

Implementation of the
UN Guiding Principles
in the Retail and Banking Sectors
in Zimbabwe

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS



Zimbabwe Environmental
Law Association

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About Zimbabwe Environmental Law Association

Zimbabwe Environmental Law Association (ZELA) is a premier public interest environmental law group based in Zimbabwe. As a public interest non-governmental organization we seek to promote environmental justice, sustainable and equitable use of natural resources, democracy and good governance in the natural resources and environment sector. We seek to accomplish our mission through legal and policy research, advocacy, impact litigation, conflict resolution and civic education. Our work spans over helping poor communities to assert and claim their environmental, economic, social and cultural rights within the natural resources and environmental sector. We also seek to influence policy reform in the natural resources sector.

About Danish Institute for Human Rights

The Danish Institute for Human Rights (DIHR) is an independent national human rights institution (NHRI) established by the Danish Parliament in accordance with the United Nations (UN) Paris Principles. Under its legal mandate, DIHR's main functions are to monitor human rights in Denmark and promote human rights internationally, including through engagement with non-state actors. DIHR has worked on business-related human rights impacts since 1999.

Introduction

This paper summarizes the human rights issues in the retail and banking sectors in Zimbabwe. For retail companies, human rights risks are concentrated in their direct employment practices and their supply chains. For banks, risks are primarily with operating in the unique—and uniquely volatile—business context of Zimbabwe. Through research and interviews with key actors, this paper identifies high-priority issues and analyses the effectiveness of each actor's approach to addressing them. The paper concludes with recommendations to retail and banking companies to improve their approach.

This paper is based on the framework established in the United Nations Guiding Principles on Business and Human Rights. In 2011, the UN Human Rights Council endorsed the Guiding, the first international standard to address the role of businesses in

preventing and addressing human rights violations. The Guiding Principles comprise three pillars: States must protect all their citizens from abuses by companies; corporations must respect (i.e. not infringe upon) human rights; and victims of business-related human rights abuses must have access to effective remedy.

According to the UN Guiding Principles, businesses in all sectors must carry out due diligence to identify whether they cause, contribute to or are linked to adverse impacts on human rights. Businesses meet this obligation by, among other things, engaging with stakeholders affected by their operations, developing human rights policies, tracking the effectiveness of these policies, communicating steps they have taken and participating in processes to remedy their negative impacts.

The Retail Sector

Background

The retail sector is among the largest employers in Zimbabwe.¹ The sector is dominated by OK Zimbabwe, TM and Spar Supermarkets. Although business activity in this sector is often seriously constrained by liquidity challenges and shrinking disposable income, the Zimbabwe Agenda for Sustainable Socio Economic Transformation (ZIMASSET) identifies retail as an important sector for driving employment creation and developing of small and medium enterprises in Zimbabwe.²

According to media reports, Zimbabwe's retail sector has embarked on a growth trajectory that could see the industry become a major hub for growing businesses, despite the declining economic situation in the country.³ Although retailers have existed in Zimbabwe for a long time, the introduction of global brands and outlets after the introduction of the multi-currency system in February 2009 kick-started the sector, forcing local retailers to expand their operations to compete with their larger international competitors.

With the manufacturing sector still struggling to recover from years of economic downturn during the hyper-inflationary period, the retail sector is

heavily reliant on imports and international brands. Zimbabwe is largely a cash economy, and the retail sector still deals in cash for most of its revenue.⁴ Market experts say at least \$1.5 billion in turned over by large local retailers each year.⁵ Most products are imported, leading to low margins and a high-volume strategy for most grocery stores. Small local retailers are increasingly employing private label products to compete with more expensive branded products or imported goods. These strategies have allowed retailers to expand their networks, with more stores openings in various locations across the country to match consumers' needs.

This can be seen in the case of Thomas Meikles (TM), one of Zimbabwe's largest retail chains. Recent years have seen explosive growth, with its supermarket division leading its expanding revenues and footprint. Three major stores are expected in the 2016 financial year, and an additional \$6.5 million has been budgeted for refurbishments across the company.⁶ Meikles Mega Market, a subsidiary of TM, is also actively exploring additional sites in high-density areas in and around Harare.

