

Shift

Putting Principles into Practice



Using Leverage in Business Relationships to Reduce Human Rights Risks

November 2013

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Shift

Shift is an independent, non-profit center for business and human rights practice. It is staffed by a team that was centrally involved in shaping and writing the UN Guiding Principles on Business and Human Rights, and is chaired by the author of the Guiding Principles, Professor John Ruggie.

Shift provides the expert knowledge and guidance for businesses and governments to put the UN Guiding Principles into practice. Based on lessons from this work, Shift develops public guidance materials to support improved practices for the respect and protection of human rights globally.

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I. Introduction

On October 31 and November 1 2013, Shift held the fourth in its series of workshops with companies participating in its Business Learning Program, co-hosted with the Corporate Social Responsibility Initiative of Harvard Kennedy School. The workshop focused on the concept of leverage in the context of the UN Guiding Principles on Business and Human Rights.

The concept of ‘leverage’ plays a key role for companies in meeting the corporate responsibility to respect human rights. The Commentary to Guiding Principle 19 states that leverage is considered to exist where the company has the ability to effect change in the wrongful practices of an entity that causes harm. In other words, **leverage is a company’s ability to influence the behavior of others.**

As global experience implementing the Guiding Principles continues to grow, there is an increasingly rich body of company experiences in relation to leverage: how companies create, build and use their leverage, across a broad range of business relationships – upstream with suppliers, downstream with customers and end-users, and horizontally with joint venture partners and government counterparts. Drawing on this experience, the workshop sought to generate both practical and creative ideas for companies on how to exercise leverage when they find themselves involved – or at risk of involvement – in adverse human rights impacts. The workshop operated under the Chatham House rule, and accordingly this

report aggregates some key ideas that contributed to or resulted from the discussions.

1. Leverage and the UN Guiding Principles

Leverage gets to the heart of what companies can realistically be expected to do in practice when faced with human rights challenges. Even when companies have a dominant or influential commercial position in a business relationship, there are many questions about how to identify and exercise the most effective forms of leverage. At the same time, every company – regardless of size, industry or geography – faces situations in which they do not have, or do not perceive, sufficient leverage to influence the behavior of others. This raises questions about what steps can be taken to create or increase leverage; what steps could have been taken earlier in the relationship to have created leverage; and

when and how to consider terminating a business relationship. As one participant noted, “the practice of leverage is critical if we are ever going to reach the scale and systematic impact that we need with regard to human rights respect.”

The practice of leverage is critical if we are ever going to reach the scale and systematic impact that we need with regard to human rights respect”

Workshop participant

The Guiding Principles set out the three ways in which companies can be involved with human rights impacts: cause, contribution and ‘linkage’. Each implies a different kind of responsibility, and leverage plays a different role in each case.

Cause: Where a company causes an adverse human rights impact, it should take the necessary steps to cease or prevent the impact, and remediate it. While addressing such impacts will frequently be within a company’s control, leverage may be relevant in certain instances, such as where a company is under pressure to take actions that would harm human rights, for example by a government or by the purchasing decisions of a buyer.

Contribute: Where a company contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution, and use its leverage to mitigate any remaining impact to the greatest extent possible. It should also take steps to ensure the remediation of any actual impact that has occurred.

Linkage: Where an adverse impact is neither caused nor contributed to by a com-

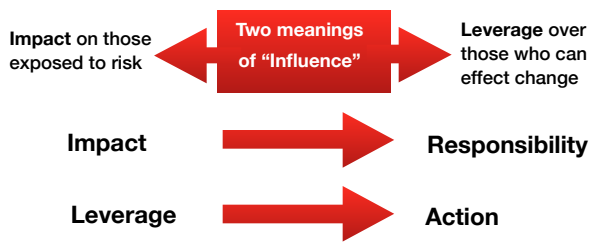
pany, but is nevertheless directly linked to its operations, products or services through a business relationship, the company has a forward-looking responsibility to avoid the impact continuing or recurring. The business relationship may be a direct one or with an entity more remote in the company’s value chain. In this ‘linkage’ situation, the company’s leverage over the entity concerned becomes a central factor in determining the appropriate action. If the company has leverage to prevent or mitigate the adverse impact, it should exercise it. If the company lacks leverage, it should seek to increase it, for example by offering capacity-building or other incentives, or collaborating with other actors. Where this proves impossible, it should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.

UNDERSTANDING IMPACT AND RESPONSIBILITY		
If we have...	...then under the Guiding Principles we should...	
...caused (or may cause) the harm...	...cease or prevent the action causing the harm...	...and remediate the harm.
...contributed to (or may contribute to) the harm...	...cease or prevent the action contributing to the harm; use leverage to mitigate the risk that any remaining impact continues or recursand contribute to remediation of the harm.
...identified a linkage between the harm and our operations, products or services, but no cause or contribution...	...use leverage to mitigate the risk of the impact continuing or recurring to the greatest extent possible.	

2. Distinguishing Responsibility from Leverage

Discussions during the workshop highlighted the importance of distinguishing between the:

- a) process of identifying what *responsibility* a company has with regard to a human rights impact, and
- b) use of *leverage* to address the impact.



Case studies used in the workshop emphasized that where these two discussions get confused, with responsibility being linked to leverage instead of impacts, this can lead to poor outcomes.

In one case, a company had identified that it had limited leverage in relation to one of its business relationships and deduced from that that it had no responsibility for human rights harms caused by the business concerned. A more rigorous analysis would have shown that a responsibility existed due to a 'linkage' between the impacts concerned and the company's services. This would then have created space for a constructive discussion of the realities of its limited leverage, as well as creative thinking about how it might increase its leverage. Instead, by confusing the issues, it found itself in a significant dispute over the question of its responsibility and its reputation was harmed as a result.

