

2014: Superannuation. Beyond the Fringe

Ensuring Investments Comply with United Nations' Human Rights Standards

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Agenda

- What are human rights and core international human rights standards?
- Why are human rights relevant for business?
- Introducing the UN Guiding Principles on Business and Human Rights and human rights due diligence
- What do the UN Guiding Principles mean for investors and their advisors?
- The Australian context

A recent human rights shareholder proposal

PROPOSAL NO. 6.

ADVISORY VOTE ON A SHAREHOLDER PROPOSAL REQUESTING A HUMAN RIGHTS REPORT

The American Federation of State, County and Municipal Employees Pension Plan (Plan) advised the Company that it intends to present the following shareholder proposal at the Annual Shareholders' Meeting. The Plan owns 7,538 shares of the Company's common stock. There was one co-filer for this proposal.

Shareholder Proposal

RESOLVED, that shareholders of McDonald's Corporation ("McDonald's") urge the Board of Directors to report to shareholders, at reasonable cost and omitting proprietary information, on McDonald's process for identifying and analyzing potential and actual human rights risks of McDonald's operations (including restaurants owned and operated by franchisees) and supply chain (referred to herein as a "human rights risk assessment") addressing the following:

- Human rights principles used to frame the assessment
- Frequency of assessment
- Methodology used to track and measure performance

The company's response

The Board's Statement in Opposition

The Board recommends voting AGAINST the advisory proposal requesting a human rights report.

The Board has carefully considered the proposal and, for the reasons described below, believes that the report is unnecessary in light of the Company's demonstrated commitment to human rights, including an expectation that McDonald's independent owner-operators and suppliers do the same. We further believe that the proposal represents the potential for a diversion of resources with no corresponding benefit to the Company, our customers or our shareholders.

The result

Proposal 6. Advisory Vote on a Shareholder Proposal Requesting a Human Rights Report

| | For | Against | Abstain |
|------------------------|-------------|-------------|-------------|
| Number of Shares Voted | 180,216,838 | 341,295,875 | 114,581,514 |
| % of Shares Voted | 28.33% | 53.65% | 18.01% |

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Business and human rights landscape

1. All internationally recognised human rights
2. All sectors
3. All types of business
4. Developing and developed countries
5. Challenges and opportunities



What are human rights?



- Basic rights and freedoms enjoyed by all human beings, individually and in some cases collectively
- Applicable regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, or any other status
- Enshrined in core international instruments drafted by States for States in the aftermath of WWII
- Civil and political rights: e.g. right to life; freedom from torture, freedom against slavery; freedom of expression
- Economic, social and cultural rights: e.g. right to just and favourable working conditions; right to an adequate standard of living; right to take part in cultural life
- Universal, inalienable and indivisible

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Why are Human Rights relevant for Business?

- Responsibility to respect human rights – to do no harm
- May also help realise rights
- Consequences of negative impacts:
 - criminal prosecutions
 - civil law suits
 - public campaigns
 - investor concern including divestment
 - operational delays
 - employee dissatisfaction
 - lost funding opportunities

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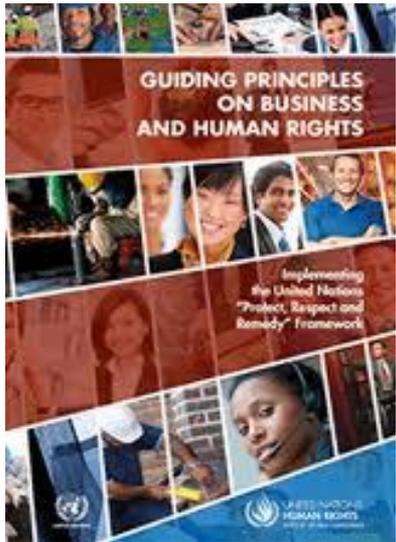
The UN Protect, Respect and Remedy Framework



- The **State duty to protect** against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication
- The **corporate responsibility to respect human rights**, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved
- Greater access by victims to **effective remedy**, judicial and non-judicial

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Status of UN Guiding Principles on Business and Human Rights



