ICESCR and Other United Nations Documents

112. Only four companies, all European, refer specifically to the ICCPR and ICESCR (where they were mentioned, they were mentioned together). Three other companies cite the Convention on the Rights of the Child, another company refers to the Convention on the Elimination of Discrimination Against Women, and one company cites the Rio Declaration on Environment and Development.

Summary - Part I

113. Even though labor rights enjoy the widest recognition by companies, it is nevertheless apparent that some regions and sectors lag in recognizing even the most fundamental labor rights. For example, the prohibitions against forced and child labor are considered to be part of the four fundamental principles and rights at work;¹⁷ however, the level of recognition of these prohibitions reaches as low as 25 percent by region and as low as 40 percent by sector. Moreover, apart from the almost 90 percent recognition of the right to nondiscrimination and the 75 percent recognition of the right to a safe work environment, the remaining labor rights receive recognition from two thirds or fewer of the companies. This can scarcely be deemed adequate for rights so evidently connected to employees, one of corporations' primary stakeholders.

114. Emerging markets, inclusive of Latin America and Asia and the Pacific, recognize labor rights less than North America and Europe, with gaps between emerging and developed markets reaching over 30 percent for some rights, including the right to a safe work environment, nondiscrimination, and the prohibitions against forced and child labor. Although the Asia & Pacific region trails North America and Europe, it follows more closely than Latin America in most instances. Recognition of the right to a minimum wage and rights pertaining to work/life balance is low irrespective of region.

115. For non-labor rights, the low levels of recognition are striking. Even for the most recognized rights, such as security related rights, the right to privacy, and the right to development, the levels of recognition do not go higher than 19 percent. Admittedly, the little attention given to some rights seems logical. For example, the right to a fair trial is not a right that companies will routinely, if ever, have an impact on. Thus, it seems appropriate that the levels of recognition are low for this right. However, this does not hold true for many other non-labor rights where a company's potential impact is more evident.

116. In addition, company reporting on human rights commitments varies widely, ranging from reports solely on philanthropic activity to more detailed reports that use a human rights checklist like that provided by the GRI. The inclusion of human rights standards in supply chain management also varies in approach and substance. Furthermore, company engagement in community consultations is rare, and the use of human rights impact assessments even rarer.

¹⁷ See *ILO Declaration on Fundamental Principles and Rights at Work*, ILO, available at <http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm>.

117. When reviewing the human rights instruments referenced by companies, one can see the influence of certain sources on corporate recognition of rights. For example, European companies reference the UDHR and ILO as much as 35 percent more than other regions. Not surprisingly, European companies also recognize human rights at higher rates across the board. North America follows closely in its recognition of the UDHR and is on par with many of the patterns of rights recognition of European Companies.

118. Finally, in addition to connections between sources referenced and rates of rights recognition, one can also see some connections between the rights recognized by collective initiatives and socially responsible indices and those recognized by companies. Accordingly, Part II of this report reviews several collective initiatives, and Part III examines socially responsible investment indices.

II. COLLECTIVE INITIATIVES

Introduction

119. This section of the report considers voluntary collective initiatives. Companies that sign up to them are expected to follow their human rights parameters and in some cases may be removed from membership if they do not. Companies either devised or helped devise the criteria for membership. Thus, the initiatives reflect the behavior that companies and other stakeholders believe are necessary for a corporation to operate ethically and according to international human rights standards.

120. The sample includes eight collective initiatives. They were selected because they have been widely adopted within their respective industries. We drew solely upon publicly available information when analyzing the collective initiatives. The International Council of Toy Industries (ICTI), Worldwide Responsible Apparel Production (WRAP), Electronic Industry Code of Conduct (EICC), the Equator Principles, and the International Council on Mining and Metals (ICMM) are industry initiatives, meaning that they were initiated by industry members for their specific sectors. Social Accountability 8000 (SA8000), the Ethical Trade Initiative (ETI), and the Fair Labor Association (FLA) are multi-stakeholder initiatives. Each involves business and non-governmental organizations; SA8000 and the ETI include labor; the ETI and FLA were initiated with assistance by government; and the ETI continues to have governmental involvement.

121. The initiatives fall broadly into two categories. The first, which includes WRAP, FLA, ETI, EICC, ICTI, and SA8000, focus on manufacturing. All of the other initiatives in the sample address large-scale projects, such as infrastructure and natural resource extraction. In this category, ICMM addresses mining practices, while the Equator Principles apply to project finance lenders.¹⁸

¹⁸ For more information regarding the practices of the collective initiatives, please see *Meaningful Change: Raising the Bar in Supply Chain Workplace Standards*, prepared by Roseann Casey for John Ruggie, UN Special Representative of the Secretary General, available at <http://www.reports-and-materials.org/Ruggie-briefing-paper-for-Thailand-consultation-June-2006.pdf>.

122. In the realm of labor rights, the results of the collective initiative survey generally parallel the company survey, prohibiting child and forced labor, upholding the principle of non-discrimination, promising a safe and healthy workplace, and committing to respect freedom of association and collective bargaining. Additionally, the collective initiatives show significant support for the right to a minimum wage and the right to rest and leisure. The collective initiatives show greater recognition than the companies in the areas of civil, political, social, economic, and cultural rights.¹⁹ The two initiatives that focus on large-scale projects address indigenous rights and communication with the surrounding community in more depth.

123. The following is a brief description of the initiatives:

- **EICC (2004)** - electronics industry - EICC is an industry initiative, composed of brand name electronics companies. Members commit to following a voluntary code. EICC states that participants should apply the code and related management system to its next tier suppliers. It does not require that the entire supply chain meet its standards, although it is considering changing this rule.²⁰
- **The Equator Principles (2003, revised 2006)** - financial institutions - The Equator Principles are an industry initiative, formed by private financial institutions engaged in project finance. Members commit not to lend to borrowers who do not comply with the Principles' environmental and social requirements. The Equator Principles incorporate the International Finance Corporation's (IFC) Performance Standards on Social and Environmental Sustainability.²¹

¹⁹ The rights in this report are ordered according to the prevalence with which the collective initiatives recognized them. The order in no way reflects upon the intrinsic importance of the rights.

²⁰ This report references information that the initiatives have made available and free to the public. EICC documents referenced through this report: *Electronic Industry Code of Conduct, Version 2.0*, Oct. 2005.

²¹ Equator documents referenced throughout this report: *The Equator Principles* (July 2006); *International Finance Corporation's (IFC) Performance Standards on Social and Environmental Sustainability*. The Equator Principles incorporate the IFC Performance Standards. The Equator Principles require a lender bank to carry out an environmental and social assessment of the client project, followed by application of social and environmental standards. The assessments are only for projects that have "potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented" or "potential limited adverse social and environmental impacts that are few in number, largely reversible and readily addressed through mitigation measures." The application of social and environmental standards is based upon the IFC Performance Standards. The Standards only apply to non-OECD or non-high income OECD countries. Projects must comply with the IFC Performance Standards unless the assessment shows a "justified deviation." This report discusses the Equator Principles in the cases that all its sections are applied, which depends on whether the company operates in an OECD country or is likely to have significant adverse impacts.

