

DISSECTING HUMAN RIGHTS DISCLOSURE

A TOOL FOR INVESTORS

DRAWING FROM COMPANY REPORTING ON:

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ENGAGEMENT WITH VULNERABLE
STAKEHOLDERS

Shift

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Drawing from Company
Reporting on: Engagement
with Vulnerable Stakeholders

Shift, New York.
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Design by Alison Beanland

ABOUT SHIFT

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Shift's global team of experts works across all continents and sectors to challenge assumptions, push boundaries and redefine corporate practice in order to build a world where business gets done with respect for people's dignity. We are a non-profit, mission-driven organization headquartered in New York City.

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INTRODUCTION

In August 2019, the Business Roundtable issued a statement ¹ redefining the purpose of a corporation beyond the maximization of financial returns to shareholders. This letter, signed by nearly 200 CEOs of US-based companies, states corporations’ “fundamental commitment to all” stakeholders, naming customers, employees, suppliers and communities in which companies operate alongside shareholders. Further developments such as the Principles for Purposeful Business issued by the British Academy in November 2019,² and the Davos Manifesto 2020,³ have similarly pointed to the need for a new form of “stakeholder capitalism”.

Yet there is an ever-present risk of focusing on stakeholders that can themselves affect corporations—albeit some, like employees, can also be affected by them—while leaving out those who may never affect the company itself but whose human rights might be at grave risk from companies’ activities or business relationships. It is these stakeholders—the people potentially affected by business—that are the focus of concern of the UN Guiding Principles on Business and Human Rights (UNGPs). The UNGPs were unanimously endorsed by the UN Human Rights Council in 2011 and have become the authoritative global standard setting out the duties of states and responsibilities of companies with regard to business impacts on people.

The UNGPs highlight the human rights due diligence that is expected of all companies in order to identify and address risks to people’s human rights across their operations and value chains. They emphasize engagement with affected stakeholders as a fundamental component of that due diligence and the importance of enhanced attention to vulnerable groups that may face heightened risk of negative human rights impacts. While we see increasing discussion of stakeholders in companies’ public statements and disclosure, it often lacks an explicit focus on the affected stakeholders who are most at risk.

With this in mind, Shift has developed the following resource to serve as a guide for investors and others in analyzing companies' disclosure on their stakeholder engagement practices. The aim is to help readers identify potential strengths and gaps in the underlying performance of the company in engaging vulnerable groups. It should not be taken as a guide to good stakeholder engagement practices, on which there are many resources, but as a source of insight when trying to distinguish what kinds of disclosure about stakeholder engagement can give more or less confidence about how well a company is developing and managing these critical relationships.

At Shift, we understand the value of human rights disclosure: reporting offers a window—not a mirror—into company policies and practices. Quality reporting processes, however, can serve as more by catalyzing conversations amongst key company personnel to improve practices and contribute to more meaningful engagement with investors and other stakeholders about the company's approach to human rights impacts. In sum, meaningful reporting can drive improved performance.

In this short resource, we have selected five excerpts from different companies that have generally taken a forward position on business and human rights and are considered leaders in reporting in their sector. We provide a brief analysis of each excerpt, highlighting strengths in the insights it offers, and note some elements that could make it stronger. The selection and analysis of each excerpt should not be read as either an endorsement or critique of the companies' actual performance.

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1. See the [Business Roundtable's Statement on the Purpose of a Corporation](#)
 2. See the [Principles for Purposeful Business](#)
 3. See the [Davos Manifesto 2020](#)

Processes to engage rights holders

“Directly affected stakeholders

Includes employees, customers, supply chain workers and their representatives through trade unions and community leaders”

“We interact directly with our people in many ways, including via line managers, our Business Involvement Groups, our European Works Council, regular ‘Your Say’ staff surveys, and confidential hotline.

We engage with customers via formal customer focus groups, customer services, our store staff and direct contact through our Chairman’s Office.

In our extended supply chain, all ethical assessments include direct workers interviews and we are expanding the use of mobile technology to survey workers directly. However, our experience is that the most meaningful understanding of salient issues comes from more in-depth interactions with affected rights holders.

● For example, in 2002 following a critical industry report we became aware of alleged abuses of female flower workers in Kenya. As part of an ETI delegation, we listened to the personal testimonies of 50 workers from flower farms supplying UK retail. This gave us important insights into the underlying issues of harassment and gender discrimination and the role of buyers in mitigating them.”