¹ ZIMSTAT (2014)

² ZIMASSET (2013)

³ Daily News (2015)

⁴ *ibid*

⁵ *ibid*

⁶ *ibid*

Human Rights Impacts in The Retail Sector

Most of the human rights risks in the retail sector are associated with employment practices. As the TM Board Chairperson told the Daily News regarding the company's expansion: 'The locations will use a low-overhead model characterized by modest rentals, limited but high volume offering and a minimal staff complement.'⁷

In plain language, what this statement means is that the company is expanding, but limiting the number of new employees to the bare minimum. This model is common in the retail sector, and has been associated with long working hours, dangerous conditions and ill-treatment of workers.

The unemployment rate in Zimbabwe is estimated to be 90 percent. As the vast majority of Zimbabweans lack formal employment, they are extremely vulnerable to unconscionable working conditions, low pay and abusive management practices. Workers in the retail sector have reportedly been forced to work overtime with no pay, a condition that may amount to modern-day slavery. Women working late hours similarly threatens their personal security and places them at risk of sexual harassment and violence, either in the work place or when traveling home. On a broader scale, the expansion of the retail sector may threaten the land and property rights of indigenous populations who, cornered by poverty, may

end up leasing property to retail actors at very limited or unreasonable rates.

The second area of concentrated human rights risk for the retail sector is in their supply chains. The manufacturing, processing and packaging of products is associated with poor working conditions and environmental impacts in dozens of countries. Considering that most retail products in Zimbabwe are imported by large international brands, many of them carry with them complicity in the conditions under which they were produced.

It may be difficult for Zimbabwean retail actors to monitor their supply chains, let alone trace them back to the source of raw materials, but there is a high likelihood that some products are associated with lack of access to healthcare and education, forced labour, child abuse, child labour or violations of women's sexual health, among others.

The UN Guiding Principles state that the government has a responsibility to protect human rights through regulatory authorities and other legal and practical means. If the state does not do so, it may be complicit in human rights abuses that take place in the business operations of retailers. Whilst the Labour Act addresses some risks of modern day slavery and aims to ensure a safe environment for workers, little regulation ensures imported products are not manufactured through modern slavery or related practices.

⁷ *Ibid*

Similarly, the Consumer Council of Zimbabwe (CCZ) has the mandate to protect and empower consumers by monitoring product quality and ensuring adherence to standards.⁸ The standards for the retail sector—including food, drink, clothes and other products—focus on the quality of the final packaged goods, and do not include any assessment of the supply chains in which they are produced.

The Standards Association of Zimbabwe (SAZ) certifies and sets the quality standards for goods manufactured, processed and packaged locally.⁹ SAZ standards do not capture any aspect of human rights during manufacturing, processing or packaging of products.

The UN Guiding Principles state that companies have the responsibility to respect human rights throughout their operations, including in their supply chains. Regardless of whether the government takes up its own duties, companies are obligated to know their human rights impacts and take concrete steps to address them. Retail companies in Zimbabwe do not, however, typically carry out human rights assessments of their own workplaces or those of their suppliers. This is partly due to the lack of legal and policy framework requiring them to do so, though it is also due to competitive pressures and low margins.

⁸ Consumer Council of Zimbabwe Act

⁹ Standards Association of Zimbabwe

Examples of Mitigation Steps Taken by Retail Actors

For the preparation of this paper, the authors interviewed representatives of OK Zimbabwe, TM and Spar Central Office. All of these actors indicated that, in order to limit complicity in human rights abuses in their supply chains, they had developed codes of conduct for their suppliers. These codes define acceptable standards of work for suppliers, including working hours, hiring practices and payment. They do not, however, apply to suppliers' own suppliers, what is typically referred to as 'tier two' suppliers. Many companies that supply to large retailers have their own network of suppliers, which currently remain outside the scope of the Code of Conduct, and therefore out of sight, to the final customer.

The actors interviewed for this paper indicated that they are not actively involved in reviewing their value chains for human rights abuses, as there was no legal requirement to do so. Whilst public consumers have boycotted Alpha and Omega products as a protest against human rights abuses by the owners (the Presidium), there is no record of any such action against retailers.¹⁰

Overall, the authors of this paper found limited interest in the subject of human rights and reluctance among senior management in retail entities to discuss risks associated with their businesses. Most of

¹⁰ Now Daily (2015)

the informants interviewed were not aware, or have very limited knowledge, of the UN Guiding Principles.

Another challenge in the application of human rights mitigation steps is Zimbabwe's political context. Companies are subject to approval—formal as well as informal—by government agencies and individual actors to continue operating. Since many of these political actors associate human rights with a 'regime change agenda,' retailers are reluctant to associate themselves with this agenda.

