

DISSECTING HUMAN RIGHTS DISCLOSURE

A TOOL FOR INVESTORS

DRAWING FROM COMPANY REPORTING ON:

4

TAKING ACTION ON SYSTEMIC
HUMAN RIGHTS CHALLENGES



Shift

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Drawing from Company
Reporting on: Taking Action
on Systemic Human Rights
Challenges

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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

It is important for investors to know that the companies in which they invest are taking serious action to address the human rights risks and impacts they identify in their own operations and value chains. Often the human rights issues companies are involved with are systemic and found across the industry or a region where they operate, source or sell. Examples include child labor in West African cocoa farming and low wages in apparel manufacturing. COVID-19 has highlighted the many ways in which people across a company's operations and value chain can be vulnerable to systemic human rights risks related to particular business activities, or local social and legal contexts.

Companies' disclosure on how they take action to address systemic challenges provides investors with an important insight into how well these issues are understood and the approach used to manage them. These issues typically require multifaceted efforts to tackle them. However, companies' public communication on how they go about this often falls short. Based on Shift's review of the human rights reporting of over 150 companies, we see many failing to capture the complexity of systemic human rights issues with which they are involved and describing only superficial efforts to address them.

This report examines five excerpts from reporting by five different companies in relation to their management of systemic human rights issues. Our focus is not on profiling the latest or leading practices in addressing human rights risks – though many do reflect such leadership; rather, we aim to highlight facets of reporting that can provide readers with some confidence that a company is thinking in meaningful ways about human rights challenges and its role in addressing them. The excerpts are selected for their relative strengths in this regard, and a brief analysis in each case highlights the insights a reader can glean from the disclosure, and therefore what to look for in other companies' reporting.

None of the excerpts is put forward as a perfect model nor should be taken as guaranteeing that all systemic human rights risks are being managed in alignment with the UNGPs by the companies concerned. Reporting is a window into performance, not a mirror of that performance. Moreover, some of the companies concerned have taken further action, and indeed published further reporting, since the publication of the disclosure excerpted here. Readers who are interested in the latest developments should check the companies' websites for any updates.



A lot of company reporting today falls below the quality demonstrated in these excerpts. With regard to reporting on the management of systemic human rights challenges, particular red flags to look out for are:

- **The company positions itself solely as part of the solution to the human rights challenge concerned.** In many cases, companies sustain or even exacerbate the “system” behind these risks through their own business practices or omissions. Such disclosure signifies the company may not understand, or be open to acknowledging, how it may be part of the problem as well as part of the solution.
- **The company only reports its membership in groups or collective initiatives that tackle certain systemic human rights risks without describing its engagement with these initiatives and how this contributes to change.** Many companies do not go beyond listing the initiatives in which they are members. Without discussing any active role they play in these initiatives to drive continuous improvement on human rights performance, this limited disclosure may signal to investors that such membership is superficial, means little to the company’s human rights approach in practice and is of questionable value in reducing human rights risks and impacts.
- **The company does not report on any actions it has taken unilaterally to address its own potential involvement with that issue.** Many systemic human rights risks cannot be fully addressed by one company on its own, but a company’s own practices and the incentives they create can shape and sustain these risks. Omitting description of any unilateral action taken by the company to address these risks may suggest to investors that the company is not looking at its own role in exacerbating and resolving systemic issues. It may also indicate the company is not managing the business risks that come with systemic human rights risks.

Unilateral action and meaningful participation in collective initiative on living wages

“PURCHASING PRACTICES: A brand’s purchasing practices are an important contributor to achieving fair living wages. We developed a purchasing practice guide as part of our 2013 roadmap. It helps ensure best possible capacity planning, timely payments and much more... We also developed a ‘scientific pricing method’. This involves suppliers sharing with us all the major cost components that contribute to a product’s price, including the labour cost component. This means merchandisers can and will negotiate the price of a garment with our suppliers around all component costs except one: labour. This takes garment workers’ wages out of the equation for price negotiations. If wages increase as a result of a collective bargaining agreement, our method ensures the money needed to pay for these wages is accounted for. Together with the other brands within ACT, we are committed to ensure that higher wages are covered by our purchasing price. We believe this systemic isolation of the labour cost is important as an enabler to an industry-wide collective bargaining agreement. [...]

