

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 across the Group – the Storebrand Standard – that leads to certain corporations being excluded from investment, including those 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 (UDHR) was adopted in 1948. The signing of this declaration is a prerequisite for states' membership of the UN. Several conventions have been established with the UDHR as its basis. These human rights conventions, together with the labour rights conventions of the International Labour Organisation (ILO), are the most widely accepted human rights standards. The specific conventions are listed in the table below.

Legally, only states are directly bound by the UDHR and the conventions that they have ratified. Corporations however, are *indirectly* bound in the sense that they have to adhere to the legislation that emanates from the conventions and they can also be considered an accessory to violations that breach them. Therefore, 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 therefore responsibility, for their own operations. This responsibility not only covers a company's employees, but also members of communities and other stakeholders that are affected by its operations.

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 incentives 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 the minimum wage, apply forced overtime, long workdays or engage in even more serious violations such as child labour, slave labour or even human trafficking by using abusive and fraudulent recruitment practices. Storebrand does not wish to invest in companies that do business on such terms.

Corporate violations of human rights also occur in developed countries, although they usually take a different form and are not as visible or are difficult to prove. Discriminatory practices<sup>1</sup> in hiring, employment and promotion are clearly a problem, but hard to trace and prove. There are also corporations that deny their workers the right to collectively organise and 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 forests 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, which is often the case in rural Africa and Asia. This type of projects often raise questions regarding the proper application of free prior informed consent (FPIC), guaranteeing access to water and other resources for displaced communities, adequate compensation and/or the protection and respect of indigenous peoples and their cultures amongst other things.

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 company products may cause injury or death.

In addition to controlling their own business conduct and the impact of their products, corporations often have some degree of influence over their suppliers, contractors, subcontractors, and other business partners. Corporations should use this opportunity to insist that these stakeholders also meet human rights standards and, if possible, include these requirements in their contracts with suppliers and sub-contractors. 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's 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 UDHR, 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 against which to base the evaluation of corporations' human rights performance.

Although the UDHR is not legally binding, it is considered by many to be customary law. As mentioned above, the UDHR 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 specialised UN 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 are 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 recently developed a company self-assessment tool to ensure compliance with its principles. The tool can be used by companies or investors, as a basic requirement 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), which implement the UN "Protect, Respect and Remedy" framework, were endorsed by the UN Human Rights Council in June 2011 and are designed to provide a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. They also require that companies establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted. The Council's endorsement establishes the UNGPs as the authoritative global reference point for business and human rights.

Storebrand incorporates the UNGPs in its engagement with companies as well as in its evaluation of corporate performance. Companies are expected to implement the UNGPs to its fullest from committing to respect human rights in policies, carrying out human rights due diligence and employing grievance mechanisms to remedy and redress negative impacts.

Storebrand also follows with great interest the progress being made in the development 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 the legal gap between what is recommended by the UNGPs and what is not yet required under domestic and international law, as 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 publicly 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 where they operate.

## 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) <http://daccess-ods.un.org/TMP/8644097.html>

Clapham, A. (2006) *Human Rights Obligations of Non-State Actors*. Oxford: Oxford University Press.

De Schutter, O. (ed.) (2006) *Transnational Corporations and Human Rights*. Oxford: Hart Publishing.

Mullerat, R. (ed.) (2005) *Corporate Social Responsibility*. The Hague: Kluwer

Sullivan, R. (2004) *Do companies have human rights responsibilities?* OneWorld, 2 April 2004.

<http://www.oneworld.net/article/view/82972/1>

**Sustainability data providers:** The main research used in these cases triggering an investigation by Storebrand's Sustainability team comes from Sustainalytics and ISS-Ethix.

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