

# Analysis Criterion

# Human Rights

Storebrand Sustainability Team



**Storebrand aims to invest in corporations that contribute actively to sustainable development. We believe such practices – when integrated into core business – will be financially rewarded. Furthermore, we have implemented a standard for all investments under management by the Group; Storebrand standard. This standard leads to certain corporations being excluded from investment. Among them are companies involved in serious violations of human rights.**

## Definition

Human rights are the inalienable, basic and equal rights of every individual, and are based on the recognition of the inherent dignity and worth of the human person.

## Background

The UN Universal Declaration of Human Rights (UNDHR) was adopted in 1948. The signing of this declaration is a prerequisite for states' membership in the UN. Several conventions have been established with the UNDHR as its basis. These human rights conventions together with the labour rights conventions of the International Labour Organization (ILO), that are considered to be the core ones, are listed below in the next chapter. These conventions are the most widely accepted human rights standards since these have been ratified by a large number of states.

Legally, only states are directly bound by the UDHR and the conventions these have ratified. Corporations are however *indirectly* bound, in the sense that these have to adhere to the legislation that emanates from the conventions. Corporations can however also be considered accessory to violations of the conventions. Hence, when evaluating allegations of human and labour rights violations by a corporation, Storebrand considers the degree of complicity.

For Storebrand as an investor, it is of interest that corporations act responsibly and not in a way that causes damage to operations or reputation, results in legal action, or diminishes future business opportunities.

Corporations have the greatest degree of control - and subsequently responsibility - within their own operations. This responsibility not only covers the company's employees, but also includes members of communities that are affected by its operations - the stakeholders.

Albeit not legally binding, it is Storebrand's conviction that corporations have an obligation to uphold and promote human rights in their operations in every country in which they conduct business. In many developing countries human rights and labour rights are neither observed nor safeguarded. Either proper legislation is non-existent, or the government does not have the resources or incentive to uphold and enforce these

rights. Some corporations take advantage of this situation to reduce costs, by operating on the edge, or even in violation, of core labour rights. They pay less than minimum wage, apply forced overtime, long workdays or engage in even more serious violations such as employing child labour or slave labour. Storebrand does not wish to invest in corporations that are doing business on such terms.

Corporate violations of human rights occur in developed countries as well - although they usually take a different form, are not as visible and are difficult to prove. Discriminatory practices<sup>1</sup> in situations such as hiring, employment and promotions is clearly a problem, but hard to trace and prove. There are also corporations denying their workers the right to organize and collectively bargain.

Communities are also affected by company behaviour. For example, companies can be involved in projects that necessitate relocation of communities during land acquisition. Some communities are especially dependent on forest and territories for their own survival. These can be indigenous peoples or self-identified people who maintain customary relationships with their lands and natural resources. This is specially the case in rural Africa and Asia. These type of projects often raise questions regarding the proper application of free prior informed consent (FPIC), guarantying access to water and other resources for displaced communities, adequate compensation and/or the protection and respect of indigenous peoples and their cultures among others.

Company products can also have a negative effect on health and life. Therefore, Storebrand also assesses the most serious product stewardship cases where the normal use of a company product may cause injury or death.

In addition to controlling their own business conduct and the impact of their product, corporations often have some degree of influence over their suppliers, contractors, sub-contractors, and other business partners. Corporations should use this opportunity to insist that these groups also meet human rights standards and if possible by including these requirements in their contracts with suppliers and subcontractors. The prevailing trend of moving supply chains and outsourcing business units to developing economies further increases the importance of imposing such requirements on suppliers.

Furthermore, problems may arise in joint ventures with local corporations or governments, which do not observe human rights. The use of security forces to protect a corporation in areas of unrest is another key issue. For more information regarding Storebrand assessment of corporate behaviour in war and conflict zones, please see our International law criterion.

## International law and conventions

Storebrand's screening for violations of human rights is based on the UNDHR, made operational through core UN and ILO conventions. The OECD Guidelines for Multinational Enterprises, the UN Global Compact and the Guiding Principles on Business and Human Rights implementing the UN "Protect, Respect and Remedy" Framework, provide additional standards on which to base the evaluation of corporations' human rights performance.

The UNDHR is in itself not legally binding, it is however by many considered to be customary law. As mentioned above, the UNDHR also forms the basis for many conventions and covenants that are part of international law, such as the convention on the Rights of the child (1989) (see table below).

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<sup>1</sup> For example because of gender, race or religion.