Human Rights – Engaging with rights holders and other stakeholders

● This excerpt indicates that M&S regularly engages with a range of directly affected stakeholders through a variety of different processes. The company names potentially affected stakeholders—employees, customers and extended supply chain workers and their representatives—reflecting some level of consideration in identifying people who may be potentially impacted by the company’s operations and business relationships. Explicitly naming trade union representatives and community leaders gives the reader some confidence in the company’s understanding that engaging directly affected rights holders may require relying on a legitimate representative.

● Were this excerpt from a company in a different sector, such as mining or agriculture, we might expect disclosure to identify other affected stakeholder groups such as local communities. Community impacts can also be relevant for a food brand and retailer in relation to issues such as land acquisition or pesticide use by suppliers.

● This excerpt implicitly demonstrates that the company relies on stakeholder inputs to better understand its salient human rights issues—that is, those human rights most at risk of severe negative impacts in its operations and value chain. We might also look in disclosure for evidence of instances in which the company has changed its practices or processes to address human rights issues based on such feedback or inputs.

● This excerpt is particularly useful because it pairs discussion of general processes with an example in practice. By discussing the company’s typical approach to engage directly affected stakeholders and then giving a specific example of how this has played out in practice, we see a narrative built to demonstrate to readers what the company’s commitment means in practice. Moreover, this example demonstrates that the company made an effort—in this instance, at least—to engage a specific vulnerable group: women in agriculture. It also implies that the company adjusted its practices based on inputs from that engagement, although it is unclear what specific insights were garnered from listening to the workers, and what actions may have resulted.

Policy and trainings for engaging with local and Indigenous communities

“Engagement with Local and Indigenous Communities

All of our operations, exploration sites, projects and closed properties identify, prioritize and directly engage local and Indigenous communities.

Our work in this area is focused on:

- Disclosing and appropriately communicating accurate and timely information
- Maintaining an open dialogue, so all parties can fully understand each other’s views and concerns
- Engaging in decision-making around our activities
- Collaborating on issues of mutual interest
- Securing and maintaining our social licence to operate

Those responsible for engagement with local and Indigenous communities are trained to take a people-centred approach to dialogue that is focused on relationships, rather than on issues. This helps ensure that engagement is productive and constructive, and that it directly contributes to the building and maintenance of long-term, trust-based relationships....

Cultural Awareness Training

We regularly deliver training on Indigenous Peoples’ rights and cultural awareness for exploration, operations and management staff. This training is particularly important for those who have extensive contact with Indigenous Peoples in their day-to-day roles and for other business leaders. In 2018, approximately 115 people at our operations attended cultural awareness training, which supports understanding and appreciation for cultural diversity, and encourages maintaining a safe and respectful work environment in alignment with Teck’s culture, values and beliefs. In addition, more than 40 people from our Vancouver head office participated in cultural awareness training.”

2018 Sustainability Report, p. 22, 60

This excerpt serves as a useful example of discussing general processes that the company has in place to identify and engage Indigenous Peoples—a specific vulnerable group. The company also highlights that they place the emphasis on stakeholder engagement processes that build relationships, as distinct from processes that are framed and timed to address a specific issue the company needs to respond to.

The company describes placing an emphasis on collaborating on issues of mutual interest and around securing and maintaining a social license to operate. It is possible that these issues could include human rights impacts on the communities, but this is not

entirely clear from the information as reported.

Cultural awareness training for company personnel that regularly engage with Indigenous Peoples indicates another process is in place to support quality stakeholder engagement with this vulnerable group and reflects an understanding that engagement with distinct groups such as Indigenous Peoples must be adapted to their needs. Providing the number of employees who have undergone training as an indicator shows some level of scale. That said, it lacks context as to how many people are involved in such engagement processes and doesn’t provide a window

into performance in terms of the quality of trainings, how they may improve actual engagement efforts or how this may in turn influence the company’s practices in addressing human rights impacts.

At both points, this disclosure could provide more confidence to readers by pairing this overview of general processes with some detailed examples of if and how they are implemented in practice. Much is left to the reader’s imagination, as disclosure beyond this selected excerpt only states that engagement took place without providing insight into the quality of the engagement or how it took place.

Gender-sensitive engagement in Mongolia

"In late 2005, Rio Tinto Mongolia LLC ... began an early stage exploration programme... [A] CRO [Community Relations Officer] ... commenced a process of door to door consultation at the household level...