Conversely, another case showed a company that had deliberately separated these two discussions and found it beneficial for clear and consistent decision-making. The

company had actually established that it was *not* linked to a particular human rights impact as defined by the UN Guiding Principles. Ironically, that had helped remove that issue from discussions within the company and enabled the leadership to focus on what other reasons and opportunities it may have to help address what was a systemic challenge relevant to its wider operations. In the end, it did exercise leverage and with positive results. Interestingly, company staff felt that it was the ability to deal on a principled basis with the suggestion that they had a *responsibility* to exercise leverage, and to explain their position, that cleared the space for them to take action on different grounds. Otherwise, fears of setting an impossible precedent ("wherever we have leverage we are responsible for impacts, even when they are unconnected to our products") may have made this more difficult.

3. Leverage Over Whom, How and for what Purpose?

The workshop highlighted three questions that a company can ask itself when it is seeking to build and exercise leverage over an entity:

- 1) **Over whom** am I seeking to exercise leverage?
- 2) **How** could I exercise leverage?
- 3) **What purpose** could different forms of leverage achieve?

a. Over whom?

Discussions looked first at the range of business relationships through which a company might be at risk of involvement with a negative human rights impact. These were the actors over whom it might be seeking to exercise leverage. The principal relationships were identified as:

- Up-stream suppliers
- Joint venture or other 'horizontal' business partners
- Down-stream business customers, clients or end-users
- Government.

b. How?

These actors were then coupled with five categories addressing how a company could exercise leverage:

A. Traditional commercial leverage

- leverage that sits within the activities the company routinely undertakes in commercial relationships, such as contracting.

B. Broader business leverage

- leverage that a company can exercise on its own but through activities that are not routine or typical in commercial relationships, such as capacity-building.

C. Leverage together with business partners

- leverage created through collective action with other companies in or beyond the same industry.

D. Leverage through bilateral engagement

- leverage generated through engaging bilaterally and separately with one or more other actors, such as: government, business peers, an international organization, or a civil society organization.

E. Leverage through multi-stakeholder collaboration

- leverage generated through collaborative action – collectively with business peers, governments, international organizations and/or civil society organizations.

FIGURE 1: FIVE CATEGORIES FOR HOW A COMPANY CAN EXERCISE LEVERAGE

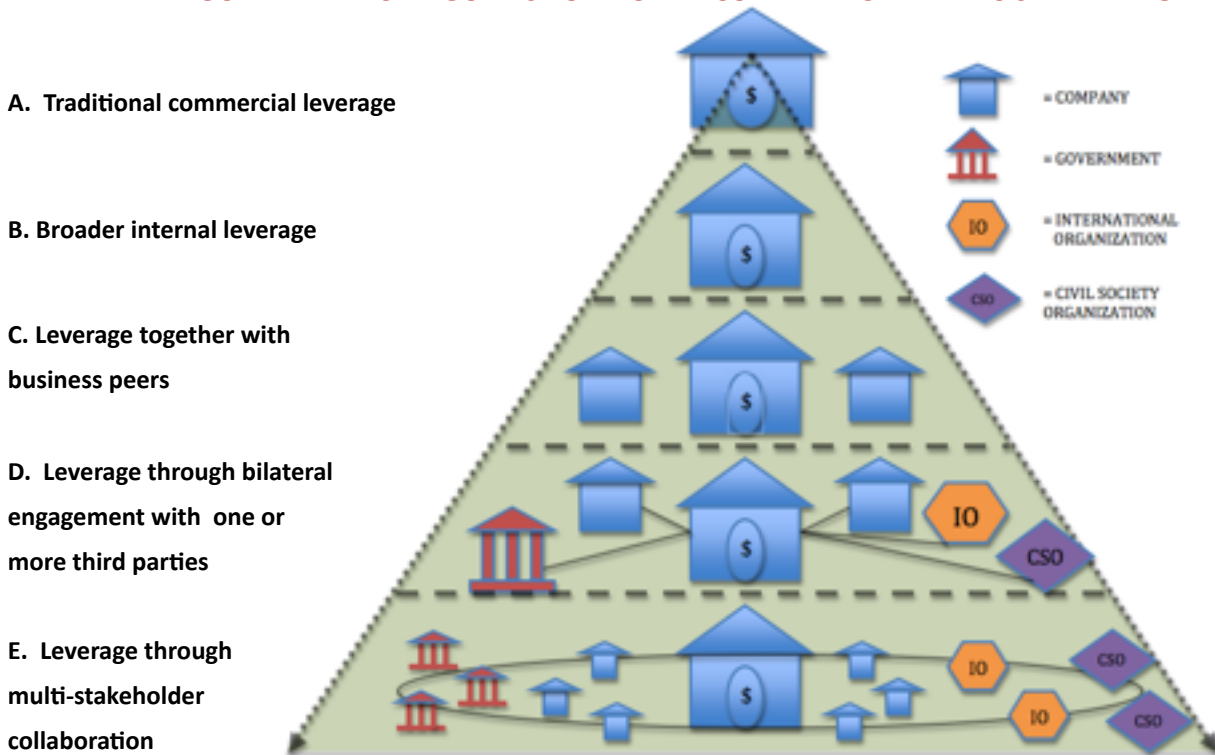


Figure 1 does not represent the universe of a company's necessary stakeholder engagement efforts, nor is it intended to suggest a sequencing of approaches or that one is more or less valid than any other.

c. For what purpose?

Ultimately, leverage is about creating the opportunity to change how people think and behave. In the context of the UN Guiding Principles, it is about changing the thinking and behavior of key people within a supplier, contractor, business partner, customer, client or government, where their organization's actions are increasing risk to human rights.

Participants discussed different purposes of leverage within this wider goal of changing thinking and behavior. In broad terms, these were:

- To oblige another entity to address an issue
- To oblige another entity to engage in discussion about an issue
- To engage another entity in order to persuade them to address an issue.



These approaches can be thought of as ranging along a spectrum of ways of exercising leverage, as represented in the Figure above.

5. Identifying Opportunities for Leverage

Participants also discussed a range of specific “moments of traction” when there may be a particular opportunity to exercise leverage. These would be moments worth identifying at the start of a relationship in order to structure them into that relationship to the extent possible. For example, although a lender may have limited leverage after loan covenants with a client are agreed, building into the covenant a requirement that the client reports on im-

plementation of an action plan to address human rights risks, or on the key issues raised through its grievance mechanism, gives an opportunity for follow-up engagement on human rights developments.