- **ETI** (1998) - Manufacturing Industries - ETI is composed of companies, NGOs, and trade organizations, and it is partially funded by the UK government. It works to identify and promote good practices in code implementation, monitoring, and verification. Member companies promise to implement its code of conduct throughout the supply chain and to terminate relations if violations persist. ETI does not certify factories or companies.²²
- **FLA** (1999) - Garment and Apparel Industries - The FLA incorporates multiple stakeholders, including business, NGOs, and universities. FLA certifies external auditors, who in turn certify brands. FLA companies commit to incorporate FLA standards throughout the supply chain. FLA emphasizes the need to work with the supply chain to bring practices into compliance rather than simply ending the supplier relationship.²³
- **ICMM** (2003) - Mining Industry - ICMM is an industry initiative, formed by 15 major mining companies accounting for approximately 50 percent of the industry's market capitalization. Members agree to follow a common set of principles. The principles focus on issues such as involuntary resettlement, community development, and communication with stakeholders. They require members to "encourage" the supply chain to adhere to the same standards.²⁴
- **ICTI** (now the ICTI Care Process) (1995) - Toy industry - ICTI was created by toy corporations, and its members are national trade associations and their member corporations. ICTI members pledge to abide by the Principles of Business Conduct and require their suppliers to do so as well. ICTI's Care Process certifies external auditors, who in turn certify factories.²⁵
- **SA8000** (Accreditation System launched 1997, Corporate Involvement Program 1999) - Multiple Industries - SA8000 incorporates multiple stakeholders, including NGOs, unions, and business. It provides certification by independent auditors and helps companies implement compliant management systems.²⁶

²² ETI documents referenced throughout this report: *ETI Principles; Purpose, Principles, Programme and Membership Information; ETI Corporate Annual Reporting Guidelines 2004*.

²³ FLA documents referenced throughout this report: *Workplace Code of Conduct; Monitoring Guidance and Complying Benchmarks*.

²⁴ ICMM documents referenced throughout the report: *ICMM Sustainable Development Principles; ICMM Sustainable Development Framework; Position Statement on Mineral Resources and Economic Development; Extractive Industries Transparency Initiative*.

²⁵ ICTI documents referenced throughout the report: *Code of Business Practices, Appendix IIa: Guidance Document*.

²⁶ SA8000 documents referenced throughout the report: *SA8000 Standards (2001)*.

- **WRAP (2000) - Garment and Apparel Industries** - WRAP is an industry initiative composed of trade associations and factories. WRAP certifies external auditors, who in turn certify factories. WRAP producers promise to incorporate WRAP standards throughout the supply chain.²⁷

A. Labour Rights

124. In general, the labor rights that are most often recognized in the collective initiatives mirror those in the company surveys. The most-cited labor rights, referred to by all eight initiatives, include: the right to non-discrimination in the workplace, the abolition of slavery and forced labor, and the right to a safe work environment. Seven initiatives recognize the duty to abolish child labor. The fairly frequent recognition of the right to freedom of association and collective bargaining (7 initiatives) is similar to the 50 percent recognition rate in the company survey.

125. The initiatives reflect some variation from the patterns found in the company survey. The collective initiatives are more likely to recognize a right to work, in a form going above and beyond vocational training. Another difference emerges regarding the minimum wage. The collective initiatives demonstrate more support than the companies for the right to a minimum wage, including a decent living, with 7 of 8 initiatives supporting the right, compared to around 36 percent of the companies. Finally, the collective initiatives evince greater support for the right to rest and leisure than the companies.

Nondiscrimination

126. All initiatives articulate a duty of *nondiscrimination*. Policies on nondiscrimination range from simple statements not to discriminate (by three initiatives) to full listings (by five initiatives) of up to thirteen prohibited grounds for discrimination. For example, the EICC's extensive list of prohibited grounds includes union membership, marital status, pregnancy, sexual orientation, age, and disability, along with the more traditional criteria such as gender, race, and religion. The EICC also forbids medical testing that could lead to discrimination.

127. Five initiatives support the right to *equality at work* and *equal pay for equal work*. As seen earlier in the analysis of the company survey, these two rights often arise within the context of a broader non-discrimination policy. For example, four initiatives forbid discrimination in hiring, remuneration, and promotion.

Right to a Safe Work Environment

128. All eight initiatives recognize the *right to a safe and healthy work environment*. They address hazards, emergency response, and cleanliness, as well as providing potable water and

²⁷ WRAP Apparel Certification Program Principles; WRAP Production Facility Handbook.

sanitary surroundings and housing. The checklists and guidelines used to conduct compliance audits often incorporate greater detail, such as the minimum and maximum temperatures for specific workspaces or the square footage per person required for dormitories.²⁸

Abolition of Forced and Child Labour

129. All eight initiatives recognize the prohibition on forced labor. Regarding the *abolition of slavery and forced labor*, ICMM simply states that forced labor is not to be used. The seven other initiatives use language that is more specific, mandating no forced, bonded, indentured, or involuntary prison labor.²⁹ Three also state that employees cannot be forced to make a monetary deposit or leave identity cards when they commence employment, presumably because this can force them to remain on location.

130. Seven of eight initiatives support the *abolition of child labor*. Four (WRAP, EICC, FLA, SA8000) require companies to use the highest age from the following choices: 1) the minimum age of employment under national law, 2) the age at which compulsory education ends under national law, or 3) the age 14-15. SA 8000 even requires remediation of children found to be working in members' factories. Companies "shall provide adequate support to enable such children to attend and remain in school until no longer a child." This requires companies to provide support for these children's educations.

131. While the Equator Principles address the issue of child labor, they do not place an absolute prohibition on the practice: companies promise to follow local laws where applicable and to "not employ children in a way that is economically exploitative, or is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, spiritual, moral, or social development.

132. Five initiatives give a *minimum age for employment* (usually fourteen or fifteen years) that serves as a floor if national law provides a lower age.

Right to Minimum Wage, Including Decent Living

133. The six initiatives that focus on manufacturing support the *right to a minimum wage*. They either use national standards if they exist, or industry standards. Two (SA8000 and ETI) also state that member companies must meet basic needs and provide some discretionary income. The collective initiatives' emphasis on this right stands in contrast to the individual companies' relatively low recognition rate (around 30 percent). Four initiatives (EICC, FLA, SA8000, ETI) forbid the use of punitive deductions from wages based on under-performance or failures to meet quotas. ICMM uses weaker language, recognizing a duty to "ensure fair remuneration."

²⁸ See, e.g., *Appendix IIa: Guidance Document*, ICTI.

²⁹ See, e.g., *The Equator Principles*.

Freedom of Association, Right to Collective Bargaining

134. Seven initiatives recognize *freedom of association* and the *right to organize and participate in collective bargaining*. Three (SA 8000, ETI, Equator Principles) require that if no such right exists under national law the companies find an alternative means for workers to express their collective concerns. The FLA recognizes the right and specifies that companies cannot use intimidation to prevent peaceful organizing. Of the remaining two initiatives (both of which are industry developed), the ICTI requires companies to provide for the right to representation only if it is recognized under national law. The ICMM's recognition is even weaker, only requiring its members to "provide for the constructive engagement of employees on matters of mutual concern," but without actually recognizing the right of association or collective bargaining.

135. The FLA also recognizes the political right to *freedom of assembly*, requiring that "the employer will not use force, or the presence of police or military, to intimidate workers, or to prevent peaceful organizing or assembly."

Work/Life Balance

Right to Rest and Leisure, Including Holidays with Pay

136. Five initiatives could be considered to support the *right to rest and leisure* because they require that workers be given one day out of seven as a holiday. Most place limitations on the number of hours in the work week, based upon national standards or industry standards, or they declare maximum weekly hours, usually around 48. Most initiatives also limit the hours of overtime. However, holidays with pay are not mentioned.

Right to Family Life, Including Maternity Leave

137. Two initiatives support some aspect of the *right to a family life*. One requires maternity leave (ICTI), and another (FLA) demands accommodation of pregnant women, although what such accommodation would entail is not spelled out thoroughly.