Perhaps in response to these challenges, many retail actors carry out human rights or development using the language of 'responsible retailing' or 'corporate social responsibility' (CSR). While these programs are often indistinguishable from marketing, they can also be effective at improving working conditions and environment impacts, both key components of human rights.¹¹ So from one perspective, CSR measures are a positive step in that they include components of the responsibility to respect human rights. From another perspective, by avoiding any explicit link to the comprehensive and interdependent nature of the human rights framework, these efforts risk being haphazard, unmonitored and ad hoc.

¹¹ Schramm-Klein *et al* (2013)

Human Rights Measures Taken By Retailers

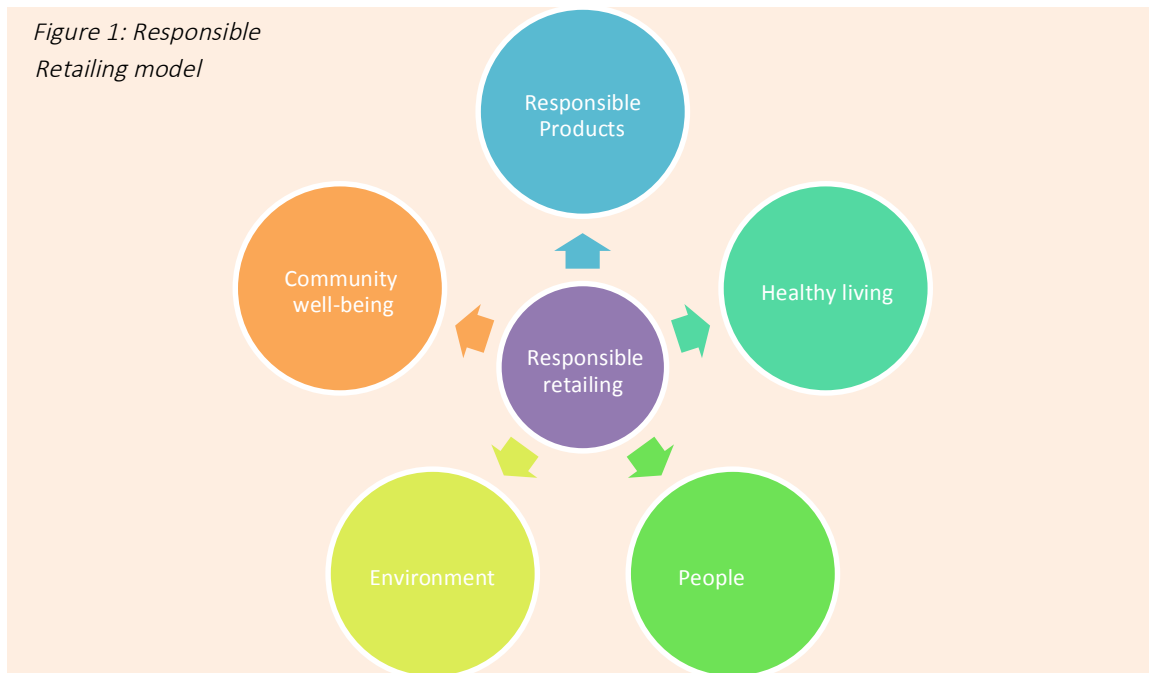
Aspect	OK Zimbabwe	TM Supermarkets	Spar
Environment <i>Encouraging customers to reduce, reuse and recycle</i>	<ul style="list-style-type: none"> • OK Zimbabwe sells carrier bags to reduce use (Every 2 cents per bag sold goes to Environmental Africa) • OK Zimbabwe works with Friends of the Environment and sponsors tree nurseries across the country • OK Zimbabwe has invested in modern day refrigeration equipment that meets environmental emissions standards. 		<ul style="list-style-type: none"> • Spar Central, through its franchisees, uses biodegradable carrier bags and brands litter bins in Gokwe, Bulawayo and other cities • Spar is involved in clean-up campaigns especially in Kadoma
Education <i>Contributing to schools or children</i>	<ul style="list-style-type: none"> • OK Zimbabwe sinks boreholes for tree nurseries. The nurseries enable schools to have access to clean and safe drinking water. 		<ul style="list-style-type: none"> • Spar works with Childline Zimbabwe • In Tsholotsho district, Spar financed the purchase of a fence for the Childline Zimbabwe drop-in centre.
Vulnerable groups <i>Food donations or contributions to community well-being</i>			<ul style="list-style-type: none"> • Spar has partnered with Childline Zimbabwe in constructing the Victoria Falls drop in centre
Health <i>Promoting improved living standards</i>		<ul style="list-style-type: none"> • TM works with Island Hospice and fundraises for provision of ARVs and cancer drugs 	