Potential “moments of traction” were seen to include:

- Contract negotiation
- Licensing agreements/renewal
- Setting qualification criteria for bidding processes
- Periodic reports on implementation of a service or plan of action
- Renewal of service agreements
- Points when services or products require maintenance
- Disbursement of funds
- Monitoring/audit engagements
- Provision of technical or advisory assistance
- Processes/investigations for addressing complaints.

6. Building the Skills of Persuasion

In practice, discussions highlighted that leverage for real behavioral change more typically comes through persuasion than through obligation. This in turn implies a need for particular skill sets among staff who handle key business relationships. One company participant talked about training they ran for staff on the “art of influencing”. Cialdini’s “Six Principles” were introduced from the dispute resolution area as a useful resource when thinking about the skills of persuasion.

Cialdini's Six Principles: The Art of Persuasion

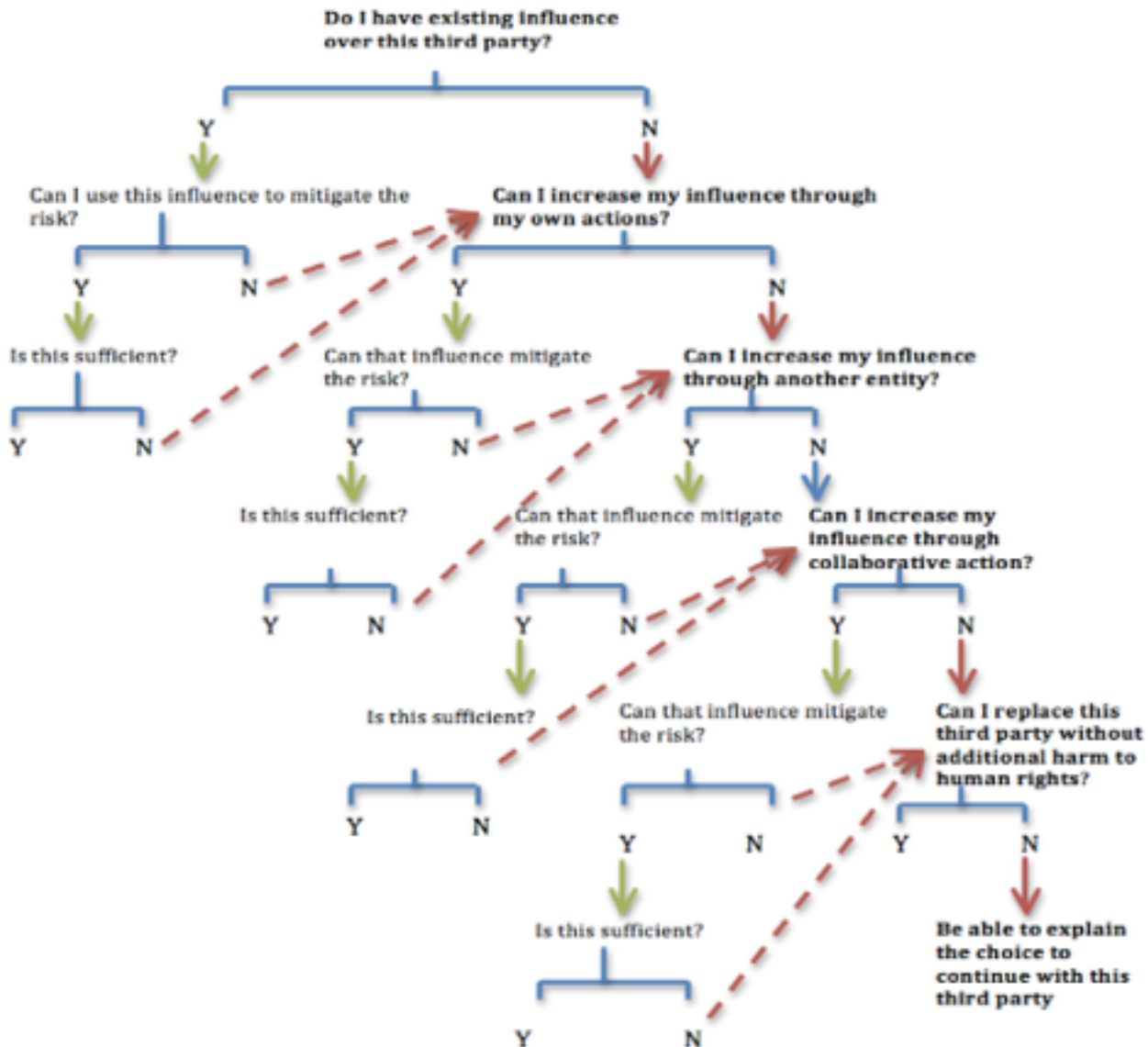
Robert Cialdini is a social psychologist whose research suggests that there are six key principles that underlie all approaches to influencing others, based on basic human instincts. These are:

- Reciprocity: the tendency to want to return a favor
- Commitment and Consistency: the tendency to wish to honor commitments and be true to one's self-image
- Social proof: the tendency to do things one sees other people doing
- Liking: the tendency to be persuaded by people one likes
- Authority: the tendency to obey authority figures
- Scarcity: the tendency to want something that is in short supply.

For more on Cialdini's Principles, see "Secrets from the Science of Persuasion" at: <http://www.youtube.com/watch?v=cFdCzN7RYbw>

FIGURE 2: DECISION TREE FOR USING AND BUILDING LEVERAGE

The following decision tree sets out a sequence of questions a company can use to explore what leverage it can use or generate to address human rights risks arising in its business relationships.