Right to Work

138. Both of the non-manufacturing initiatives issue statements strongly recognizing the *right to work*. The ICMM principles stipulate that members "rehabilitate and reintegrate employees into operations following illness or injury, where feasible." The Equator Principles require that companies "provide additional targeted assistance (e.g. credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected." Other initiatives address the issue of training. However, training focuses more on successful implementation of the collective initiative, such as safety or human rights training, rather than furthering workers' long-term career prospects.

B. Non-Labour Rights

139. Generally, the collective initiatives recognize non-labor rights at a higher rate than the companies. It is possible that some of these rights are buried in internal company policies and

were never unearthed in our company survey, which may help explain the discrepancy. For example, recognition of the right to freedom of movement sometimes arises from collective initiative directives regarding the conditions of company-owned sleeping quarters. Similar directives may well exist in internal policies for specific factories, or, on the other hand, companies may simply be less sensitive to the need to address non-labor rights than the collective initiatives.

140. To summarize, the findings differ from the company survey in the following ways. The right to security of the person receives strong support among the initiatives. All eight discuss freedom from torture, cruel, inhuman, or degrading treatment. Only 16 percent of the companies recognize the right. Six initiatives recognize the right to freedom of movement, while the recognition rate from companies regarding this right is negligible. Finally, the collective initiatives show a very low recognition rate for the right to privacy. In contrast, this right is the most recognized non-labor right in the company survey.

Security of the Person

141. Seven of the eight initiatives recognize the *right to life, liberty, and security of person* through their support for the *freedom from torture and cruel, inhuman or degrading treatment*. This finds expression in policies that forbid the use of corporal punishment, harsh and inhumane treatment, and psychological or verbal abuse, or other limitations on the actions of security guards.

142. Six initiatives require *freedom of movement* for employees, which can also be seen as supporting the right to life, liberty and the security of the person. The policies of ICTI, ETI, FLA, SA8000, and WRAP address one of the following: specify the right for workers to leave when their shift ends; prohibit companies from taking identity papers, work permits, or other deposits; forbid companies from requiring that workers live in company housing; or require that employees be able to quit their jobs upon reasonable notice. The ICTI and the FLA also state that the company cannot control egress of employees from the workplace after their shift ends. The FLA provides that companies cannot use illegal or unreasonable searches to control workers' exercise of the right to freedom of association.

Other Civil/Political and Economic/Social Rights

Right to Physical and Mental Health

143. Four initiatives address the right to *physical and mental health, and access to medical services*. The Equator Principles stipulate that the client owes a broad duty to the community: clients have a "responsibility to avoid or minimize the risks and impacts to community health, safety, and security that may arise from project activities." The other three initiatives recognize it only within the limited sphere of the workplace to address employee work-related illness or injury. The FLA states, "Employers will ensure that women are not engaged in work that creates substantial risk to their reproductive health" and also mandates that pregnant women are not engaged in activities likely to damage their health. This policy may also support the *right to marry and form a family*. Two other initiatives, ICTI and EICC, require competent on-site medical services for emergencies or occupational injury or illness.

Right to Participate in Cultural Life, the Benefits of Scientific Progress and Protection of Authorial Interests

144. Three initiatives recognize the *right to cultural life, the benefits of scientific progress, and protection of interests resulting from scientific, literary or artistic production*. The two initiatives oriented towards large-scale projects express strong policies on the right to cultural life, especially in the context of indigenous peoples. The ICMM requires that its members “respect the culture and heritage of local communities, including indigenous peoples.” It also has a stronger, although not easily measurable, policy for engagement with minority communities, demanding that members “ensure...that minorities and other marginalized groups have equitable and culturally appropriate means of engagement.”³⁰ The Equator Principles require companies to gain consent in order to use community cultural knowledge for commercial purposes: “where a project proposes to use the cultural resources, knowledge, innovations, or practices” of indigenous peoples or local communities for commercial purposes, the client cannot proceed unless it informs the communities, successfully negotiates with them and “provides for fair and equitable sharing of benefits from commercialization of such knowledge, innovation, or practice, consistent with their customs and traditions.”³¹ SA8000 simply forbids interference with tenets or practices based on membership in various groups.³²

Minority Rights to Culture, Religious Practice, and Language

145. The three initiatives that express support for the *right to cultural life, the benefits of scientific progress, and protection of interests resulting from scientific, literary, or artistic production* also support *minority rights to culture, religious practice, and language*. The similar recognition rates may be because recognition of the duty to protect products of a culture usually is linked to the right to practice that culture and maintain it without exploitation.

Right to Development

146. Two initiatives appear to acknowledge a *right to development*. ICMM members pledge to “contribute to the social, economic, and institutional development of the communities in which we operate” and “work with governments, industry...to achieve appropriate and effective public

³⁰ It is interesting that while the ICMM has stronger policies than the other initiatives in the areas of community engagement and indigenous and minority rights, its recognition of labor rights such as freedom of association is weaker than that other initiatives.

³¹ IFC Performance Standard 8 also recognizes a broader duty to protect places of cultural heritage: “the client will protect and support cultural heritage by undertaking internationally recognized practices for the protection, field-based study, and documentation of cultural heritage.”

³² Additionally, SA8000 has language supporting minority cultural rights: “Shall not interfere with the exercise of rights of personnel to observe tenets or practices, or to meet needs relating to race, caste, national origin, religion, disability, gender, sexual orientation, union membership, or political affiliation.”

policy, laws, regulations and procedures that facilitate the mining, minerals, and metals sector's contribution to sustainable development within national sustainable development strategies." Members are also encouraged to enter into "partnerships with governments and non-governmental organizations to ensure that programmes (such as community health, education, local business development) are well designed and effectively delivered." The Equator Principles demand some developmental duties in the context of resettlement: "the client will provide opportunities to displaced persons and communities to derive appropriate development benefits from the project."

Right to Self-Determination

147. The Equator Principles provide some recognition of the *right to self-determination, including indigenous peoples' right to informed consent*. The Equator Principles not only require that companies "respect and preserve the culture, knowledge and practices of indigenous peoples" but also that they "ensure the development process fosters full respect for the dignity, human rights, aspirations, cultures and natural resource-based livelihoods of indigenous peoples."

Right to Adequate Food, Clothing, and Housing

148. Only one initiative explicitly or broadly recognizes a duty to provide *adequate food, clothing, and housing*. In the case of involuntary resettlement, the Equator Principles require that companies provide adequate housing with security of tenure. Five other initiatives demand that if companies provide accommodation or lunchrooms, they must meet certain basic standards of decency.³³

C. Accountability and External Engagement

149. The collective initiatives strongly support reporting, including of human rights standards in supply chain management, and community consultation. The ICMM and the Equator Principles, both codes applicable to the extractive industries, have more detailed policies regarding community relations and impact assessments.

Accountability

Reporting

150. All the initiatives require reporting in some form. The key issues include whether the entity producing the report is internal or external; who created the standards for the report; and whether reporting is public or internal.

³³ For example, the EICC requires that "Workers are to be provided with clean toilet facilities, access to potable water and sanitary food preparation and storage facilities. Worker dormitories provided by the Participant or a labor agent are to be clean, safe, and provide emergency egress, adequate heat and ventilation and reasonable personal space."

151. Four initiatives rely on external, independent auditors (ICTI, FLA, WRAP, SA8000). Four initiatives use voluntary codes where companies are engaged in self-reporting (ICMM, ETI, EICC, Equator). However, the ICMM is in the process of developing an external assurance process.

152. Two initiatives incorporate external standards for reporting. The ICMM uses the Global Reporting Initiative (GRI), and Equator uses the IFC's Performance Standards. The other initiatives create the standards used for their members' reporting.