ILO is a UN specialized agency and its mandate is to formulate international labour standards in the form of conventions and recommendations thereby setting minimum standards of basic labour rights. Fundamental ILO conventions include freedom of association and collective bargaining, the elimination of all forms of forced labour, effective abolition of child labour and the elimination of discrimination in employment and occupation. When ratified by an ILO member state, the conventions shall be incorporated into the national legal framework; and consequently, apply to all companies operating in that state.

**UN and ILO conventions basic to the Human Rights Criterion**

UN conventions/declarations	ILO core conventions	Other central ILO conventions
-Universal Declaration of Human Rights -Covenant on Civil and Political Rights -International Covenant on Economic, Social and Cultural Rights -Convention on the Rights of the Child -Convention to Eliminate All Forms of Discrimination Against Women -Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment -Declaration on the Rights of Indigenous Peoples	No. 29 Forced Labour No. 87 Freedom of Association and the Right to Organize No. 98 Right to Organize and Collective Bargaining No. 100 Equal Remuneration No. 105 Abolition of Forced Labour No. 111 Discrimination No. 138 Minimum Age No. 182 Worst Forms of Child Labour	No. 1, 30, 47 Hours of Work No. 95 Protection of Wages No. 131 Minimum Wage Fixing No. 155 Occupational Health and Safety No. 169 Indigenous and Tribal Peoples

The OECD Guidelines is a multilaterally endorsed code of conduct for multinational enterprises that governments are committed to promoting. For corporations, the Guidelines are voluntary principles and standards for responsible business conduct.

The UN Global Compact is a voluntary initiative created by the UN. It states ten principles dealing with human rights, environmental issues, labour rights and corruption that company members are expected to follow. Global Compact has lately elaborated a company self-assessment tool to ensure compliance with its principles. The tool can be used by companies or investors, for example, as basic requirements for product stewardship under the human rights category. Storebrand is a member of the Global Compact.

Finally, the UN Guiding Principles on Business and Human Rights (UNGPs) implementing the UN "Protect, Respect and Remedy" Framework are the culmination of six years of work by the UN Special Representative of the Secretary General on the issue of human rights and transnational corporations, John Ruggie. (A/HRC/17/31) The Guiding Principles were endorsed by the UN Human Rights Council in June 2011 and are designed to provide -for the first time- a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. The Council's endorsement establishes the Guiding Principles as the authoritative global reference point for business and human rights.

Storebrand incorporates these Guiding Principles in its engagement with companies as well as in its evaluation of corporate performance and follows the further development of the Principles by the Working Group on business & human rights.

Storebrand also follows with great interest the progress made in the elaboration of an international legally binding instrument on transnational corporations and other business enterprises with respect to human rights. This is an interesting initiative since a binding instrument can fill in the legal gap between what is recommended by the UNGPs and what is not yet required under domestic and international law, since the UNGPs are not binding in nature.

## Scope

Storebrand will not invest in companies involved in serious violations of human rights. In the event that subsidiaries of a company are involved in such cases, but are not publically listed, the closest listed company above the subsidiary in the hierarchy, with a controlling interest, is excluded. In the event that a subsidiary involved is listed, the parent company is also excluded if it has a controlling interest in the subsidiary. If a parent company is involved, listed subsidiaries are only excluded if they are involved in the same unacceptable activities. Storebrand will also consider exclusion in cases where suppliers or other business partners (such as joint ventures), systematically violate the criterion. Storebrand will not exclude companies based on operations in specific countries, but will assess the manner in which they run their business in the countries they operate in.

## References

Office of the High Commissioner for Human Rights  
<http://www.ohchr.org/english/>

UN – Business & Human Rights  
<http://www2.ohchr.org/english/issues/globalization/business/index.htm>

UN – International Law  
<http://www2.ohchr.org/english/law/>

About the ILO  
[http://www.ilo.org/global/About\\_the\\_ILO/lang--en/index.htm](http://www.ilo.org/global/About_the_ILO/lang--en/index.htm)

ILO – Database of International Labour Standards  
<http://www.ilo.org/ilolex/english/convdisp1.htm>

OECD Guidelines for Multinational Enterprises  
[http://www.oecd.org/document/28/0,2340,en\\_2649\\_34889\\_2397532\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/28/0,2340,en_2649_34889_2397532_1_1_1_1,00.html)

UN Global Compact  
<http://www.unglobalcompact.org>

Global Reporting Initiative  
<http://www.globalreporting.org/Home>

Amnesty International UK. *Business and Human Rights*  
<http://www.amnesty.org.uk/content.asp?CategoryID=10112>

Business and Human Rights Resource Centre  
<http://www.business-humanrights.org/Home>

European Coalition for Corporate Justice  
<http://www.corporatejustice.org/>

Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3 28 February 2007)  
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