ACT: ACTION, COLLABORATION, TRANSFORMATION: The formation of ACT represents a significant milestone on the journey to fair wages. ACT is a ground-breaking coalition of 22 global brands, including H&M group, and IndustriAll Global Union. The group’s mission is to transform the garment, textile and footwear industry and achieve living wages for workers through collective bargaining at industry level. One particularly game-changing component in ACT’s approach is to include brands’ purchasing practices in the equation... To support this, all ACT brands have signed a Memorandum of Understanding with IndustriAll Global Union, which commits them – amongst other things – to ensure that their purchasing practices facilitate the payment of a living wage.”

H&M Group Sustainability Report 2018, p. 75

ANALYSIS

Many systemic human rights risks are the product of multiple factors, including socio-economic conditions and local laws and practices. Yet they are often in part also shaped by a company’s own practices and the incentives they create. H&M’s reporting shows that the company is not treating the issue of living wages in its supply chain as a purely external problem, but is recognizing the influence of its own purchasing practices and working to change them to support better outcomes for workers. This suggests the company is asking the hard questions and is prepared to look at its own role in how systemic human rights risks can both be generated and resolved.

A single company can have limited leverage to improve outcomes for people when systemic issues that cut across an industry or region are involved. Many companies engage collectively on certain risks, but often their public disclosure only communicates their membership in such groups or initiatives. H&M’s reporting shows how its membership in ACT is part of a broader strategy that seeks to use collective leverage to generate change and end to end forms of competition that keep wages below living wage thresholds.

QUESTIONS FOR INVESTORS

- Does the disclosure demonstrate the company is taking steps to understand and address its own role in systemic human rights issues connected to its business?
- Does the disclosure give insight into how the company undertakes meaningful collective action through industry groups or multi-stakeholder initiatives?

Demonstrating understanding and serious approach through a specific example

“In ASOS’ Mauritian supply chain, migrant workers account for 63% of the workforce. Migrant workers in Mauritius frequently pay fees to unscrupulous recruitment agencies prior to gaining employment, leaving workers trapped in debt bondage. Furthermore, migrant workers are not made aware of their rights or terms of employment, adding to their vulnerability to exploitation. We identified these risks in our own supply chain and, in 2016, commissioned an independent assessment of working conditions at our suppliers’ factories in Mauritius by human rights organisation Verité. These assessments identified a

number of key risks, specifically related to the recruitment and employment of migrant workers.

We recognise the complexity of the issue, and the value of cross-sectoral collaboration in driving sustainable change. To address the root causes leading to the exploitation of migrant workers, we have implemented a two-pronged approach by working closely with suppliers to improve their practices and engaging with other stakeholders to drive change at a systemic level. →

ANALYSIS

In disclosure, many companies only provide general descriptions of human rights impacts in their supply chains and of their activities to address them. By describing a specific high-risk context, the company’s connection to the impact and its specific response, ASOS provides greater confidence that it has a sound understanding of, and serious approach to, addressing modern slavery.

Here, the company’s description of the modern slavery context in Mauritius demonstrates the company’s own efforts to understand the local situation, and also educates investors and other readers of its disclosure about the vulnerability and abuse of migrant workers in the country.

This provides readers with the basis for a fuller understanding of the challenge and its complexity than they would have had if only the actions, and not the context, were described.

In disclosing that it commissioned an assessment of the specific risks in its Mauritian supply factories, the company shows it sought a deeper understanding of the nature and causes of these impacts once the risk area was identified. The company also provides some transparency about its own connection to modern slavery through this part of its supply chain.

This demonstrates the company’s readiness to acknowledge and deal with the specific ways in which this systemic challenge is linked to its own products.