153. The Equator Principles, SA8000, FLA, and ICMM call for public reporting by members. The other initiatives only require internal reports. The FLA has a more fluid approach to public reporting, which involves posting online tracking charts that depict compliance problems of individual factories on a rolling basis.³⁴

154. Four initiatives, EICC, FLA, ETI, and the Equator Principles, also require the creation of a grievance mechanism for employees or community members. This mechanism should allow them to report violations of the code without reprisal.³⁵

Supply Chain Management

155. Five of the initiatives (ICTI, ETI, SA 8000, FLA, WRAP) address the human rights performance of members of the supply chain. Four of these initiatives (ICTI, SA 8000, FLA, and WRAP) certify factories in the supply chain or monitor a brand's supply chain and certify the brand. EICC indicates that it may eventually require that the entire supply chain meet its standards. ICMM only "encourages" suppliers to adopt its principles and practices.

External Engagement

Community Consultations, Including Impact Assessments

156. Two initiatives require impact assessments and community consultation. The ICMM requires impact assessments carried out with the help of the community: "Consult with interested and affected parties in the identification, assessment and management of all significant social, health, safety, environmental and economic impacts associated with [their] activities" and create systems for such interaction. The Equator Principles require that the party developing the project has "consulted with project affected communities in a structured and culturally appropriate

³⁴ See FLA, <http://www.fairlabor.org/all/transparency/reports.html>.

³⁵ Arguably, the ICMM does as well, as it requires that "appropriate systems are in place for ongoing interaction with affected parties." However, it does not contain language prohibiting reprisal.

manner.” In addition, the Equator Principles also usually mandate a social and environmental assessment.³⁶ On a similar note, when indigenous communities might be impacted by a project, the company must develop the action plan with their participation.

157. Two other initiatives focus on community engagement. The FLA recommends that companies consult regularly with the community, specifically with local organizations, and elicit input from them about working conditions. The EICC “encourages” companies to engage with the community.

Philanthropic Programs

158. In contrast to the company survey, the initiatives do not generally focus on philanthropy.

Environmental Standards Related to Human Rights

159. Five of the initiatives require member companies to comply with certain environmental standards that extend beyond safe working conditions. Three (EICC, ICMM, Equator Principles) arguably link environmental practices to the protection of the right to health. EICC posits that “adverse effects on the community, environment and natural resources are to be minimized while safeguarding the health and safety of the public.” ICMM companies must “advance understanding of the properties of metals and minerals and their life-cycle effects on human health and the environment” and “seek continual improvement of our environmental performance.” The Equator Principles also link protecting the environment to the right to health: to “avoid or minimize adverse impacts on human health and the environment by avoiding or minimizing pollution from project activities.”

D. Anticorruption

160. Anticorruption is not a significant focus of the collective initiatives. Only the EICC forbids the taking of bribes. ICMM requests companies to “implement policies and practices that seek to prevent bribery and corruption.” The other initiatives do not mention corruption, perhaps because anticorruption is not part of human rights and labor conventions, despite its impact on the enjoyment of these rights.

E. Management and Implementation Systems

161. In most cases, the collective initiatives provide detailed provisions regarding their expectations for management systems and policies to support implementation of the initiative’s code. Some, such as EICC, include this in the code itself. For others, such as the FLA and ICTI, the management requirements appear primarily in supplemental auditing codes or guidelines. Because the collective initiatives provide much greater detail than the companies regarding implementation and management systems, some basic management elements needed to successfully implement a voluntary human rights code emerge from the initiatives. This information is depicted in Table 1, below.

³⁶ Whether this is mandatory depends on the categorization of the project.

Table 1

Management and Implementation Systems

<u>Risk Assessment</u>	<u>Assessment of human rights risks conducted by company, independent party, or with community input</u>	<u>EICC, Equator, ICMM</u>
<u>Management Program</u>	<u>Code contains section specifying the required elements of management system</u> <u>Human resources policies: non-discrimination, knowledge of code as a measure in performance evaluations</u> Other written policies on forced labor, health and safety regulations <u>Use of contracts to enforce standards with contractors or loan recipients</u> <u>Creation of outcome or performance indicators</u>	<u>EICC, Equator, ICMM</u> <u>ETI, SA8000, WRAP</u> <u>ETI, FLA, ICTI, WRAP</u> <u>Equator, ICTI</u> <u>EICC, Equator</u>
<u>Organizational Capacity</u>	<u>Written commitment from top management</u> <u>Company representatives appointed, including senior management</u> <u>Commitment of adequate human and financial resources</u>	<u>EICC, ETI, SA8000</u> <u>EICC, Equator, ETI, SA8000</u> <u>Equator, ETI</u>
<u>Training</u>	<u>Training on health and safety, discipline, or the CSR program</u>	<u>EICC, Equator Principles, ETI, FLA, ICTI, SA8000, WRAP</u>
<u>Monitoring</u>	<u>Management periodic review of procedures, policies, and results</u>	<u>Equator, ETI, SA8000, WRAP</u>
<u>Reporting</u>	<u>Non-public reporting: From subcontractors/clients to initiative member</u> <u>Public reporting: Record-keeping and communication with the public</u> <u>Create avenues for employees or community to raise problems without fear of reprisal</u>	<u>Equator, FLA, ICTI, SA8000</u> <u>Equator, FLA, SA8000</u> <u>EICC, Equator Principles, ETI, FLA, SA8000</u>
<u>Community Engagement</u>	<u>Develop mechanisms to engage with the community or provide services to it</u>	<u>EICC, Equator, FLA, ICMM</u>
<u>Remediation and Corrective Action</u>	<u>Establish mechanisms to address and correct violations of the code</u>	<u>EICC, Equator, ETI, FLA, SA8000</u>

F. Sources

ILO

162. Of the major international human rights conventions, the collective initiatives most frequently reference the ILO core conventions (4 initiatives). Some initiatives commit “to respect” the ILO conventions (ETI, SA8000, plus ICTI in the context of child and forced labor).

Another uses ILO standards as a reference to create its code (EICC). Two initiatives (ICTI, SA8000) specifically promise to respect the Convention on the Worst Forms of Child Labor and Minimum Age Convention.

Other International Conventions

163. SA8000 states that members shall respect the Convention on the Elimination of all Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). None refer to the ICCPR or ICESCR.

UDHR

164. Two initiatives mention the UDHR. The EICC uses it as a reference document to form its code, while SA8000 demands that members respect its principles.

Global Compact, OECD Guidelines and Other Voluntary Initiatives

165. Non-UN sources appear in the publicly available documents of two initiatives. EICC lists a wide variety of sources it used as references to create its code, such as the Global Compact and the OECD Guidelines for Multinational Enterprises, but specifically notes that this does not mean that EICC companies adopt them. The Equator Principles incorporate the IFC's Performance Standards on Social and Environmental Sustainability.

Summary - Part II

166. In sum, the collective initiatives show greater recognition of labor rights than civil, political, social, economic, and cultural rights. The prohibitions on child and forced labor, the principle of non-discrimination, the right to a safe workplace, and respect for freedom of association and the right to collective bargaining receive particularly strong support.

167. Additionally, civil and political rights such as the right to life, liberty, and security of person, freedom from torture and cruel, inhuman or degrading treatment, and freedom of movement receive substantial support. The support levels for the right to life and freedom from torture and cruel, inhuman, or degrading treatment and freedom of movement are significantly higher than the recognition rate in the company survey.