The CRO found that while the men agreed ... [that] the information provided by the company about

- the exploration programme was adequate, many of the women had additional questions and concerns.

These questions had not been raised with the company previously because women tended not to speak openly in the public meetings and were not represented on the CAG [Community Advisory Group]. Many of the women complained that they were not being adequately consulted and wanted a separate committee to voice their concerns. [The] CRO began a formal programme of consultation to gather perspectives from the women.... The women wanted to know what opportunities there would be for them

- if a mine were to proceed.... [W]omen also suggested that it would be better if the company aimed to have significant consultation with women in winter because they don't have as many household responsibilities during this time.... After many discussions with women, it became apparent to the CRO that pasture was extremely important to them.... The women were

concerned about the impacts that the mine would have on pasture and feared that the mine would destroy pasture. The women were asking specific questions about how Rio Tinto Exploration planned to rehabilitate the pasture that they would disturb through exploration and operations. They had seen drill holes rehabilitated by Rio Tinto with topsoil.

They were happy when the pastures returned, but they did not all return, so they wondered how it would work with such a big mine. The women also asked about the risks of exotic plants being introduced, and how that could affect pasture.... As a result of this work, Rio Tinto Exploration has become more responsive to the issues and concerns raised by women, and plans to undertake any significant consultations in the winter months.... The CRO was also involved in community mapping exercises in June, July and August, 2007.... The map became more detailed the more she spoke to the people and particularly the more she spoke to the women, who could give more detailed information on movements in the area. At the household level women were insightful and participated more actively than their husbands, although they were conversing with their husbands throughout the consultation."

Why Gender Matters, p. 30-31

- This excerpt shares insights about the value for a company of engaging with stakeholders about engagement processes themselves in order to align expectations up front, adapt to the needs and preferences of the groups being engaged and address what matters most to them. The women Rio Tinto engaged provided feedback on the timing of the engagement so as not to interfere with their responsibilities. This may have been a critical component to ensuring feedback and ongoing dialogue and a two-sided flow of information that benefitted both the company and the affected

- stakeholders they were engaging. To the extent that the company responded substantively to the women's concerns, this would be useful information to include in the disclosure to demonstrate how the company has taken action based on the inputs of the stakeholders, and particularly this vulnerable group.

This excerpt highlights mutual benefits to undertaking strong stakeholder engagement processes in a way that is sensitive to the needs and preferences of stakeholders: the company enhanced its knowledge in engaging responsively and

responsibly with women in this context. For investors, disclosure that highlights such approaches may increase confidence in the company's typical attitude towards vulnerable groups. Examples are always selective and may skew towards showing successes, albeit reporting on less successful instances can also build confidence in the authenticity of a company's efforts and learning processes. That said, most examples can provide a springboard for further engagement with investors or civil society organizations about other cases.

Engaging with human rights defenders

“We value the input and views of all stakeholders and we are willing, and open, to engage on any issue, be this related to our own operations or our supply chain.

● Often, our engagement with human rights defenders is constructive, especially where we identify areas of shared concern. For example, with respect to transparency and fair play in sport, or environmental sustainability, or the protection of worker rights in our global supply chain. In these instances, we may actively support the work of the HRD [human rights defender] and derive shared value from our joint endeavours in say improving working conditions, safety, or the environment.

● We will also petition governments, alone or in concert with other actors, where we feel the rights and freedoms of human rights defenders with whom we are engaged have been impinged by the activities of the State, or its agents. For example in cases where there are credible reports of a human rights defender being threatened, intimidated or detained by the police or government officials.”

adidas Group and Human Rights Defenders, p. 1-2

Human Rights Defenders (HRDs) are people who act to promote or protect human rights either individually or in concert with others.⁴ In 2015 the UN Special Rapporteur on the situation of human rights defenders acknowledged HRDs working on business and human rights as one of the most vulnerable groups of defenders.⁵

This excerpt serves as one of few examples of disclosure that goes beyond the usual statement about a policy commitment to respect HRDs and shares a more comprehensive approach.

● The company shares how they might generally act on issues affecting HRDs and provides examples of the types of outcomes that can result from

these forms of engagement and joint action. Although they are categories of outcome rather than specific instances, this nevertheless points to benefits to the company, the defenders and others.