II. EXTERNAL LEVERAGE

Workshop participants shared examples from their experience of ways in which companies have been able to exercise leverage to mitigate actual or potential human rights impacts with regard to business relationships. Some of these were more compliance-based approaches, and others were more interest-based – aimed at appealing to or increasing the interests of the other entity in meeting certain standards of practice. This section reviews some of the particular challenges and opportunities for leverage with regard to the four main types of business relationship identified: suppliers; joint venture and other horizontal business partners; business customers, clients or end-users; and governments. Annex A sets out in a table a range of examples of leverage discussed at the workshop, and organized in terms of the actor ‘over whom’ leverage is exercised and the five suggested categories for ‘how’ leverage may be exercised. A final column indicates ‘why’ (for what purpose) that mode of leverage may be useful.

“We have limited leverage with our suppliers because we are a small buyer. By teaming up with other larger companies from our industry, we created combined leverage.”

Workshop participant

1. Leverage over Suppliers

As companies look upstream to their suppliers, there is often a particular expectation that they will have sufficient leverage to require suppliers to take the necessary steps to respect human rights. This may be the case, particularly where the company has a dominant commercial position

in the relationship. However, there are many instances in which buyers lack such a strong position, as well as instances where suppliers themselves have greater commercial clout than their buyers or customers. Nevertheless, the expectation remains that companies will take appropriate steps to influence supplier behavior.

While there may be various possibilities for creating leverage with regard to suppliers, participants agreed that the deeper in the supply chain that a human rights challenge occurs, the less possible it is to create change though the

use of audits. In other words, the further away the company is from the entity it is seeking to exercise leverage over, the more collaborative the approach will typically need to be.

It was noted that anti-trust issues sometimes get raised as a block on such collaboration with regard to supply chains. Many participants commented that in practice most industry or multi-stakeholder initiatives have established clear ways of defining what may and may not be discussed in these collaborations, and that there is considerable latitude for legal collaboration provided competitive issues such as pricing are not discussed.

2. Leverage over Joint Venture and Other Horizontal Business Partners

Horizontal business relationships pose distinct challenges for companies with respect to building and exercising leverage.

Companies (for instance, in extractive, construction, and telecommunications industries) may be junior partners in joint ventures, joint operating agreements or consortia, and therefore somewhat reliant on their business partners to make the right decisions. Across industries, business relationships with state-owned enterprises may pose even greater challenges with respect to leverage, particularly in industries such as oil and gas where working with the state-owned national oil and gas company may be a condition of market entry.

Workshop participants highlighted that in the context of peer-to-peer relationships, human persuasion may be even more important than in relationships with suppliers. In other words, these relationships necessitate more interest-based leverage, rather than compliance-based leverage. This in turn requires that companies seek to understand what it is that drives the decisions of their joint venture or other horizontal partners, and find ways to connect these interests with the objective of respect for human rights. For instance, a joint venture partner may have an interest in securing repeat business in a country, building its reputation in the industry or beyond, avoiding the costs associated with social conflict, being seen as a global leader, and/or simply learning good practice. These and other interests may offer a strong opportunity to exercise leverage with regard to human rights.

3. Leverage over Customers, Clients and End-Users

A company's relationships with its downstream business customers and clients can raise similar challenges to those with its upstream suppliers, in that these relationships may be remote and indirect. In more direct relationships, a company may be able to create and exercise leverage early in the relationship, such as through contract negotiations. In other instances, particularly where commercial or government end-users are several steps removed in the value chain, there are greater challenges in exercising leverage over how the company's products or services are used. Moreover, once a deal is agreed in a downstream relationship,

there is rarely an easy equivalent to the monitoring and audit tools, or many other business incentives, that are familiar in supply chain relationships.

"Once the business product is out of my hands, and in the hands of my customer, I have lost a lot of my leverage."

Workshop participant

4. Leverage over Government

Leverage with regard to government can also pose particular challenges. Discussions highlighted the various ways in which governments themselves could heighten risks to human rights for business:

- By failing to act with respect for human rights as a customer, for example using technologies designed for basic phone and internet services to conduct surveillance in breach of privacy rights;
- By failing to act with respect for human rights as a supplier, for example where their security forces guard company assets and harass or abuse local communities;
- By failing to adequately protect human rights as regulators of business, increasing the risk of sourcing from and doing

business within their jurisdiction, for example in a situation such as Bangladesh where building safety standards have long been ignored, making many factories unsafe for workers; or in situations where the government takes land for commercial purposes, ignoring legitimate community claims to have traditionally occupied or used it.

In any of these situations, the role of the state as regulator – and sometimes as an arbiter of whether a company can do business in that country – makes the exercise of leverage particularly challenging. Participants highlighted that the key to leverage in these situations is often to use concerted industry action. Discussions also reflected that it can be important to assess and understand what motivates a government, or particular ministries or actors within government, and to see whether and how those interests and motivations can be aligned with the company’s human rights objectives. For instance, it may be possible to show how improved respect for or protection of human rights can support inward investment, local job creation, inclusive growth, a reduction in social conflict and so forth. There may also be opportunities where companies can offer their own expertise to build a government’s capacity with regard to human rights-related issues, for instance in relation to good community resettlement practices.

Annex A contains a range of examples of leverage in relation to these four types of business relationship.

III. INTERNAL LEVERAGE

The challenge of ‘embedding’ the responsibility to respect human rights across a company typically requires those who lead on this issue to build their own internal leverage to effect change. Internal leverage can in turn be essential to exercising external leverage, since business relationships are often ‘owned’ or influenced by others in the company who do not lead on human rights.

Creating internal leverage requires good knowledge of the company’s culture and of the perspective of particular individuals, business units or functions. For instance, for some companies, institutional rules and compliance tools may work best; for others the personal element – speaking to individuals’ convictions – may be more effective; and for others it may be about building the business case.

A variety of means of building or using internal leverage were discussed and are summarized below.

“Building internal ownership over human rights is essential to real progress; this means you sometimes need to “go slow to go fast.”

Workshop participant

1. Through Top Management Messaging

- Public letters/statements by the CEO publicly committing the company to respect for human rights, or to addressing a particular human rights challenge, were seen as valuable internal leverage

for getting greater attention to implementation.