168. The manufacturing initiatives are particularly thorough in the area of labor rights. The extractive and project finance initiatives focus more on relations with the community and indigenous populations. In contrast to the company policies reviewed in Section I of this report, the collective initiatives also spell out the actions needed for effective implementation in far greater detail, including management structures and policy-making, which provide potential models for companies attempting to implement CSR measures.

III. SOCIALLY RESPONSIBLE INVESTMENT INDICES

Introduction

169. Socially responsible investment (SRI) funds emerged as a niche product to appeal to a certain subset of investors who are particularly concerned with social and environmental issues.

That concern gradually is becoming more mainstreamed - most rapidly in the area of climate change and its attendant risks, but broader social and human rights challenges as potential corporate risks are not far behind. In one signal of the increased interest in this area, institutional investors worth more than \$5 trillion officially support the Principles for Responsible Investment, agreeing to consider social, environmental, and corporate governance factors when they invest.³⁷ Thus, to discover what human rights criteria the socially responsible segment of financial markets believes are relevant for firms, we also examined a sample of SRI market indices. The sample focuses on SRI indices rather than on SRI funds because most SRI funds use SRI indices to develop their investment portfolios. We only considered publicly available information regarding the practices of SRI indices, which may not reflect the full range of criteria that the indices use when selecting companies.

170. SRI indices first evaluate companies using traditional financial analysis. Then they screen for compliance with certain social, ethical, human rights, and environmental standards as defined by each index. Some indices also automatically screen out certain sectors, such as tobacco or firearms manufacturers. This information enables investors to ensure that their investments go to what they regard as socially responsible or sustainable companies.³⁸ SRI funds, large institutional investors, mutual fund managers, and individuals can select their companies from an SRI index.

171. Human rights criteria are one of several considerations for the SRI. Some SRIs require that companies meet a minimum level of adherence to human rights. However, most of the SRIs do not publicly state whether recognition of a specific human right, such as the prohibition on child labor, is an absolute requirement. Thus, there is no publicly stated absolute requirement that a company abide by specific human rights, although a company's practices must show overall respect for human rights. Also, a company which just meets the minimum SRI standard for human rights practices might still be included in a portfolio because of very positive practices in other areas, such as environmental standards or strong corporate governance. This differs from the less flexible approach of the collective initiatives, which often mandate adherence to specific human rights standards.

172. The sample includes five social investment indices: the Dow Jones Sustainability World Index (DJSI), the Financial Times Stock Exchange 4 Good Index (FTSE4 Good), the Calvert Social Index, the Ethibel Sustainability Index Global, and the Domini Social Equity

³⁷ "Rising to the Challenge of UN Principles," *International Financial Law Review*, Supplement, Corporate Governance 2006, available at <http://www.iflr.com/?Page=17&ISS=22686&SID=656617>.

³⁸ See *Introduction to Socially Responsible Investing*, Social Investment Forum, available at <http://www.socialinvest.org/Areas/SRIGuide>.

Index.³⁹ These particular indices were selected because they are well-known and commonly used by the SRI community of investors. One SRI institution may maintain several SRI indices for different regions and sectors.

173. The results from the SRIs are similar to those of the company survey and collective initiatives. Labor rights receive more mention than other areas of human rights. Freedom of association, the right to organize and participate in collective bargaining, the principle of non-discrimination in the workplace, and the right to a safe and healthy work environment receive particularly strong support, followed by the prohibition of child labor and forced labor and the right to a minimum wage. The right to family life appears quite frequently in the SRI criteria. In the area of social, political, economic, social, and cultural rights, the SRIs reflect greater concern for indigenous rights to participate in cultural life and the benefits of scientific progress and the right to development compared to the results of the company and collective initiative surveys.

174. The following is a brief description of the indices:

- **The Calvert Social Index** was established in June 2000: The Calvert Social Index is a broad-based rigorously constructed benchmark for measuring the performance of large-cap and mid-cap US-based socially responsible companies. Calvert starts by taking the 1,000 largest companies in the US, representing stocks listed on the New York Stock Exchange and NASDAQ-AMEX. As of September 2006, the Calvert Social Index encompassed 641 large, US-based socially responsible companies.⁴⁰ The Calvert Social Index Fund uses a replication index method, investing in each stock in the Index in about the same proportion as represented in the Index itself. The Calvert Social Index Fund includes exclusionary criteria to automatically reject certain sectors, such as companies substantially involved in the production of alcohol, tobacco, gambling operations, and weapons.⁴¹ The Calvert Social Index Fund conducts a full social audit of the company based on: governance

³⁹ The analysis in this report considers the criteria used by a particular index company. It does not distinguish between the different indices created by one company. For example, Dow Jones has devised the Dow Jones Sustainability World Index and the Dow Jones Sustainability North America Index. While companies generally use the same criteria for their indices, if there were a right considered by one index and not the other, that right would still be counted in this report.

⁴⁰ Calvert Social Index Fund Fact Sheet, September 2006.

⁴¹ KLD (the company that devised Domini's investment screens) defines an exclusionary screen as: "A social or environmental criterion that, if not satisfied, eliminates companies for consideration for an investment universe."

and ethics, the environment, workplace conditions, community relations, product safety and impact, human rights, and indigenous peoples' rights.⁴² A company must meet Calvert's minimum criteria in each of these areas to be eligible for investment by Calvert's social funds.⁴³

- **The Domini Social Equity Index** (1991) is made up of the stocks of 400 companies that are selected using social and environmental criteria. KLD Research & Analytics, Inc. developed the screens for the index. The index first screens out companies with significant direct revenues from tobacco, alcohol, or the operation of gambling institutions, and companies with significant direct revenues from or ownership of nuclear power plants. Domini then uses qualitative screens to identify companies with positive profiles, considering performance in the areas of community, diversity, employee, relations, environment, human rights, and product safety and usefulness. Poor performance in one of these realms does not necessarily prohibit investment if the company scores well in other qualitative screening areas.⁴⁴
- **The Dow Jones Sustainability Indices** (1999) include the leading sustainability-driven companies worldwide. Dow Jones, STOXX Limited and SAM Group work together to devise a series of indices, which are based on economic, environmental and social criteria. The Dow Jones Sustainability Indices (DJSI) currently comprise global, European, Eurozone, North American and US indices. The number of companies included varies by index. DJSI does not use pre-determined exclusionary screens for any sectors. It does use a series of screens that include economic, environmental, and social criteria. The social criteria encompass a number of human rights standards.⁴⁵
- **The Ethibel Sustainability Index** (2002) consists of 162 companies that meet Ethibel's sustainability criteria. The Ethibel Sustainability Index (ESI) is comprised of four regional indexes: ESI Global, ESI Americas, ESI Europe, and ESI Asia Pacific. Ethibel does not use any exclusionary screens. Instead, Ethibel uses a "best of class" approach, which means that it selects companies in a sector or region that

⁴² KLD defines a social screen as: "An ethical, social or environmental criterion applied in the investment decision-making process."

⁴³ Information about the Calvert Social Index is drawn from the Calvert homepage and related company links, available at <http://www.calvert.com/>.

⁴⁴ Information about the Domini index is drawn from the Domini homepage and related company sites, available at <http://www.domini.com>.