Like H&M’s disclosure described above, the company discusses its two-pronged approach of direct action with suppliers and collective action with other stakeholders. In doing so, it provides investors with insight about its strategic and multifaceted approach to addressing a complex systemic issue. Whereas many companies report that they support the Employer Pays Principle, few provide clarity as to how they implement it or what difference it makes in practice.

Demonstrating understanding and serious approach through a specific example

We've worked closely with our suppliers to implement the 'Employer Pays Principle', a universally recognized commitment to ensure that no worker pays for a job and all costs are borne by the employer. We recognize that the adoption of this principle is fundamental to combat the exploitation of migrant workers in our supply chain. We worked with our Mauritian suppliers to help them improve their recruitment practices, and all four suppliers have now adopted the Employer Pays Principle and are covering all costs related to migrant worker recruitment.

We continue to collaborate with a variety of stakeholders on the issue, including the Mauritian and UK governments, the Ethical Trading Initiative, other international brands sourcing from Mauritius, and IndustriALL Global Union. Most notably, we have continued to lobby the Mauritian Government to include language on migrant worker protection in the Memorandum of Understanding (MoU) currently being negotiated between Mauritius and Bangladesh."

ASOS Modern Slavery Statement 2018-2019, p. 11

Here, the company shares an actual outcome of its direct engagement with suppliers in Mauritius in terms of suppliers paying worker recruitment fees. This is complemented with disclosure that demonstrates the multiplicity of actors it has engaged on this issue, importantly including the global union that represents workers and the Government. It is also noteworthy that the company is explicit about what it has lobbied the Government to do. These details lend credibility to the depth and seriousness of the company's efforts to drive systemic change in its Mauritian supply chain.

QUESTIONS FOR INVESTORS

- Does the disclosure demonstrate that the company's approach to addressing systemic human rights issues is based on a clear understanding of the context and underlying causes of those impacts?
- Does the disclosure provide confidence that the company's actions to address a systemic challenge are effective by sharing specific goals and outcomes achieved?

Seniority of engagement on palm oil and support for human rights regulation

“Collaborating for change and advocating for human rights due diligence legislation

Achieving widespread change across whole supply chains is more than Mondelez International can do alone, so we collaborate with peer companies and expert organizations to help us on the journey...

- Palm oil sustainability efforts: We co-chair CGF’s Palm Oil Working Group, which is working to embed the Priority Industry Principles against forced labor across the palm oil sector. We have served on the Roundtable for Sustainable Palm Oil Board of Governors between 2014 and 2018 and continue to support reforms to make sustainable palm oil the norm. We have supported the United Nations Development Program (UNDP) and the Government of Indonesia to develop its first National Action Plan for palm oil. We are supporting the development of

the Coalition for Sustainable Livelihoods, a group of civil society, private sector, and government organizations working collectively to strengthen smallholder livelihoods, improve agriculture and conserve forests in North Sumatra and Aceh, Indonesia.

- Beyond our active participation and leadership in collective action platforms, Mondelez International has been a vocal advocate in favor of human rights due diligence legislation in the European Union. Recognizing the systemic nature of human rights issues in global supply chains and the need for all actors along the supply chain to work together to address them, Mondelez International is calling on the EU to adopt legislation to create a level playing field and drive mainstream adoption of sustainable practices. [Signed: Dirk Van de Put Chairman and CEO of Mondelez International]”

Human Rights Due Diligence and Modern Slavery Report 2018, p. 7

ANALYSIS

Companies’ reporting on how they tackle industry- or region-wide human rights challenges can include reporting on industry or multi-stakeholder initiatives. However, few companies go beyond listing the initiatives in which they participate.

In discussing its approach to collaborating to achieve change across its supply chains, Mondelez demonstrates the importance it places on its participation in multi-stakeholder initiatives. While this excerpt does not share a great deal about the nature of the work done through these collaborations, it does signal that it has taken leadership roles within the Consumer Goods Forum’s Palm Oil Working Group and RSPO’s Board of Governors. This level of resource commitment may indicate the company’s

seriousness in leveraging the collective weight of these groups to drive change.

This excerpt also indicates that the company recognizes the important role of government in tackling systemic challenges in palm oil and is prepared to commit resources to engage them in setting the right enabling environment.