- Where a CEO him/herself had performance on human rights included in his/her performance scorecard and linked to remuneration, this led to greater emphasis being placed on these issues right across the company.
- The inclusion of human rights metrics in reports to the Board had helped one company place a focus on these issues at all levels, including with the heads of business units.
- An internal video of the CEO speaking about human rights, or a particular human rights issue, had helped some companies drive awareness and attention to the issues at all levels.

2. Through Internal Peer Influence

- Some had found ways to engage the voices of respected managers from different business units or functions in demonstrating the relevance of human rights to the business.
 - In one case a company had created short internal films of certain business leaders discussing how they were addressing human rights challenges.
 - In another case, the company brought senior business leaders together to discuss work they were doing on human rights.
- Various companies had found that the creation of cross-functional groups to discuss approaches to human rights policy helped create shared ownership.
- An example was shared of one company bringing its human rights (community relations) managers together annually to share learning and ideas and build a race to the top.

- It was noted that human rights performance was increasingly becoming an staff retention issue, with staff seeking to ascertain that workers, suppliers, and others were well treated.

3. Through Exposure to Information

- One company had invited a prominent business and human rights figure to address their top management committee in order to raise awareness of the issues and build top-level support for further action (and budget allocation).
- Some companies had found that tracking key human rights-related data helped build the evidence needed to leverage programmatic change, in particular:
 - Some used the evidence of persistent problems that emerged from supplier audits to leverage internal discussions about possible action;
 - Where key data was also reported externally, this had provided an extra incentive for staff to pay attention to performance.
- Industry platforms that developed human rights-related guidance had helped individuals demonstrate to their colleagues that certain behaviors were a basic industry 'norm'.
- Some felt it valuable to conduct research into good practice in other industries that could be relevant to their own. For instance, companies with land issues in their supply chains might learn from leading practice in the extractive sector; and similarly with regard to consultation with affected stakeholders.

4. Through Engagement and Offers of Support

- One company had found it helpful when building a new human rights risk man-

agement process to provide business units the opportunity to pilot it, so they could both shape the results and be seen as leaders internally.

- Others found it helpful just to ask staff about their biggest human rights challenge, and what the sustainability department could do to assist them: sometimes it was less about setting the agenda and more about listening to people's concerns.
- A couple of companies conducted internal human rights audits focused on their higher risk operations. The key to progress was then using these audits as a basis to engage constructively with local management teams on how problems or gaps could be addressed.

5. Through External Demand

- Various participants noted that well-researched NGO reports alleging human rights harms could be an opportunity for internal leverage, not least to address issues the company may not have identified itself.
- For one service provider, pressure from individual clients for human rights to be integral to their advisory services had helped generate pressure inside the business for more attention to these issues.
- Participants noted the value of questions from investors that focus on human rights issues or risk management, in demonstrating the case internally that this should be central to business processes.

examples of leverage emerge, as a useful resource that could help stimulate thinking as to some of the possibilities for creating, building and/or using leverage.

Additional suggestions for further research arising from the workshop discussions were:

1. The identification of leading company practices in measuring their internal performance on human rights, and a review of the extent to which these can effectively generate internal leverage for action.
2. The identification of examples of good language for inclusion in different kinds of contracts that could provide a basis for leverage with regard to human rights later in the relationship.
3. The identification or conduct of research into the factors that make collaboration with other stakeholders in the search for solutions to human rights challenges more or less effective.

IV. NEXT STEPS

Workshop participants proposed that Shift should continue to build out the tables included in Annex A of this report as new

ANNEX A: TYPES OF LEVERAGE

1. LEVERAGE OVER SUPPLIERS/CONTRACTORS

A. TRADITIONAL COMMERCIAL LEVERAGE OVER SUPPLIERS/CONTRACTORS	
HOW?	WHY?
<p><u>Contracts</u>: Include the terms of a Code of Conduct that reflects human rights standards in contracts, requiring compliance. Terms can also include the right to terminate business if there are serious, repeated or unaddressed breaches, or a requirement for an effective grievance mechanisms for workers to be in place. The effectiveness of such provisions will often depend on follow-up mechanisms – see next box.</p>	<p>To focus attention on the importance placed on human rights. To incentivize the development of human rights management systems and grievance mechanisms. (Risk of this being seen as a ‘cover ourselves’ measure, if taken in isolation.)</p>
<p><u>Audits as a means to engagement</u>: Include in the contract a requirement for audits of performance against the the company’s Code of Conduct. Participants emphasized that for audits to be effective, the results – and follow-up on corrective actions – should be used as a way of starting constructive conversations with suppliers and generating change.</p>	<p>To find evidence of any problems so they can be built into decision-making. To drive improvement among suppliers/contractors. (Risk of this failing to provide leverage if it is simply to get metrics for management.)</p>
<p><u>Bidding criteria</u>: Include human rights pre-qualification criteria in bidding processes for contracts. An example was raised of a company using such criteria as part of a technical filter on bids prior to any review of their financial merits.</p>	<p>To establish leverage for later in the relationship. To build human rights into the core of commercial conversations.</p>
<p><u>Questionnaires</u>: Request information from suppliers that requires them to focus on human rights issues. In one example, a buyer’s requests for information relating to conflict minerals has ensured that suppliers focus on that aspect of their own supply chain.</p>	<p>To generate attention to a particular issue.</p>
<p><u>Incentives for suppliers</u>: Provide commercial incentives for suppliers – eg. price, volume, long-term business – but be sure that these are the right incentives. For instance, price premiums for farmers may work in some instances, but not where there are additional or different barriers to compliance.</p>	<p>To increase suppliers’ motivation to meet standards or to reduce barriers to good practice.</p>
B. BROADER BUSINESS LEVERAGE OVER SUPPLIERS/CONTRACTORS	
HOW?	WHY?
<p><u>Capacity-building</u>: Build the capacity of suppliers to meet their own responsibility to respect human rights in their operations, for example through training, including training on relevant business systems and management skills.</p>	<p>To reduce barriers to compliance.</p>