⁴⁵ Information about the DJSI Indices is drawn from the DJSI homepage and related company links, available at <http://www.sustainability-indexes.com>.

best meet its criteria; a company is selected if it performs well compared to its peers.⁴⁶ Ethibel considers a company's internal and external environmental and ethical policies.⁴⁷

- **The FTSE4Good Index** (2001) is a stock market index. It measures the performance of companies that meet globally recognized corporate responsibility standards and thereby facilitates investment in those companies. FTSE4Good divides the FTSE4Good Index into several more benchmark indices covering the globe, Europe, the US, Japan, and the UK. FTSE4Good utilizes exclusionary screens to avoid producers of tobacco, nuclear weapons or whole weapons systems manufacturers, owners and operators of nuclear power plants, and companies involved in extraction and processing of uranium. Then FTSE4Good uses social screens to identify companies with positive social, environmental, human rights, supply chain, and anti-bribery practices.⁴⁸

A. Labour Rights

175. All five indices consider freedom of association, the right to organize and participate in collective bargaining, the principle of non-discrimination in the workplace, the right to a safe and healthy work environment, and the right to family life. The prohibition of child labor and forced labor, the right to a minimum wage, and equality at work receive support from four indices. Three indices address the right to rest and leisure. Two indices consider the right to equal remuneration for equal work. The right to work, including vocational training, receives limited support from all five indices in the context of employee training and staff development.

176. The recognition of labor rights generally follows the pattern that the company survey and collective initiatives portrayed. However, the right to family life receives especially high consideration from the SRI indices compared to the collective initiatives and companies.

Nondiscrimination

177. All five indices consider *nondiscrimination* when rating companies. DJSI, FTSE4Good, and Ethibel look for the existence of company policies or performance indicators that enforce the

⁴⁶ KLD defines best of class as follows: "An approach to constructing screened portfolios which permits inclusion of companies on the basis of their records as the best in their industries. Its purpose is to gain diversification or to minimize beta in comparison to an unscreened index. This technique necessarily involves inclusion of companies that social investors would otherwise exclude."

⁴⁷ Information about Ethibel is drawn from the Ethibel homepage and related company links, available at <http://www.ethibel.org>.

⁴⁸ Information about the FTSE4Good Index comes from the FTSE4Good homepage and related company links, available at http://www.ftse.com/Indices/FTSE4Good_Index_Series/index.jsp.

right. Calvert and Domini use a different approach, looking not only for policies but for positive evidence of nondiscrimination such as women employed in upper management positions. For example, Calvert also analyzes issues in nondiscrimination such as pay, promotion, tenure, benefits and training.⁴⁹

Right to a Safe Work Environment

178. All five indices recognize the *right to a safe work environment*. Most measure this through the existence of policies, programs, and performance, such as accident rates. DJSI uses compliance with the ILO's Safe Work code of practice as a measuring tool. The other four look for actual evidence of good workplace safety practices, such as accident rates. Calvert also considers company standards and policies to address workplace violence.

Freedom of Association, Right to Collective Bargaining

179. All five indices consider *freedom of association* and the *right to organize and participate in collective bargaining*. DJSI and Calvert look at whether the company allows association and collective bargaining as defined by the ILO, while FTSE4Good requires "freedom of association and collective bargaining" but does not define them. Ethibel, Domini, and Calvert also consider the quality of the company's relationship with unions. For example, for U.S. companies with union representation, Calvert avoids companies with egregious National Labor Relations Board (NLRB) determinations or a pattern of anti-union practices. Ethibel looks at "the degree to which the employee/trade union(s) representatives are recognized as a dialogue partner" and the "presence of formal consultation bodies."

Right to Work

180. The provision of vocational training may not indicate a purposeful recognition of the *right to work*. All five indices narrowly support the right to work as it pertains to provision of vocational training and employee development. However, only three indices (DJSI, Ethibel, and Domini) employ broader criteria that can be seen as supporting the right to work. DJSI considers the extent to which the company has laid off workers. Ethibel evaluates "the extent to which the company creates and maintains employment." Domini once looked at whether a company laid off its workers, but, in recognition of the current state of the manufacturing industries in the United States, currently considers "the best commitment management can now make is to invest in the education and training of its employees to assure their lifetime employability at one firm or another." Domini also prefers companies that invest in community-based groups who work to provide skills to welfare recipients.

Work/Life Balance

181. All five SRI indices (DJSI, FTSE4Good, Domini, Ethibel, and Calvert) look positively on policies that promote the *right to family life*. Calvert looks for family-friendly programs. DJSI, FTSE4Good and Domini specifically mention maternity and paternity leave. FTSE4Good

⁴⁹ Calvert Issue Brief on Workplace Practices, company website, December 4, 2006.

also favors companies with flexible working arrangements and family benefits, such as flexible working time, childcare support, job sharing, career breaks, or maternity or paternity pay beyond the legal requirements. Ethibel appears to support the right to family life through a broad statement that it considers whether job flexibility “takes into account the needs and expectations of the employees.” Domini also screens for whether the company supports “programs and activities aimed at single parent or dual-career families.”

Abolition of Forced and Child Labour

182. Four out of the five indices (Calvert, Domini, DJSI, FTSE4Good) consider the *prohibitions on forced and child labor* to some degree. Calvert states that “companies that use child labor or forced labor, discriminate against certain employees, repress independent trade unions, abuse the rights of indigenous peoples, or fail to provide safe and healthy work environments are essentially violating internationally recognized basic human rights” and avoids including them. Other indices are less explicit. Domini notes that “stories of child labor, prison or bonded labor, and abusive working conditions have horrified the American public... Given the concern of social investors about the issue, [Domini] has sought to provide information on controversies when available.” Domini then notes that, due to the difficulty in obtaining consistent data, Domini more often addresses these issues through shareholder advocacy or other channels. With respect to company supply chains, FTSE4Good looks for a policy or code clearly based on the ILO Conventions on Forced and Child Labor, while Calvert requires supplier codes of conduct that include prohibitions on forced and child labor as minimum standards for approving investments in certain industries, such as apparel and footwear manufacturers.

Right to Minimum Wage, Including Decent Living

183. Four indices (Ethibel, Calvert, Domini, FTSE4Good) support the *right to a minimum wage*. Ethibel, Calvert, and Domini look for sustainable or “fair” wages. Additionally, FTSE4Good queries whether a company’s supply chain meets the ILO standards for wages.

B. Non-Labour Rights

184. *Index recognition of non-labor rights indicates some contrasts to the collective initiatives and company surveys. Three indices consider the right to self-determination, right to participate in cultural life and the benefits of scientific progress, the right to life, liberty, and security of person, and the right to be free from torture or cruel, inhuman, or degrading treatment. Three indices also scrutinize company contributions to the right to development, preferring companies that contribute to the communities in which the company works, and even suggesting that it rises to the level of a duty. A smaller number of initiatives support economic and social rights, including the right to food, clothing, and housing, the right to health, and the right to social security. Two initiatives refer to the right to a remedy and the right to freedom of information and expression.*

185. *The right to security of the person receives significant support, in a manner similar to the collective initiatives. This results from screening based on the right to be free from torture, and cruel, inhuman, or degrading treatment. In contrast to the collective initiatives, the SRI indices do not discuss the right to freedom of movement.*

186. *The SRI indices place slightly more emphasis on the right to self-determination and the right to the benefits of scientific progress and authorial interests than the collective initiatives. They also highlight these rights significantly more than the company survey. The SRI indices show particular support for the rights of indigenous peoples. The SRI indices also use stronger language pertaining to the right to development and the duties of corporations to contribute to the communities in which they operate. Well-designed philanthropic programs that serve the development needs of the community also receive particular attention.*

Security of the Person

187. Three indices (DJSI, Calvert, Domini) scrutinize whether a company protects its workforce from *torture and cruel, inhuman or degrading treatment*. The language used to address the issue varies, but all of the indices generally look for freedom from abuse. DJSI looks for a policy on the security of staff. Calvert encourages companies to develop standards to address workplace violence. Less directly, Domini mentions employee harassment and abuse as a labor concern. As these policies are intended to protect the physical integrity of individuals, they also implicate the *right to life, liberty, and security of the person*.

