PILLARS IN PRACTICE

Advancing the United Nations
Guiding Principles on Business
and Human Rights

CASE STUDY

Centre for Research and Development (CRD)

Abstract

The goal of this case study is to increase the body of knowledge about the practical implementation of the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNGPs are based on three pillars: the "state duty to protect against human rights abuse by third parties including business enterprises," the "corporate responsibility to respect human rights," and "effective redress mechanisms in those instances where human rights have been adversely impacted."

This is one of three case studies produced as part of the "Pillars in Practice" (PIP) project, an initiative funded by the United States Department of State Bureau of Democracy, Human Rights and Labor to advance the UNGPs. The project commenced on September 12, 2012 and ended on September 30, 2014. Led jointly by Social Accountability International (SAI) and the Danish Institute for Human Rights (DIHR), PIP was implemented locally in collaboration with four civil society partners: CSR Centre (Bangladesh); Unión Nicaragüense para la Responsabilidad Social Empresarial (Nicaragua); Professionals for Corporate Social Auditing (Nicaragua); and Zimbabwe Environmental Lawyers Association (Zimbabwe).

This case study follows the Centre for Research and Development (CRD), a civil society organization (CSO) focused on Zimbabwe's mining sector. It tracks the changes that occurred in CRD's operations as it participated in the PIP project and implemented the UNGPs. Thus, the case study is presented as a timeline: it begins by describing the organization's understanding of the UNGPs at the commencement of PIP; moves on to its participation in PIP's capacity building activities; focuses in detail on its use of technical assistance; and, finally, explains how CRD applied the UNGPs to its work.

CRD activities described in this case study include: participation in a UNGPs multi-stakeholder advisory committee meeting; participation in a UNGPs multi-stakeholder training session; technical assistance by ZELA and SAI to build the organization's ability to evaluate mining companies' human rights management systems; and presentation at a second multi-stakeholder advisory committee. See Figure 1 on the next page for a graphic depicting this process.

FIGURE 1

| First Multi-Stakeholder Advisory Committee (June 2013) | Multi-Stakeholder UNGP Training Session (November 2013) | Technical Assistance (April 2014) | Second Multi-Stakeholder Advisory Comittee (April 2014) |

Organization Profile

In operation since 2005, CRD is based in Mutare, Zimbabwe. It is a research, training and capacity building organization whose mission is to promote effective natural resources governance in order to promote human rights, democracy, peace and sustainable development in communities.

Its research focuses on how laws, policies and activities of mining companies can adversely impact the rights of communities living in natural resource rich areas. For example, CRD is engaging academic institutions for partnerships in research whose outcome is critical in disseminating information on the impacts of resource exploitation in the communities.

It builds the capacity of communities to dialogue with business and government in order to uphold and respect their rights. For example, CRD's Civic Education Programme (CEP) covers the Province of Manicaland in Zimbabwe and has a target group including traditional leaders, community leaders, church leaders, councilors, political parties, government representatives, women, youth, CSOs and developmental partners working in these communities.

CRD advocates on behalf of communities in order to ensure that they derive meaningful benefits from the extraction of natural resources from the areas in which they live. Currently CRD is lobbying the government to implement sound macro-economic policies promoting the rights of communities to resources and also increasing public-private partnerships in the exploitation of natural resources. CRD is also advocating for an increased role of civil society to monitor public policy management in order to monitor corruption and abuse of power by the authorities.

CRD is a member of the National Association of Non-Governmental Organisations and the Zimbabwe Lawyers for Human Rights. At the international level, CRD is a member of the Governance of Africa Resources Network (GARN) and the Kimberly Process Certification Scheme Civil Society Coalition (KPCS) and monitors activities in the diamond sector as a member of the Local Focal Point of the KPCS in Zimbabwe. In that capacity CRD's biggest achievement to date is the role it played in documenting and exposing how diamond mining activities were having adverse impacts on community rights in the Marange Diamond Fields

Case History

Although human rights are central to CRD's mission, the organization has had difficulty engaging Zimbabwean companies and government due to the lack of national dialogue and awareness of human rights. However, CRD's approach changed in June 2013 when it attended the PIP project's launch event in Zimbabwe – the first multi-stakeholder advisory committee (MAC). The MAC was organized to present the project to a diverse group of companies, NGOs, government officials and civil society organizations in order to advance knowledge, understanding and implementation of the UNGPs in Zimbabwe's mining sector.