<p>Presenting a unified voice: Ensure that procurement/purchasing staff integrate the same messages on human rights into their conversations with suppliers, and into decision-making on contracts. Examples included companies that use a balanced scorecard system to do this, or give those responsible for labor rights compliance a veto on supplier selection.</p>	<p>To avoid reducing leverage through contradictory messages and purchasing practices that undermine human rights compliance.</p>
<p>International or industry standards: Use existing international or industry standards to drive expectations. For example some companies build references to such standards (eg, the Voluntary Principles on Security and Human Rights) into contracts with suppliers, or make clear that they themselves are bound by such standards so compliance by their suppliers is also non-negotiable.</p>	<p>To depersonalize a message about compliance with standards – ‘we have no option’ – and potentially open up room for a conversation on how to meet those standards instead.</p>

**C. LEVERAGE WITH BUSINESS PEERS
OVER SUPPLIERS/CONTRACTORS**

<i>HOW?</i>	<i>WHY?</i>
<p>Driving shared requirements of suppliers: Work with business peers to establish common requirements of suppliers, particularly where companies have a strongly overlapping supply base. One example identified by participants was the Better-coal Initiative among European energy utilities with regard to their coal suppliers.</p>	<p>To create a more level playing field for buyers with regard to human rights. To ensure a consistent message for suppliers.</p>
<p>Bilateral engagement with peers: Engage bilaterally with peer companies who may be facing similar supply chain issues, in order to share lessons learned and identify potential solutions. For example, one company targeted by an NGO campaign over practices of its suppliers sat down with other companies in the industry to see how they tackled the issue.</p>	<p>To share lessons learned and identify potential solutions. To tackle endemic or deep supply chain challenges.</p>

**D. LEVERAGE THROUGH BILATERAL ENGAGEMENT (with one or more third parties)
OVER SUPPLIERS/CONTRACTORS**

<i>HOW?</i>	<i>WHY?</i>
<p>Engaging civil society organizations with key information: Engage with CSOs who can provide relevant information on local actors or circumstances in supplier countries. Examples included engaging with an NGO who could provide contacts to local experts on land acquisition; or with an NGO familiar with how fuel sources impacting indigenous peoples’ rights would be relevant to the selection of transport providers.</p>	<p>To increase knowledge of local factors relevant to leveraging change.</p>
<p>Engaging multiple actors who hold different parts of a solution: Engage with a range of actors bilaterally to identify solutions to specific supply chain issues. One example was of a company that discovered child labor in its supply chain and took a range of bilateral actions with local government, other brand companies, civil society organizations and its local suppliers to reinforce its 'zero tolerance' policy.</p>	<p>To engage those who can provide different parts of a solution, in order to tackle endemic or deep supply chain challenges.</p>

E. LEVERAGE THROUGH MULTI-STAKEHOLDER COLLABORATION OVER SUPPLIERS/CONTRACTORS

<i>HOW?</i>	<i>WHY?</i>
<p><u>Driving shared requirements of suppliers:</u> Engage in multi-stakeholder collaborative initiatives to develop shared standards for suppliers. Standards identified through multi-stakeholder processes often carry particular credibility, especially in areas where international standards provide only limited benchmarks. One example discussed was the Voluntary Principles on Security and Human Rights; another was the 2013 Accord on Fire and Building Safety in Bangladesh.</p>	<p>To level the playing field within the industry. To build standards widely seen as credible by stakeholders. To ensure a consistent message between the industry and suppliers.</p>
<p><u>Using convening power to address systemic issues:</u> Use the company's own brand to convene a range of stakeholders to address a systemic issue. Examples included one company using its leverage to convene local stakeholders in relation to child labor in a country's sugar cane industry, in order to generate more sustainable solutions.</p>	<p>To tackle endemic or deep supply chain challenges.</p>

2. LEVERAGE OVER JOINT VENTURE OR OTHER BUSINESS PARTNERS

A. TRADITIONAL COMMERCIAL LEVERAGE OVER JV OR OTHER BUSINESS PARTNERS

HOW?	WHY?
<p><u>Contract provisions</u>: Include key provisions in contracts with joint venture or other business partners. Examples were discussed of companies negotiating various human rights-related provisions in contracts that created leverage later in the relationship:</p> <ul style="list-style-type: none"> • setting out a commitment to meet certain standards (eg, Voluntary Principles on Security and Human Rights, IFC Performance Standards); • giving the company (even when a junior partner) the lead in managing human rights-related issues or in staffing the community relations function at an extractive project; • requiring a higher voting majority of the Board on human rights-related issues. 	<p>To create forms of leverage before problems arise, in preparation for when they may do so.</p>
<p><u>Company policies and processes</u>: Integrate into negotiations clear messages about the company’s own human rights policies and processes, such as a Code of Conduct or policies on security.</p>	<p>To standardize an approach as ‘just how we do business’. To depersonalize/depoliticize the call for business partners to accept key standards.</p>

B. BROADER BUSINESS LEVERAGE OVER JV OR OTHER BUSINESS PARTNERS

HOW?	WHY?
<p><u>Shared audits</u>: Use the company’s internal compliance processes to start conversations with partners about their own processes. In one example, a company conducted an internal audit of its own human rights performance at an operation, and shared results with key JV partners, with an invitation/offer to collaborate with them on addressing shared challenges, as well as on future such audits.</p>	<p>To lead by example. To show recognition of shared challenges and compliance needs.</p>
<p><u>Seconding staff</u>: Second staff to a JV operation to lead on community relations and/or human rights risk management .</p>	<p>To secure a foothold for driving future discussions and practices.</p>
<p><u>Shadowing joint venture partner</u>: Shadow a joint venture partner on key human rights-related processes. In one example, a company had shadowed a joint venture partner as it conducted stakeholder engagement for a project.</p>	<p>To have information on actual practices that can be used in negotiations/conversations with partner. To have an opportunity to discuss and share good practices.</p>

<u>Persuasion through dialogue</u> : Use conversations with counterparts working for a business partner to introduce human rights-related issues and discuss the models and merits of good practice. Examples were raised of companies using good relationships with contacts in partner companies to discuss practices seen as an industry 'good practice standard' or to indicate the risks of failing to act in certain ways.	To appeal to partners' own interests, whether their ambition, concern for their reputation, or concern to avoid costly mistakes.
<u>Model contracts</u> : Point to existing model contracts or contract clauses to establish precedent, mark good practice, and as a basis for conversation.	To appeal to partners' own ambitions to be seen as leaders.