Other Civil/Political and Economic/Social Rights

The Right to Development

188. *Three indices (Domini, Ethibel, Calvert) use language pertinent to the right to development. Domini states that “corporations have an obligation to give back to the communities from which they draw their resources, both human and natural.” Similarly, Ethibel considers whether companies “contribute to the realisation of sustainable trade relations and to the local socio-economic development.” Calvert and Domini articulate an expectation that corporations contribute to disadvantaged segments of society. Calvert claims that “responsible corporate citizens make significant contributions to the quality of life of local communities” and it prefers “firms with innovative and well-developed programs that target often-neglected communities, including low-income and minority populations.” On a related note, Domini “makes a special effort to invest in financial institutions that channel funds to those not adequately served by the mainstream financial community, and to serve those without adequate access to capital, financial services, and economic education.”*

Right to Self-determination, Including Indigenous Peoples’ Right to Informed Consent

189. *Three indices (Calvert, Domini, FTSE4Good) screen based on company recognition of the right to self-determination, including indigenous peoples’ right to informed consent. Calvert “seeks to invest in companies that...adopt and implement guidelines that...may encompass, among others, respecting the human rights and self-determination of indigenous peoples and securing prior informed consent in any transaction, including the acquisition and use of indigenous peoples’ property.” According to Domini, “The indigenous peoples’ social screen seeks to distinguish companies that respect the land, sovereignty, culture, human rights, and intellectual property of indigenous peoples.” Domini defines a responsible process of consultation to include informed prior consent. FTSE4Good articulates a more general criterion of “a stated commitment to respecting indigenous peoples’ rights.”*

Right to Participate in Cultural Life, the Benefits of Scientific Progress, and Protection of Authorial Interests

190. Three indices (Calvert, DJSI, Domini) survey whether a company respects the rights of host countries or indigenous populations to benefit from scientific progress and protection of authorial interests. The indices are more specific about the duty to protect the intellectual and cultural property of indigenous peoples than either the companies or the collective initiatives. In keeping with their policies on indigenous peoples' rights, Calvert and Domini screen based on whether companies expropriate the intellectual property of indigenous peoples, which is often knowledge that is linked to their cultural practices. Calvert notes, "Companies fail Calvert's indigenous peoples' rights criteria because they...extract biological resources without sharing the economic benefits with resident indigenous peoples." DJSI require a company to "indicate how your company shares the benefits of accessing genetic resources with the host country."

Right to Physical and Mental Health

191. Three indices (DJSI, Calvert, Domini) refer to the *right to health*, although the articulation of the right is limited in scope and inconsistent in application between companies. For example, DJSI considers whether the company gives medical care for employee families, but does not extend the duty to provide medical care to the broader community. Calvert analyzes the degree to which a company's line of business improves human health on society, looking for "companies that produce or market goods and services that enhance the health or quality of life for consumers." Domini tries to avoid investing in companies involved in a major product safety controversy, which it defines as "one in which products pose widespread risks to human health."

Right to Social Security

192. Two indices (Domini and DJSI) consider whether a company has contributed to the *right to social security* in the form of pensions or retirement benefits. Domini considers retirement programs obligatory: "if a company is not adequately providing for its employees' retirement, it is not fulfilling one of its basic obligations to society."

Right to Education

193. Only one index (Domini) favors companies that invest in *education*, although it is not expressed as a corporate duty. Domini states: "We seek to invest in companies that have exceptionally positive community relations programs, particularly those that...support systematic public school education."

Right to Adequate Food, Clothing and Housing

194. Domini screens favorably if a company helps provide *housing*. Domini notes: "Affordable housing is one of the most basic needs that a society can provide for its citizens." It also favors companies that invest in affordable housing. Calvert considers whether companies provide or support affordable housing under the community relations screen.

Right to Equal Recognition and Protection under Law, Including Right to Effective National Remedies

195. One index (Domini) seems to support *effective national remedies* that target human rights violations. In the US Supreme Court case *Sosa v. Alvarez-Machain*, Domini signed an *amicus* brief in support of the Alien Torts Claims Act, which Domini terms “an important tool for holding human rights violators accountable.” As part of its social analysis of companies, Calvert also closely reviews national remedies that target human rights violations, such as ATCA.

Right to Hold Opinions, Freedom of Information and Expression

196. Domini actively supports the right to *freedom of information and expression*. Domini issued a joint statement of investors calling on Internet businesses to respect freedom of expression. Domini does not explicitly state that it screens on this basis, but the joint statement indicates that the right is a concern for the index. Similarly, Calvert has engaged in extensive advocacy related to company impact on the right to free speech on the internet, especially in China.

C. Accountability and External Engagement

Accountability

Reporting

197. Four of the indices (Calvert, DJSI, Ethibel, FTSE4Good) consider whether a company reports on its human rights policies and practices and whether such reports are made public. DJSI also looks for an internal, confidential reporting mechanism for employees to comment on labor or human rights-related issues. As discussed below, Calvert prefers companies who report according to the Global Reporting Initiative (GRI).

Supply Chain Management

198. All five indices address human rights conditions in supply chains, although FTSE4Good limits scrutiny to specific types of companies. Four seem to consider supply chain and supplier management regardless of the industry. For example, Calvert “seeks to invest in companies that create and implement codes of conduct that cover their entire scope of operations.” Similarly, Ethibel analyzes the degree to which a company makes efforts “to avoid violations of international conventions on human and labour rights by its suppliers and subcontractors.” However, FTSE4Good limits scrutiny of supply chain practices to “high risk” companies. FTSE4Good also assumes that if a company has signed onto the FLA, ETI, or SA8000, its supply chain meets the necessary labor standards. Like the other issues involved in this report, supply chain management is not an absolute requirement, but instead one factor considered when selecting companies.

External Engagement

Community Consultations, Including Impact Assessments

199. All five indices review a company's community consultations or relations. Four (DJSI, Domini, FTSE4Good, and Calvert) require a human rights risk assessment or prior community permission for activities. DJSI and FTSE4Good both require "feedback from stakeholders" (DJSI) or "positive relationships" (FTSE4Good) with communities, along with a pre-project human rights impact assessment. Domini discusses the need for quality consultation with indigenous communities, which includes prior informed consent to corporate activities. Ethibel only address community relations, not risk or impact assessments. Ethibel considers whether a company is "freely engaged in stakeholder dialogue," and Calvert looks for companies with "solid relationships with the local community in which they operate." In addition, Calvert's indigenous peoples' and human rights criteria include strong community consultation provisions.

Philanthropic Programs

200. All five indices (DJSI, Domini, Ethibel, FTSE4Good, and Calvert) evaluate company philanthropic giving to the community. Domini's language raises it to the level of a duty: "for-profit corps have a particular opportunity and obligation to give back to the communities that support them." Ethibel, FTSE4Good, and DJSI analyze the amount and type of corporate giving. FTSE4Good looks for companies that make charitable donations in excess of £50,000. Two indices examine the quality of the philanthropic programs. For example, Ethibel considers the societal impact of the projects supported, while DJSI queries whether a company has a system in place to "systematically measure the impact" of its contributions in order to further strengthen its philanthropic/social investment strategy. Calvert's community relations criteria includes an assessment of philanthropic programs, as well as innovative giving programs that help to support nonprofit organizations, provide financial support for disadvantaged communities, and employee volunteer programs.