- UNGPs **are**: a global reference point for preventing and addressing the risk of adverse impacts on human rights linked to business
- UNGPs **are**: being incorporated into other key CSR initiatives and there are examples of uptake by all stakeholder groups
- UNGPs **are not**: binding international law.
- UNGPs **are not**: an off the shelf handbook, must be tailored to each company, each government

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The Corporate Responsibility to Respect

- Foundational Principles
- Policy Commitment
- Human Rights Due Diligence
- Remediation
- Issues of Context



Human Rights Due Diligence

- **Identifying and assessing** the actual and potential adverse human rights impacts of company activities and associated relationships
- **Integrating** the findings from human rights impact assessments across relevant internal functions and processes
- **Tracking** company human rights performance to verify whether adverse human rights impacts are being effectively addressed
- **Communicating** publicly, where appropriate, on company responses to actual and potential human rights impacts



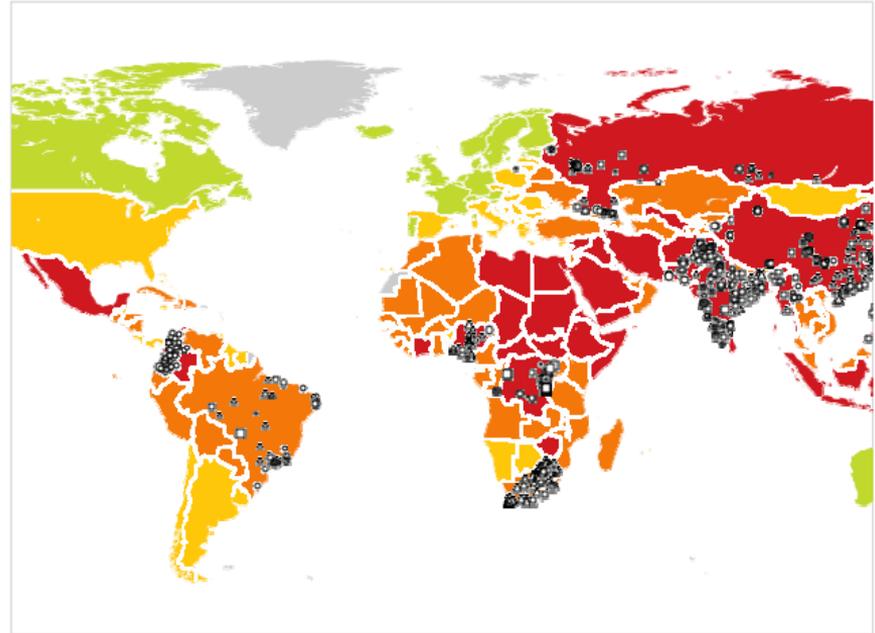
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Human Rights Due Diligence and Business Relationships

- Responsibility to respect entails preventing and addressing **involvement** in human rights harm, including through business relationships
- All business relationships including e.g. security providers and other contractors, suppliers, joint venture partners, mergers and acquisitions, franchise partners, customers and investor relationships etc
- Identify general areas where risk of adverse human rights impacts most significant and prioritise these for human rights due diligence
- Look at business partner's operating context, particular operations, products or services or other relevant considerations i.e. industry
- Appropriate action to fulfil responsibility to respect will depend on level of involvement and leverage



Human Rights Risk Index



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What the UNGPs mean for investors?

- Understanding the human rights risk management approach of businesses in which they invest.
 - Understanding human rights risks through their own activities.
 - Raising human rights awareness amongst investors.
 - Highlighting the information needs of investors.
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- Informal dialogue
 - Shareholder proposals
 - Divestment
 - Public advocacy
 - Benchmarking and ranking
 - Tools development
 - Internal policy development