C. LEVERAGE WITH BUSINESS PEERS OVER JV OR OTHER BUSINESS PARTNERS

<i>HOW?</i>	<i>WHY?</i>
<u>Platforms to discuss/develop shared approaches</u> : Create a platform to discuss shared approaches on human rights with peer companies and build common standards and expectations. The example was given of IPIECA in the oil and gas industry, which has enabled participating companies to discuss human rights and develop common guidelines.	To build common practices among companies who may be future partners.
<u>Development of a model contract/ standards</u> : Work with industry peers to develop a model contract or contract provision based on respect for human rights. The example was given of the Model Mining Development Agreement - a project of the International Bar Association - to facilitate the inclusion of leading practice in investment agreements between mining companies and host governments.	To standardize approaches to human rights issues and remove them from the negotiation process. To appeal to the desire of negotiating counterpart to be seen to implement leading practice.

D. LEVERAGE THROUGH BILATERAL ENGAGEMENT (with one or more third parties) OVER JV OR OTHER BUSINESS PARTNERS

<i>HOW?</i>	<i>WHY?</i>
<u>Introducing a non-essential partner with strong standards</u> : Include in a project a financier that the company knows will impose high standards. Examples were raised of companies involving the International Finance Corporation as a small percentage financier of a project, so they could reference their Performance Standards in project contracts and in broader discussions with project partners.	To depersonalize/depoliticize the demand that partners comply with certain standards.

E. LEVERAGE THROUGH MULTI-STAKEHOLDER COLLABORATION OVER JV OR OTHER BUSINESS PARTNERS

<i>HOW?</i>	<i>WHY?</i>
<u>Model contracts</u> : Develop model contracts or contract provisions aligned with respect for human rights, particularly where broad stakeholder involvement is important to their credibility.	To standardize approaches to human rights issues. To appeal to desire of counterpart to be seen to implement good practice.

3. LEVERAGE OVER BUSINESS CLIENTS/CUSTOMERS/END-USERS

A. TRADITIONAL COMMERCIAL LEVERAGE OVER BUSINESS CLIENTS/CUSTOMERS/END-USERS

HOW?	WHY?
<p><u>Contractual requirements/sanctions</u>: Build key provisions on future use of products into the terms of contracts. Examples included:</p> <ul style="list-style-type: none"> Limiting warranties on a product in the event of unacceptable usage; Asking business customers to pass requirements on product usage onto their end-users. 	<p>To build shared responsibility for human rights outcomes.</p>
<p><u>Contract-driven interactions</u>: Create future interaction points with a customer or client through contract provisions. Examples from the ICT industry include:</p> <ul style="list-style-type: none"> Increasing the number of times that follow-up service will be provided, providing added value for the customers and additional opportunities for leverage; Requiring a business customer to seek clearance from the company or the company's home government in the event of a modified use of the product. 	<p>To increase the 'moments of traction' in the relationship where practices might be checked and leverage could be applied.</p>
<p><u>Company policies and processes</u>: Standardize certain practices across the company through the introduction of policies and process that make respect for human rights 'just how we do business'. Examples included:</p> <ul style="list-style-type: none"> Sales approval policies and processes that escalate decisions on higher-risk products or business customers to a Sales Compliance Board with the ability to veto a sale; A service provider potentially adopting a policy defining it as their duty to advise clients on human rights risks alongside other issues. 	<p>To standardize approaches so staff are less exposed to external pressure to ignore key human rights issues.</p>

B. BROADER BUSINESS LEVERAGE OVER BUSINESS CLIENTS/CUSTOMERS/END-USERS

HOW?	WHY?
<p><u>Market advantage</u>: Convey to customers/clients the advantages of working with a company that is committed to respect for human rights. Examples included:</p> <ul style="list-style-type: none"> Responsible labor recruiters raising clients' awareness of the risks of working with companies that do not respect workers' rights; A company securing an infrastructure contract based on its superior experience in stakeholder engagement; Banks securing clients based on their advisory services in relation to environmental and social impact assessments. 	<p>To raise customers' awareness of human rights problems. To show value to a potential partner. To build markets for responsible behavior.</p>

**C. LEVERAGE WITH BUSINESS PEERS
OVER BUSINESS CLIENTS/CUSTOMERS/END-USERS**

<i>HOW?</i>	<i>WHY?</i>
<p><u>Driving shared standards in the industry:</u> Work through a business association to build shared standards of practice. The example was giving of national bar associations building shared standards for law firms to apply in their practices with clients.</p>	<p>To standardize certain practices in relationships with clients. To reduce any perceived competitive disadvantage of applying standards unilaterally. To build markets for responsible behavior.</p>
<p><u>Common industry voice:</u> Raise human rights concerns with clients as an industry. Examples of where this might be useful included the ICT industry in relation to certain practices by a government client; or event sponsors collectively raising concerns with an event organizer, for example in relation to human rights impacts of infrastructure construction.</p>	<p>To add weight to the issues being raised. To avoid competitive disadvantage.</p>

**D. LEVERAGE THROUGH BILATERAL ENGAGEMENT (with one or more third parties)
OVER BUSINESS CLIENTS/CUSTOMERS/END-USERS**

<i>HOW?</i>	<i>WHY?</i>
<p><u>A holistic approach:</u> Engage multiple actors bilaterally in response to a specific challenge. One example raised was the public case study of when GE discovered MRI machines were being used to identify (for abortion) female fetuses in India. GE worked bilaterally with business partners to institute sales protections, with the government to enhance regulatory action, and with wider industry in the country to find methods of addressing this issue.</p>	<p>To target a specific challenge. To offer leadership by mobilizing different actors essential to a solution.</p>