D. Anticorruption

201. *Three indices (Calvert, DJSI, FTSE4Good) analyze company anti-bribery and anticorruption policies or practices. FTSE4Good and DJSI scrutinize whether a company has relevant policies in place. Calvert looks at the company's policies, programs, and actual compliance records with respect to bribery and corruption.*

E. Sources

ILO

202. The SRI indices refer most frequently to the International Labor Organization (ILO) Conventions, mentioned by all five indices.

UDHR

203. Four SRI indices (Calvert, DJSI, Domini, FTSE4Good) mention the Universal Declaration of Human Rights (UDHR).

OECD Guidelines

204. Three SRI Indices (DJSI, Domini, FTSE4Good) mention the OECD Guidelines for Multinational Enterprises. Domini uses the ICCPR to define “self-determination.” The SRI indices draw on these sources either by querying whether a company has voiced support for an international instrument, or by utilizing the standards set forth in the instrument as a measuring tool for companies. Following the first approach, FTSE4Good looks for company endorsements of the ILO Core Conventions, while DJSI favors recognition of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. Calvert follows the second approach. Calvert’s workplace criteria are based on “internationally recognized rights, as defined in the basic conventions of the International Labor Organization.”

Other Voluntary Initiatives

205. Other sources appear occasionally. Calvert favors companies that report in accordance with the Global Reporting Initiative (GRI) and considers whether companies are active in FLA or SA8000. FTSE4Good considers membership in the GC as a positive indicator for labor standards. FTSE4Good also assumes signatories to the Voluntary Principles on Security and Human Rights have sufficient policies regarding security staff. FTSE4Good uses membership in voluntary initiatives such as the FLA, ETI, and SA8000 as a means to assume that a particular company’s supply chain complies with ILO core labor standards. FTSE4Good also used the FLA, ETI, and SA8000 to develop its criteria for supply chains. This suggests that the voluntary initiatives are taken as a serious indicator of compliance by some SRI indices.

Summary - Part III

206. The SRI indices reflect many of the same human rights concerns as the collective initiatives and individual companies. Once more, labor rights receive significant support, particularly freedom of association, the right to organize and participate in collective bargaining, the principle of non-discrimination in the workplace, the right to a safe and healthy work environment, the prohibition of child labor and forced labor, the right to a minimum wage, equality at work, and the right to family life.

207. In the area of civil and political rights, three indices consider the right to self-determination, the right to participate in cultural life and the benefits of scientific progress, the right to life, liberty, and security of person, and the right to be free from torture or cruel, inhuman, or degrading treatment. Three indices scrutinize company contributions to the right to development, preferring companies that contribute to the communities in which the company operates, and even suggesting that this rises to the level of a moral duty.

208. Some of the SRI indices also equate membership in voluntary initiatives with positive human rights behavior. Two of the SRI indices prefer membership in voluntary initiatives such as the FLA or the GC, and one assumes a company’s supply chain is in compliance if it is a member of certain voluntary collective initiatives. In sum, the SRI indices follow the same general pattern as the companies and collective initiatives, but with a greater emphasis on indigenous peoples and development.

IV. CONCLUSION

209. This report has examined the human rights policies and management practices of a cross-section of business entities: companies from all regions of the world, collective initiatives, and SRI indices. Business recognition of human rights is indicative of what the business community itself believes society expects with regard to such standards. Any overall assessment needs to depart from the baseline fact that only a few years ago the present report could not have been written because there would have been little to write about. Human rights are a fluid and rapidly changing domain of corporate activity. This also may account for the strong regional differences we found: European and North American firms clearly are “in the lead” in most respects, with firms based in emerging market countries lagging behind - but globally competitive emerging market firms may yet turn out to lag merely temporarily. Significant sectoral differences exist even among North American and European firms, and this pattern of variation is likely to hold across other regions as well.

210. Widespread expression of human rights norms within company policies and reports suggests that business is responding to public expectations for it to respect human rights. However, this sense of obligation is not expressed consistently. The content of the human rights recognized is often unclear and can lead to very different levels of specificity, commitment, and accountability. It may be appropriate that companies do not address some human rights in detail because they are too far removed from situations in which they could affect those rights. However, other omissions are less explicable in those terms. This uneven pattern of uptake suggests that companies may be unsure which human rights they should recognize, and of the meaning of certain rights. Moreover, while there is some congruence between the obligations expressed by individual companies versus collective initiatives and SRI indices, substantial differences also exist, again possibly suggesting confusion regarding corporate responsibility for human rights.

211. Companies, collective initiatives, and SRI indices all show the highest recognition levels for labor rights - which, apart from criminal law, generally are also the most firmly ensconced in international and national law. The most frequently recognized labor rights include the right to non-discriminatory treatment, the right to a safe and healthy work environment, freedom of association and the right to collective bargaining, the prohibition on forced labor, and the prohibition on child labor.

212. Non-labor rights receive significantly less attention. For non-labor rights, the recognition rate by companies is lower than for the collective initiatives and SRI indices. Non-labor rights that are recognized include the right to privacy; the right to security of the person, including freedom from torture and cruel, inhuman, or degrading treatment; freedom of movement; indigenous rights, including the right to cultural life, the benefits of scientific progress, and protection of authorial interests; and minority rights to culture. The recognition of these latter rights varies significantly, however, depending on whether one looks at the companies, collective initiatives, or SRI indices. Some fundamental rights - the right to peaceful assembly, for example, which might include protestors at the gates of a company that has been unresponsive to community concerns - receive virtually no recognition from any company, collective initiative, or SRI indices.

213. Accountability and external engagement policies also vary greatly. The research on company practices found extensive use of reporting, but the form and detail of the reporting is highly inconsistent. While most companies in the sample report on human rights in some fashion, many of the reports do not clearly articulate identifiable and measurable standards. In some instances, companies follow their own reporting format; in others they use international reporting standards, such as the GRI. Sometimes, human rights reporting is integrated into company annual reports, while in other cases it stands alone as a separate document. Needless to say, the reporting form is less important than its substance, but some forms of reporting simply fail to link company policy commitments meaningfully to identifiable company practices.

214. The extent to which companies hold their supply chains to human rights standards and the mechanisms they use to do so also differ significantly - in the rights addressed, the level of commitment expressed, and the processes used to verify that those rights are not violated. Some companies insist that it is essential for them to enforce certain core rights in their supply chain; others express their commitments in far looser terms. The extent of company obligations to respect and consult with local communities, especially indigenous populations, also ranges widely, from no commitment, to a commitment to dialogue, to a commitment to dialogue based on formal impact assessments. The extractive sector, collective initiatives, and SRI indices more often address the issue of community consultation, although even they present differing views on the role of dialogue and informed consent.

215. Two main conclusions emerge from these patterns of practice.

216. First, while companies clearly recognize some responsibility for the human rights impact of their operations, our study finds a widespread lack of certainty regarding which rights pertain to corporations. Social pressure and market mechanisms are sending signals to companies, but they are insufficiently precise and consistent. Some companies will always want to do more than others, but at the moment, beyond the domain of labor rights, there appears to be only limited common understanding of the range of human rights that apply to companies.

217. Second, beyond workplace issues companies similarly lack shared understandings of any hierarchy of duties they may have and to whom they may have them. Many of the policies they have adopted are phrased in language that makes it difficult for the company itself, let alone the public, to measure performance against commitments. As a result, companies committed to human rights themselves often are the losers. They may be unable adequately to monitor their performance, defeating a primary purpose of their policy; and they may get little external credit for admirable things they do.

218. In sum, business recognition of human rights has increased significantly in recent years - and this study shows that progress is not limited merely to a handful of leading global firms. However, greater efforts are required to clarify the expected business role and, of course, to expand rapidly the pool of companies and collective initiatives embracing commitments to human rights.