The company also discloses its support and advocacy for human rights due diligence legislation in the EU. This indicates to investors that the company takes a holistic view of what is needed to drive change in what is an industry-wide problem, and recognizes the need for regulatory frameworks as part of that.

QUESTIONS FOR INVESTORS

- Does the disclosure provide insight into how the company uses its leverage within industry and multi-stakeholder groups to drive effective action on human rights?
- Does the disclosure demonstrate the company uses its leverage with government actors to support efforts that promote business respect for human rights in their activities and value chains?

“Responsible resettlement

Displacement and resettlement of people as a result of our mining activities is a complex, emotive issue for our host communities, with long term consequences. Resettlement projects can pose significant business risks to both our new projects and ongoing operations, and can affect community relations and our license to operate. We have made human rights a central consideration in how we plan and implement resettlements. Our aim is always to plan and design new projects in a way that avoids or minimises displacement.

We manage resettlement projects in line with the IFC Performance Standard 5 on Land Acquisition and Involuntary Resettlement, which is embedded within our Social Way. We carry out extensive consultations with the affected people, and aspire to improve post-resettlement quality of life and livelihoods when compared to the pre-resettlement conditions. We apply strict monitoring and evaluation to all resettlement projects. Three years after resettlement is complete, we commission an audit from an

independent service provider, and take any corrective measures required to ensure we meet our standards.

In 2019, we made a decision to apply strict governance and assurance to all resettlement projects. This is achieved through mandating that resettlement projects be treated as capital projects and adhere to the requirements of our Investment Development Model. This ensures assurance at various stages of resettlement planning, in order to ensure a robust process.

The continued operation of our Sishen iron ore mine in South Africa’s Northern Cape depends on expanding the boundary of the mine’s footprint to the nearby Dingleton settlement, necessitating the relocation of hundreds of households. We treated the resettlement as a capital project and planned it accordingly. Most households have been successfully relocated to a new neighbourhood in the nearby town of Kathu. Agreements have yet to be reached with six households who currently reside in Dingleton, and negotiations are ongoing. This does not impact short to medium term mine plans.”

Anglo American Sustainability Report 2019, p. 68

ANALYSIS

Human rights risks associated with community resettlement pose a systemic challenge across the extractives industry, yet few companies effectively communicate how these human rights risks and the related business risks are reflected in their decision-making processes. This excerpt highlights the business case for conducting resettlement in ways that avoid or minimize harm, and where possible improve the quality of life and livelihoods of community members. This may provide greater confidence to investors that the company understands the relationship between these risks to people and resulting risks to the business and integrates this realization into its decisions and actions, rather than treating

the management of human rights issues under a separate initiative.

By sharing that resettlement projects were recently reclassified as capital projects, the disclosure also demonstrates that the company took particular measures to embed the management of risks associated with resettlement into core business systems. This suggests the company views resettlement activities as an investment rather than a cost. It also signals that the company sees the merit of ensuring accountability – through assurance processes – for managing these human rights risks.

In providing a specific example of how that capital project classification is anticipated to improve outcomes for people, and by sharing that

agreements have not yet been reached for six households, the company opens itself up for external accountability regarding how these new approaches will play out in practice for both communities and the company.

QUESTIONS FOR INVESTORS

- Does the disclosure provide insight about how the company integrates human rights issues into its core business decision-making process?
- Does the disclosure demonstrate a readiness to share updates regarding initiatives that are underway to address human rights issues, enabling an open and accountable discussion with stakeholders?

Collaborative approach to addressing the systemic challenge of online child exploitation

“Online child exploitation is a horrific crime that requires a whole-of-society approach. Microsoft has a long-standing commitment to child online protection. First and foremost, as a technology company, we have a responsibility to create software, devices and services that have safety features built in from the outset.

We leverage technology across our services to detect, disrupt and report illegal content, including child sexual exploitation. And we innovate and invest in tools, technology and partnerships to support the global fight needed to address online child sexual exploitation.