The large number of participants – more than 70, which exceeded the expectation and goal of 25 – signaled an opportunity to finally discuss human rights in the context of the UNGPs. To CRD this high turnout reflected the global acceptance of the UNGPs as the most powerful framework for defining the roles and responsibilities of government, business and CSOs in addressing the governance gap created by globalization.

CRD reported that the MAC's seminal moment for them was the presentation on the reasons for forming the UNGPs, in particular the movement from "naming and shaming" to "knowing and showing." CRD characterizes its work as "naming and shaming" the adverse human rights impacts of businesses. CRD was intrigued by the presentation of a less confrontational method of engaging businesses that encourages businesses to "know," – to proactively discover their human rights impacts – and "show" – discuss these impacts with organizations like CRD.

After the MAC, CRD decided to participate in the PIP project in order to learn how to convince businesses to conduct "know and show" their human rights impacts. CRD enrolled in the multi-stakeholder training session offered by the PIP project, which took place on November 12, 2013..

Challenges to Overcome

CRD stated that the major challenge it faces in making an impact on improving human rights is the dire state of the Zimbabwean economy. For the past 15 years Zimbabwe has faced serious economic challenges, including ten years of contraction from 1998 to 2008 (CIA World Factbook). The government has stated that the mining sector is critical to economic recovery, stabilization and eventual growth. CRD believes this is why the Government does not address the sector's adverse human rights impacts. For example, CRD sees this reflected in policy decisions that do not prioritize community rights; the Mines and Minerals Act (Chapter 21:05), is the main piece of legislation regulating the mining sector; it has insufficient provisions on the mining sector's adverse impacts on human rights.

In order to make an impact, CRD, like many CSOs working on natural resources governance in Zimbabwe and elsewhere, adopted a confrontational approach to dealing with mining companies. Its research and advocacy work built regional, national, and the wider international community's awareness of human rights violations. It also resulted in partial redress by companies, particularly the reduction of gross human rights violations and improved occupational health and safety conditions. However, this approach has resulted in mistrust, suspicion and hostilities between CRD and mining companies.

Thus, CRD has had difficulty engaging mining companies in Zimbabwe in constructive dialogue. Mining companies, CRD says, perceive it as committed to tarnishing the image of businesses through

its "naming and shaming" approach. Thus, the CRD Secretariat is often denied a platform for dialogue by mining companies. For example, Anjin, a Chinese diamond mining company with operations in Marange, ended an interview with CRD midway after top management realized that CRD was following up human rights monitors' reports of human rights violations in Marange.

Despite efforts by CRD to correct the misperception of its organization by mining companies, there remains a reluctance to engage. CRD believes that this is because, like many CSOs working on mining issues, it lacks the skill to make a business case for business and human rights since companies are more open to initiatives that make a business case. CRD perceives the UNGPS as an opportunity to overcome this challenge by giving CRD the vocabulary and skills to make the business case for mining companies: by respecting human rights, companies will retain or establish their social license to operate and minimize the costs from protests by community and human rights advocates.

Technical Assistance

CRD sought to change its approach and relationship to business by incorporating the UNGPs into its programming. At the PIP project multi-stakeholder training session it attended, CRD learned about SAI's Social Fingerprint® program and discussed with ZELA and SAI the possibility of receiving technical training to use the program to evaluate the human rights management systems of mining companies in Zimbabwe. CRD saw the possibility of using the Social Fingerprint® tool to create a constructive and cooperative rather than confrontational and adversarial dynamic with mining companies.

Social Fingerprint® is a program of ratings, training and tools to help companies measure and improve their human right management systems. It measures nine aspects of a company's management system and assigns ratings based on a 5-point scale (see Figure 2 below).