Recommendations to companies

Retail actors must take a more structured approach to addressing their human rights risks. The current 'responsible retailing' approach leaves many gaps in terms of potential and actual human rights impacts. Whilst retailers have taken steps to identify and manage their impacts in communities, they have made few efforts to confront the risk of modern-day slavery in their supply chains.

Recent academic work has proposed a holistic approach to responsible retailing. This framework includes five key aspects.¹² First, a **responsible products aspect** to address risks in the manufacturing, processing and packaging supply chain. This aspect ensures that all products are made

with respect for people and the environment, from raw materials sourcing to product packaging. Second, a **people aspect** that ensures retailers provide a just and non-exploitative workplace. Third, an **environmental aspect** to reduce the retail sector's impact on the habitats where it operates. This goes beyond the reduce, reuse and recycle approach to ensure limited CO₂ emissions and sustainable impacts on health and livelihoods for local communities. Fourth, a **healthy living aspect** that addresses the health effects on consumers when using retailers' products. This aspect ensures that products are healthy and promote community well-being and vitality. Finally, the **community well-being aspect** goes beyond the retailer-consumer relationship to address systemic



¹² Ahold (2015)

food security and climate change risk.

While this framework does not use the terminology of human rights, it features a similar comprehensive, systematic approach. Regardless of which approach or terminology they choose, retailers must address all of their impacts, not simply those which provide them with reputational benefits. In addition to a comprehensive framework, retail actors must increase their linkages with human rights institutions like the Zimbabwe Human Rights Commission (ZHRC). The ZHRC and other civil society actors can provide training to retail sector actors on the UN Guiding Principles and help

them develop due diligence approaches that encompass comprehensive human rights assessments. The CCZ, SAZ and the Zimbabwe Stock Exchange also have a role to play in strengthening the human rights due diligence processes of retailers.

CSO actors working in business and human rights must also create a nexus with the retail sector and lobby political elites in order to demystify the human rights discourse and show that it is not a 'regime change' agenda. They can further influence the attitudes of retailers toward the human rights discourse.

The Banking Sector

Background

The banking sector in Zimbabwe is composed of commercial banks, the Infrastructure Development Bank, building Societies, merchant banks and savings banks. The sector is governed under the Banking Act and falls under the direct supervision of the Reserve Bank of Zimbabwe. Zimbabwe's economic blueprint the ZIMASSET identifies the banking sector as a key partner in financing infrastructure development projects such as energy and power development, roads, rail, aviation, telecommunication and water and sanitation. ZIMASSET prioritizes recapitalizing and capacitating the Industrial Development Corporation (IDC), Infrastructural Development Bank of Zimbabwe (IDBZ), AgriBank and the Small Enterprise Development Corporation (SEDCO).

The UN Guiding Principles provide that companies should first seek to prevent or mitigate the most severe impacts for individuals and communities. These impacts should be prioritized on the basis of their gravity, the number of individuals affected and whether the impacts are remediable. The banking sector provides a unique case study in this approach. The impacts of the financial sector are typically removed from direct interaction with rights-holders. And yet, though access to credit and financial products may seem less directly linked to

human rights impacts than mining, retail or forestry, their impacts are no less profound.

The banking sector is the grease that makes the wheels of the economy turn. By providing capital, banks have unique leverage over every other sector in the economy, as well as significant power to influence them. The special role of the banking sector in promoting human rights due diligence—or encouraging human rights abuses—means that its actors should be under greater scrutiny, not less.

Banks carry out extensive research and due diligence before making investments. This includes everything from assessing the financial solvency of a company to establishing the competence of its senior managers. These processes extend across project finance developers, retail and commercial banking clients and individual investors. In general, however, banks do not include human rights impacts in these assessments. While failure to comply with law is considered a material risk, exploitation of workers or harming community livelihoods is not.