**E. LEVERAGE THROUGH MULTI-STAKEHOLDER COLLABORATION
OVER BUSINESS CLIENTS/CUSTOMERS/END-USERS**

<i>HOW?</i>	<i>WHY?</i>
<p><u>Building shared standards on challenging issues:</u> Work through a multi-stakeholder initiative to build shared understanding of human rights challenges that can arise from customers and government clients, and appropriate responses - for example, as the Global Network Initiative has sought to do in addressing freedom of expression and privacy rights.</p>	<p>To standardize approaches to human rights issues. To add weight to the issues being raised.</p>

4. LEVERAGE OVER GOVERNMENT ACTORS

A. TRADITIONAL COMMERCIAL LEVERAGE OVER GOVERNMENT ACTORS

HOW?	WHY?
<p><u>Company policies and processes</u>: Introduce policies and processes that constrain the scope for involvement in negative impacts. Examples included efforts by ICT companies to routinize the steps for handling data requests from governments: for instance by requiring written requests in a particular format, with appropriate approvals, and having an agreed government representative with whom to raise concerns.</p>	<p>To reduce the scope for inappropriate pressure on staff. To make clear that requests that pose risks to human rights will be handled with due attention.</p>

B. BROADER BUSINESS LEVERAGE OVER GOVERNMENT ACTORS

HOW?	WHY?
<p><u>Offering technical support to improve practices</u>: Offer expertise and advice to governments where this can build their capacity for protection of human rights. Examples included:</p> <ul style="list-style-type: none"> • Extractive companies providing advice on good practices in resettlement to governments with limited capacity; • ICT companies offering expertise on good practice for protecting privacy rights to certain governments. 	<p>To build the capacity, comfort and confidence of key government personnel in adopting new processes important for human rights protection.</p>
<p><u>Top leadership – putting brand on the line</u>: Consider using a company's brand strategically to generate government attention to key human rights concerns. Examples were discussed of CEOs personally engaging with a government's top leadership to seek action in addressing serious human rights issues.</p>	<p>To appeal to national commercial and reputational interests of government leadership. To shortcut blockages at lower levels of government by engaging top leadership.</p>
<p><u>Disclosing information</u>: Disclose information, where legally possible, that shines a light on government practices. Examples included disclosure of revenue-sharing and taxation terms of contracts, or government requests for personal data.</p>	<p>To equip and empower others to hold the government to account.</p>

C. LEVERAGE WITH BUSINESS PEERS OVER GOVERNMENT ACTORS

HOW?	WHY?
<p><u>Sharing good practice ideas</u>: Use membership of industry initiatives to share experience of ways to influence governments to protect of human rights. In one example, participation in an industry initiative had led to ideas for empowering individuals with greater knowledge of communications technologies, so that they could advocate more effectively for their rights.</p>	<p>To identify innovative approaches to building or using leverage.</p>

<p><u>Connecting lines across government</u>: Identify any opportunities to connect a part of government interested in protecting human rights with another part that poses a risk. In one example, ICT companies engaged the security enforcement arm of a government to explain to another part of government that restricting SMS messaging in times of emergency could lead to additional adverse human rights impacts.</p>	<p>To highlight government interests or objectives that align with human rights as a counterweight to those that may not.</p>
<p><u>Joint lobbying</u>: Work with an industry grouping to apply collective pressure on a government whose actions increase human rights risks. In one example, oil and gas companies had jointly pressed a government to improve transparency requirements before proceeding with bids for concessions. In another, three CEOs approached a government to express concerns about systemic labor rights issues in that country.</p>	<p>To increase pressure on a government to act. To level the playing field and avoid allowing human rights performance to be made a competitive issue.</p>

**D. LEVERAGE THROUGH BILATERAL ENGAGEMENT (with one or more third parties)
OVER GOVERNMENT ACTORS**

<i>HOW?</i>	<i>WHY?</i>
<p><u>Engaging home government’s diplomatic leverage</u>: Urge a home government to press for improved human rights protection by a host government. In one example, a company was asked to make bonus payments to regional governments. The company successfully engaged its home state’s Ministry of Foreign Affairs to bring pressure for all such payments to be made public and used accountably for local development.</p>	<p>To increase pressure for action. To enable a peer-to-peer government exchange of expertise and experience, as well as technical assistance.</p>
<p><u>Engaging international organizations as standard-setters</u>: Engage international organizations that can set standards that bind governments to good practices. The example was raised of ICT companies supporting certain regulations in the International Telecommunications Union that would constrain governments from certain actions harmful to human rights.</p>	<p>To secure a more standardized approach across governments. To limit the scope for governments to demand contract provisions that pose risks to human rights.</p>
<p><u>Working with home state and companies</u>: Collaborate with peer companies and government in the home state to secure common standards of conduct in challenging environments. In one example, a group of companies began to work with the Ministry of Foreign Affairs to agree public principles for handling technology requests from overseas governments.</p>	<p>To standardize company approaches and set a more level playing field. To secure the home country’s interest and backing, with the implicit leverage that can carry.</p>
<p><u>Engaging home government in provision of technical assistance</u>: Engage a home government to discuss areas where technical assistance to a host government could reduce human rights risks. Examples include government-to-government capacity-building for labor rights inspectors or for government lawyers negotiating the terms of extractive project agreements.</p>	<p>To build host government capacity to protect human rights effectively. To build a more reliable and human rights friendly operating environment.</p>

**E. LEVERAGE THROUGH MULTI-STAKEHOLDER COLLABORATION
OVER GOVERNMENT ACTORS**

<i>HOW?</i>	<i>WHY?</i>
<p><u>Participation in multi-stakeholder initiatives involving states:</u> Identify or build multi-stakeholder initiatives that involve both home and host states and can focus on a specific human rights-related challenges. The example was raised of the Extractive Industries Transparency Initiative.</p>	<p>To standardize approaches and set a more level playing field. To benefit from collective weight to advance changes in governments' practices.</p>