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2013 US Shareholder Proposals

| Human Rights Proposals | | | |
|------------------------|---|----------------------------|-------------------------|
| Company | Proposal | Proponent | Meeting/ Status |
| Aqua America | Adopt policy on human right to water | NorthStar Asset Mgt. | May |
| Caterpillar | Adopt/expand human rights policy | Presbyterian Church (USA) | June |
| Caterpillar | Report on human rights | Jewish Voice for Peace | June* |
| Caterpillar | Report on human rights risks | AFSCME | June* |
| Chevron | Report on country selection/assessment | Teamsters | May |
| Choice Hotels Intl. | Report on human rights policy | Mercy Investment | Withdrawn |
| Deere | Adopt/expand human rights policy | Episcopal Church | Omitted ¹⁻¹⁰ |
| Expedia | Adopt policy on human trafficking | Mercy Investment | Withdrawn |
| Franklin Resources | End investments in genocide-connected companies | William Rosenfeld | March 13 |
| General Dynamics | Adopt/expand human rights policy | Srs. of Loretto | May |
| GEO Group | Report on human rights policy | Brethren Benefit Trust | May |
| Goldman Sachs | Establish executive human rights committee | Jing Zhao | May* |
| Halliburton | Report on human rights policy | AFSCME | May |
| Hewlett-Packard | Adopt/expand human rights policy | Presbyterian Church (USA) | March 20 |
| Hewlett-Packard | Establish executive human rights committee | Jing Zhao | March 20 |
| JPMorgan Chase | End investments in genocide-connected companies | Investors Against Genocide | May |
| Kroger | Report on human trafficking policy | Srs. of St. Francis | June |
| Marathon Oil | Report on human rights policy | Episcopal Church | Withdrawn |
| McDonald's | Report on human rights policy | AFSCME | May |
| Northrop Grumman | Adopt/expand human rights policy | Srs. of St. Francis | May |
| Yahoo! | Report on human rights | Jing Zhao | June |

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An example of benchmarking

**Table 2
Due Diligence Requirements – Company compliance as evidenced by public reporting**

| Company | Initiated prior to new activity or relationship | Consultation with potentially affected groups | Is on-going, recognizing that HR risks may change over time | Covers adverse HR impacts caused by own or partners activities | Draws on internal and/or independent external HR expertise |
|--------------------|---|---|---|--|--|
| Anglo American | ✓ | ✓ | No evidence | No evidence | ✓ |
| Antofagasta | No evidence | No evidence | No evidence | No evidence | No evidence |
| BG Group | ✓ | ✓ | No evidence | No evidence | No evidence |
| BHP Billiton | ✓ | ✓ | No evidence | No evidence | ✓ |
| BP | No evidence | No evidence | No evidence | No evidence | No evidence |
| Cairn Energy | Piloted | Piloted | No evidence | No evidence | No evidence |
| ENI | Piloted | Piloted | No evidence | No evidence | ✓ |
| OMV | Piloted | Piloted | No evidence | No evidence | ✓ |
| Randgold Resources | No evidence | No evidence | No evidence | No evidence | No evidence |
| Repsol YPF | Piloted | Piloted | No evidence | No evidence | ✓ |
| Rio Tinto | No evidence | No evidence | No evidence | No evidence | No evidence |
| Royal Dutch Shell | No evidence | No evidence | No evidence | No evidence | No evidence |
| Statoil | ✓ | No evidence | No evidence | No evidence | No evidence |
| Total | No evidence | No evidence | No evidence | No evidence | ✓ |
| Tullow Oil | No evidence | No evidence | No evidence | No evidence | No evidence |
| Xstrata | ✓ | ✓ | ✓ | No evidence | ✓ |

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Why do the UNGPs matter to internal and external legal advisors?

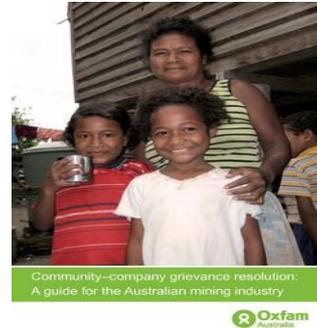


- UNGPs assist funds to fulfil UNPRI commitments
- Increasing mainstream references to UNGPs and human rights due diligence mean human rights diligence may be expected as part of professional trustee test
- Ability of human rights risk to impact share price means not considering human rights risk could breach duty to act in best financial interests
- Funds will seek guidance on voting around human rights related shareholder resolutions

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Key Australian developments

- Government
- Business
- Civil Society
- Investors
- Academia



Global Compact Network
Australia