This situation represents a challenge, but also an opportunity. By taking action to advance the UN Guiding Principles through its due diligence processes, the banking sector can promote adherence to human rights norms and limit its own complicity in human rights abuses. The UN Guiding Principles clearly state that the corporate responsibility to respect human rights

extends beyond individual companies, and applies to their partners, suppliers and financial backers. Therefore, banks that identify potential impacts linked to a mine, power plant or other project have the responsibility to use their leverage to ensure these impacts are positive.

The Deposit Protection Scheme

The government established the Deposit Protection Corporation to replace the Deposit Protection Board. The Act was promulgated after a series of bankruptcies, largely by indigenous banks. The primary mandate of the Deposit Protection Corporation is to protect the public from losing their savings when a financial actor becomes insolvent. The fund collects payments from financial institutions and pays compensation when a financial institution fails. The amount of compensation that a depositor receives is defined by the Corporation. Evidence shows that following the collapse of banks such as Afrasia and Allied Bank, depositors who had bank balances over \$500 have not received any payment. The Master of High Court accepted their claim forms in July 2015 but no payments have yet been made.

Project Finance And Human Rights

One of the core responsibilities of banks is the transfer of capital from savers to borrowers. While executing this function, banks must protect human rights to avoid complicity. The provision of financial and

advisory services to a client with a poor human rights reputation might be viewed as endorsing the activities of the client. To protect human rights, banks in Zimbabwe demand that they know the kind of business their customers engage in. On a regular basis, banks carry out what is known as 'know your customer' exercises in which they require their clients to update their personal information. Through this process, banks get to know the identity, address and source of income for clients.

Customers who do not comply with this requirement will have their accounts closed. In the case of corporates accounts, banks in Zimbabwe require that an account relationship manager makes routine visits to clients. The purpose of the visits is to get an understanding of the client's business. If the bank is suspicious of the nature of the client's business, then the account will be immediately closed. The purpose of closing the account is to safeguard the bank's reputation in case the business operations violate human rights.

With regards to issuing loans, banks in Zimbabwe conduct due diligence in which the customer is asked to provide proof of employment, identity cards and a letter from employer. The customer is also asked to disclose the purpose of the loan. The bank then assesses the completed form and makes a decision. This rigorous process ensures that the bank fully understands the customers' source of income and whether or not the customer is involved in

employment that violates human rights. The process is even more stringent in cases involving corporate clients. The account relationship manager is supposed to visit the client's business and get first-hand information on the kind of business the client does. This verification process allows the bank to ascertain the legality of the business and whether or not they want to fund such activities. Corporate clients with activities that violate human rights will get turned down.

Labour Practices And Human Rights

Financial institutions in Zimbabwe have a responsibility to ensure that they protect and safeguard fundamental labour rights for their employees as enshrined in the Labour Act. The labour rights include occupational health and safety, non-discrimination and collective bargaining. The actors use the Labour Act and internal policies, guidelines and procedures. The Labour Act stipulates the general conditions of employment for workers and defines a minimum wage and terms for dismissal and compensation of employees. Internal policies and procedures specify how hiring, advertising, recruitment, promotion, disciplinary and promotion is done. The employees are free to become members of the Zimbabwe Banking Workers Union (ZIBAWU), which represents the interests of workers. The union represents workers in disputes between employers and employees and in wage negotiations.

Supply Chain (Procurement And Investment) And Human Rights

Financial institutions procure goods and services from other business. The actors in this industry stipulated that they have a procurement policy that stipulates how they must procure goods and services. They also have a suppliers' code of conduct that stipulates issues of tax compliance with the revenue authority. Due diligence is performed to screen the prospective suppliers and a database is designed. The actors in the financial services sector do not purchase goods or services from suppliers with weak environmental standards.

On the investment side, the players in the financial services sector have an 'investment policy' that is derived from the Promotion and Suppression of Money Laundering Act. The Act seeks to prevent transnational crimes and forbid financial institutions from accepting funds that are obtained through criminal activities. Organized crime is linked to human rights abuses, and Anti Money Laundering requirements help diminish the risk that banks will transact with entities involved in human rights abuses.

These due diligence processes identify whether potential customers are linked to international crime or terrorism and enables banks to avoid transacting with them and thus avoid violations of Anti Money Laundering laws or sanctions. The policy stipulates that the actors cannot take money

if they do not know its source. Gambling is also prohibited.