FIGURE 2

Rating (5 is highest)	Management Systems – Policies and Procedures	Worker Involvement & Communication	Training & Capacity Building
	Internal Social Performance Team	Complaint Management & Resolution	Level and Type of Non-conformances
	Management of Suppliers & Contractors	External Verification & Stakeholder Engagement	Progress on Corrective Actions

Each of the nine categories is rated on a scale of 1 to 5, with 5 being the highest. Below, we have indicated the general guidelines for each level.

5	Mature systems with internal and external implementation and continual improvement.
4	Fully developed systems with improving utilization.
3	Systems approach adopted, but mixed level of development and implementation.
2	Limited systems with sporadic implementation.
1	Little or no awareness or repeatable processes.

CRD used Social Fingerprint® to conduct a comprehensive assessment of two mining companies' human rights management systems. Thus, CRD learned to use the language and framework of the UNGPs to build its capacity to directly engage companies. This gave CRD practical experience in incorporating sophisticated investigative techniques into its research by focusing on the components of a human rights management system. The idea was that although CRD has not yet directly engaged companies, it would be equipped to do so.

The first Social Fingerprint® assessment was done on Anjin Diamonds, a Chinese operated and owned mining company based in Harare with mining activity in Marange. Because Anjin refuses to engage with CSOs, CRD used the results of its research as input for the assessment. CRD stated that the assessments were eye opening. Whereas its approach had previously focused on human rights impacts, it had never before attempted to unearth the gaps in company management systems that caused the human rights impacts to occur.

After the first assessment, CRD was tasked to incorporate the Social Fingerprint® assessment methodology into its investigation techniques in order to gather more comprehensive data for its second assessment of Rera Diamonds. CRD accomplished this by integrating questions about Rera Diamonds' management systems into its interviews with community members and local civil society organizations. Asking questions within each of the nine categories of Social Fingerprint®, CRD was surprised to learn that Rera Diamonds did have basic management system components in place that CRD would be able to raise in conversation as improvement points, language to which the company would likely be more receptive than a listing of human rights violations.

Below are the assessment scores for Anjin (Figure 3) and Rera Diamonds (Figure 4), respectively.

FIGURE 3

Category	Points
Policies and Procedures	1.0
Internal Social Performance Team	1.1
Worker Involvement and Communication	1.0
Complaint Management and Resolution	1.3
Level and Type of Non-Conformances	1.1
Progress on Corrective Action	1.2
External Verification and Stakeholder Engagement	1.6
Training and Capacity Building	1.0
Managing Suppliers and Contractors	1.0
Total (Total may not equal sum of all categories due to rounding)	**10.4**

SAI Social Fingerprint [TM] Rating 1.2

FIGURE 4

Category	Points
Policies and Procedures	2.2
Internal Social Performance Team	2.3
Worker Involvement and Communication	1.7
Complaint Management and Resolution	2.8
Level and Type of Non-Conformances	1.7
Progress on Corrective Action	2.2
External Verification and Stakeholder Engagement	1.0
Training and Capacity Building	1.6
Managing Suppliers and Contractors	1.5
Total (Total may not equal sum of all categories due to rounding)	**16.9**

SAI Social Fingerprint ™ Rating 1.9

Conclusion

Through the PIP project, CRD learned about the UNGPs and the usefulness of a comprehensive approach to human rights. By partnering with SAI, DIHR and ZELA, CRD was able to build its capacity to assess the human rights management systems of mining companies. It believes this will enable it to increase its engagement with business. However, in order to be effective, CRD has identified the need for additional capacity building on monitoring and evaluating the management systems of companies. This includes training on what to monitor and any tools that it can use to monitor and evaluate. This also extends to training on strategies on how the companies can incorporate the UNGPs in their own systems. Because of its participation in PIP, CRD has expanded its view of its role. It now is not only a leader in seeking redress for human rights impacts, but also leader in the work of repairing the relationship between CSOs and businesses in Zimbabwe.