● The excerpt goes on to share examples of how the company is taking action to influence state actors to address negative impacts on HRDs in its global supply chain. This excerpt doesn't remain at the level of stating what the company would commit or intend to do with regard to HRDs who are being targeted, but explicitly ties such action to individual HRDs *with whom they have engaged*, moving it from the theoretical-and-untested to the tried-and-tested reality.

There are areas where further information on underlying company practice, should it exist, would be helpful to readers—particularly around processes to engage these stakeholders. For example, to the extent that a company's processes take care to avoid exposing HRDs to further risk, this can be valuable to share so that readers gain an understanding of the company's approach to this particular vulnerable group.

4. See the UN Special Rapporteur on the situation of human rights defenders' definition of who is a defender

5. See the UN Special Rapporteur on the situation of human rights defenders' 2015 report

Worker survey program in Chinese factories

"In FY16, Best Buy piloted a worker survey program with three factories. In FY17, we partnered with ELEVATE, a supply chain consultant, to implement the program with six factories. Factories were carefully chosen based on several criteria, including importance to the business and willingness to participate.... [T]o establish a baseline the first step of the worker survey program consisted of an anonymous questionnaire—for both workers and supervisors—focusing on 12 key areas, including compensation, working hours, productivity and living conditions. Following the survey, results were shared with each factory's management team. In total, more than 1,200 workers and 300 supervisors participated.... Results of the survey were analyzed using not only the six factories, but comparative data from ELEVATE. The team then conducted a half-day interactive training for factory management at Best Buy's Shenzhen offices focusing on the opportunity areas identified. We then held one-on-one meetings with each factory and conducted an on-site visit. Using these inputs, an improvement plan was put in place with specific key performance indicators.... In FY18, the team conducted a follow-up survey and visited each supplier to seek the results of the improvement plans. ELEVATE's final report indicated the following results:

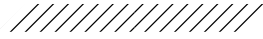
- Nearly all supervisors indicated that they saw the factory make progress in the previous 12 months; the majority of workers (59%) agreed that they saw progress.
- Overall, the scores improved on the main topics including: fair wages, supervisor responsiveness, feedback receptiveness and the need for re-work.
- Each factory's specific improvement plan was also measured. Of the six factories, the results were varied: three showed progress, one was unchanged and two showed a decline in progress.
- We are encouraged by these findings and hope to see improved retention rates over the long term."

Fiscal Year 2018 Corporate Responsibility & Sustainability Report

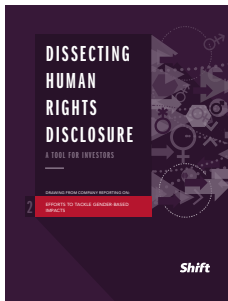
This excerpt demonstrates the company's efforts to collect inputs from a specific group, supply chain workers, and use those insights to improve its practices and ultimately working conditions for this stakeholder group. Unusually, though, the company demonstrates how these stakeholder inputs are threaded into efforts beyond changing practices: insights gained from this pilot effort have impacted tracking mechanisms and efforts to measure the effectiveness of the company's changed practices.

The company discloses some of the results of the improvement plan and includes the views of the workers from the survey on progress made—indicating that there is a key feedback loop and two-way flow of information between the company and this stakeholder group. There is welcome transparency in conveying that progress was varied and unevenly spread across the factories; this openness to sharing some challenges faced in implementing this pilot, and not glossing over them, gives confidence in the authenticity of this reporting.

It could be useful to share some further insights into the kinds of findings the company established in the first baseline survey that they were then seeking to address and measure progress on. Reporting can add insight when it shares how a company is measuring or evaluating the quantity and quality of outcomes achieved, in terms of results for the stakeholders concerned.



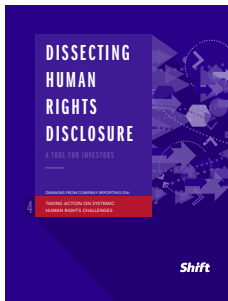
This report is part of Shift's Dissecting Disclosure Series. Other resources in the series are:



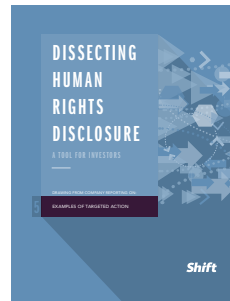
Dissecting Disclosure:
Drawing from Company
Reporting on Efforts to
Tackle Gender-based
Impacts



Dissecting Disclosure:
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