Corporate Social Investments And Human Rights

Financial services actors, like those in the retail sector, concentrate their human rights expenditures under the framework of 'corporate social investments'. These actors state that giving back to the host society creates a good corporate image and encourages donations from other corporations. Priorities for actors in the sector are scholarships, access to water, and empowerment of disadvantaged groups (women and children).

Scholarships

Though communities may not be directly affected by their activities, actors in the financial sector realize that there are many children who are intelligent yet cannot progress with their education because of failure to pay school fees. Every year, POSB Bank identifies 10 vulnerable children who are academically gifted across all provinces and 'adopts' them.

The institution pays for students' school fees on the condition that they pass their advanced level exams. If so, POSB Bank will pay for their university education. At university level, the bank has a bias towards Banking and Finance degree programmes. Upon successful completion of university studies, the bank offers all students employment. Every five years, the

programme reaches out to 50 students throughout the 10 provinces.

Stanbic Bank also helps students in various institutions to pay fees. The students range from secondary school to university 1st degree level. ZB Bank identifies 9 or 10 promising students from disadvantaged families on a yearly basis. The bank pays the children's fees from grade 6, 7 and Form 1. ZB Bank partners with private colleges and offers attachments for their students.

Access to clean water

Actors in the financial services sector also invest in drilling boreholes to improve access to clean water for communities. POSB Bank works with the Ministry of Health and the Ministry of Education to identify one school and one hospital in the province. Once this is done, the bank finances the sinking of a borehole at the school and hospital. In 2015, the bank sunk six boreholes in Mutare, Masvingo, Matebeleland South and Mashonaland East. Stanbic Bank helped Hupenyu Hutsva children's home with the installation of borehole equipment to improve their water supply.

Access to health services

ZB Bank identifies communities that do not have clinics and provides them. The bank spearheads fundraising for issues related to maternal health. Stanbic Bank assisted a family in Manicaland in the construction of a toilet, bathroom and installation of a geyser. The family is plagued with a disease that renders male children paralysed.

Conclusion

The research conducted for this briefing paper demonstrates that retail and banking sector companies in Zimbabwe have not systematically addressed their human rights impacts. Whilst they have put in place corporate social responsibility initiatives, these are in no way couched as measures to address human rights impacts, but simply haphazard approaches to improve corporate image for consumers and clients. This research has also shown that consumers and investors are increasingly concerned about working conditions and environmental impacts (both key components of the human rights framework), and want to see increased private sector efforts to address these issues in value chains.

Companies in the retail and banking sectors are clearly concerned about maintaining their reputation, yet they have not considered the damage to their reputation in the case of being complicit in gross human rights abuses. Carrying out comprehensive human rights due diligence is both a reputational mitigation process and

an investment in the company's long-term value. Companies fail to make these investments at great risk to their brand, competitiveness, compliance and the trust of their customers and partners.

Whilst acknowledging that tracking human rights issues deep down into supply chains is not easy, this paper makes a case for companies to cooperate with civil society organisations and the Zimbabwe Human Rights Commission (ZHRC) to take the first steps, at least, toward facing this challenge. Few companies have the resources and expertise to address all of their human rights issues perfectly or immediately. Dozens of institutions, standards and networks, however, have been created for exactly this purpose, and companies should draw upon local and international organizations in crafting their approaches.

Finally, we conclude that respecting human rights is simply the right thing to do for businesses in the retail and banking sectors. That may not be the end of the process, but it is the beginning.

Recommendations to companies

As can be seen in the examples above, banks concentrate their activities on social investments that are ad-hoc, small-scale and linked to a marketing outcome. While banks do perform due diligence to ensure that their corporate investments do not break the law, these assessments do not refer to

human rights specifically, and do not include issues and impacts outside the scope of Zimbabwean law.

These conclusions lead to the following recommendations to the banking sector: First, include human rights criteria in due

diligence assessments. Companies do not only affect human rights to the extent that they break the law. A more holistic view of corporate impacts must be mainstreamed into the risk assessment process. This includes updating processes and criteria themselves, as well as training risk officers to apply these criteria. Second, banking sector actors should report on their investments and the due diligence steps carried out to ensure that they do not negatively impact human rights. This step

alone would incentivize corporate actors seeking financing to take a systematic approach to identifying their impacts. Third, before investing in community development, banks should assess their own footprint for human rights impacts. The UN Guiding Principles state that development efforts do not offset negative impacts. These impacts should be addressed as a top priority, before carrying out development activities that are detached from them.

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