In furtherance of those commitments, today Microsoft is sharing a grooming detection technique, code name “Project Artemis,” by which online predators

attempting to lure children for sexual purposes can be detected, addressed and reported. Developed in collaboration with The Meet Group, Roblox, Kik and Thorn, this technique builds off Microsoft patented technology and will be made freely available via Thorn to qualified online service companies that offer a chat function. Thorn is a technology nonprofit that builds technology to defend children from sexual abuse.

The development of this new technique began in November 2018 at a Microsoft “[360 Cross-Industry Hackathon](#),” which was co-sponsored by the [WePROTECT Global Alliance](#) in conjunction with the [Child Dignity Alliance](#)... →

ANALYSIS

In this excerpt, Microsoft describes the severity and complexity of the issue of online child exploitation as a systemic problem for technology companies. Many technology companies position themselves solely as part of the solution to human rights problems, such as freedom of expression. In its disclosure, Microsoft shows an understanding that its products and services can be both part of the problem and part of the solution. It first acknowledges its own responsibility for building tools with the human rights of children in mind in the design process.

As in prior examples, this excerpt shows the company both looking at what it needs to do unilaterally with regard to its own potential contribution, and what it needs to do collectively with others to address the wider systemic issues that generate this risk.

By describing how the company has developed the technology together with others and made it available to companies that offer chat functions, Microsoft signals to investors that it recognizes that this systemic issue cannot be addressed in a silo. The disclosure also shows that Microsoft involved organizations that specialize in

child online protection to better understand the complexity of the topic, providing greater confidence that it was developed with sufficient expertise on the issues to ensure its effectiveness in practice.

Collaborative approach to addressing the systemic challenge of online exploitation

Child sexual exploitation and abuse online and the detection of online child grooming are weighty problems. But we are not deterred by the complexity and intricacy of such issues.

On the contrary, we are making the tool available at this point in time to invite further contributions and engagement from other technology companies and organizations with the goal of continuous improvement and refinement.

At Microsoft, we embrace a multi-stakeholder model to combat online child exploitation that includes survivors and their advocates, government, tech companies and civil society working together. Combating online child exploitation should and must be a universal call to action.”

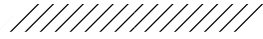
Microsoft shares a new technique to address online grooming of children for sexual purposes

This disclosure indicates an open and inclusive approach to collaboration on this issue, as the company opens itself up to feedback and proposed improvements from others in order to refine and share the technique it has developed.

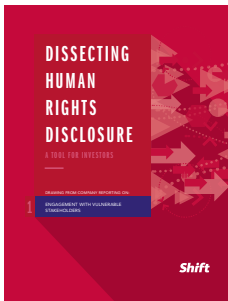
The company signals that is open to engaging with all stakeholders. While many companies will report such openness but then focus on investors, experts and NGOs, it is significant that Microsoft explicitly names survivors and their advocates – those with direct experience of online child exploitation – as key stakeholders in this collaborative process.

QUESTIONS FOR INVESTORS

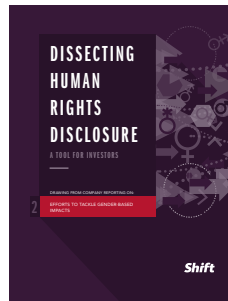
- When discussing actions to address systemic human rights issues, does the disclosure suggest the company proactively seeks to understand its own connection to negative impacts and what roles it should therefore play in addressing them?
- Does the disclosure suggest that the company makes efforts to fill its own knowledge gaps on complex systemic issues through engagement with relevant stakeholders, including affected stakeholders, their representatives and experts?



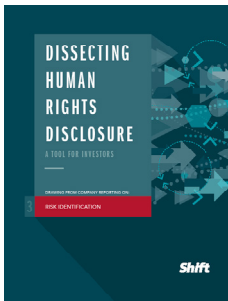
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Reporting on Engagement
with Vulnerable
Stakeholders



Dissecting Disclosure:
Drawing from Company
Reporting on Efforts to
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Impacts



Dissecting Disclosure:
Drawing from Company
Reporting on Taking
Action on Risk
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