

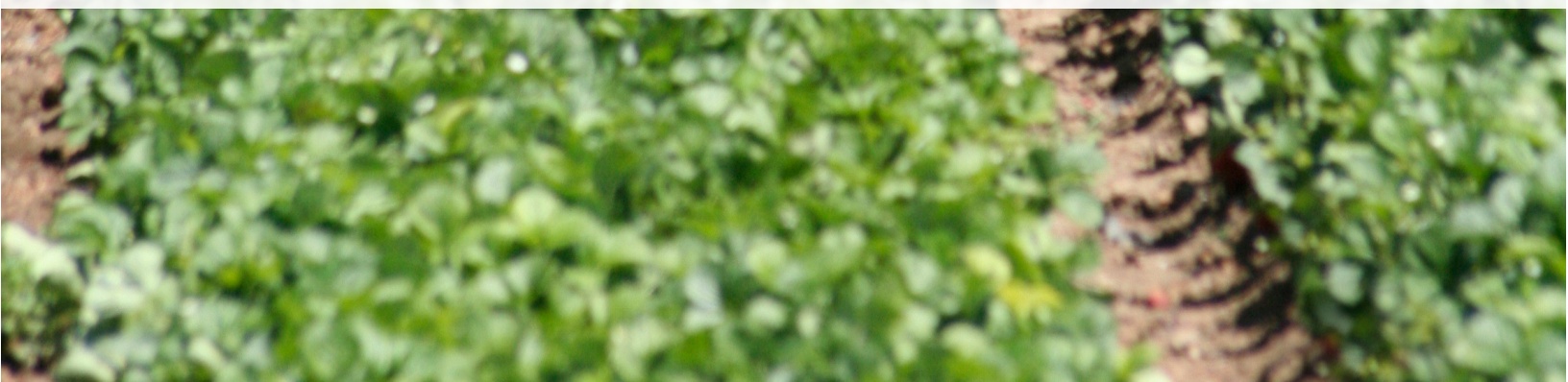


Investor Primer on Grievance Mechanisms

ENGAGE *the* **CHAIN**

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Ceres is a sustainability nonprofit organization working with the most influential investors and companies to build leadership and drive solutions throughout the economy. Through powerful networks and advocacy, Ceres tackles the world's biggest sustainability challenges, including climate change, water scarcity and pollution, and human rights abuses.

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I. Introduction

In our increasingly globalized marketplace, agricultural work is informal and precarious in nature. This leaves workers in global food supply chains vulnerable to adverse human rights impacts, such as poor working conditions, displacement, forced labor and other exploitative practices. Companies are increasingly realizing that human rights risks may be hidden in their extended supply chains, leaving them open to various financial, reputation, regulatory, operational and legal risks without the proper human rights due diligence mechanisms in place.

A major component of corporate human rights due diligence is effective grievance mechanisms. According to the United Nations Guiding Principles on Business and Human Rights (Guiding Principles), a grievance mechanism is a formal, legal or non-legal complaint process that can be used by individuals, workers, communities and/or civil society organizations that are being affected by certain business activities and operations.¹ This process supports the identification of negative human rights risks as a part of any company's ongoing human rights due diligence and allows companies to prevent and remedy any salient human rights issues (See Box 1). This in turn drives positive outcomes for society and protects and creates value for business and its investors.

Failing to establish and integrate these mechanisms can lead to reputation damage if grievances become public knowledge and/or are mishandled. These salient human rights risks can translate to material risks beyond reputation risk; depending on the severity of human rights violations, undetected worker grievances can pose regulatory, market and litigation risk to companies, their executives, their boards and their investors. This short brief will examine: 1) the importance of non-judicial corporate grievance mechanisms in food supply chains, 2) the risks of failing to establish them and the opportunities associated with having them and 3) how investors can ensure that companies are properly managing their human rights due diligence in high-risk commodity supply chains.

1. SALIENCY AND MATERIALITY IN HUMAN RIGHTS

BY: AMY AUGUSTINE, SENIOR DIRECTOR, COMPANY NETWORK, CERES

Investors should be aware of the differences and intersection between salient and material human rights risks in their portfolio. A company's salient human rights issues are those human rights impacts that have the potential to do the most harm to a company's rightsholders through its activities or business relationships. Material risks focus companies and investors on those human rights issues determined to present the greatest potential risk to business and impacts the decision making of investors. While on the surface these concepts appear to work towards different ends—one primarily focused on the risks to people; the other on the risks to business—saliency and materiality together can help produce meaningful insights for companies and investors. Companies limiting human rights due diligence processes to material issues often overlook or undervalue the most serious human rights impacts, leading to incomplete corporate disclosures that can put investors at risk. Companies examining business activities and relationships first through the lens of saliency are better positioned to identify, manage, and disclose those human rights issues posing the highest risks to people and shareholders. The overlap between salient human rights issues and business value is a critical output of the due diligence process and can differentiate those companies that understand the importance of effective human rights management from those that don't, providing investors vital information to limit portfolio risks from adverse impacts such as supply chain disruptions, decreased license to operate, reputation damage, and costly litigation.

II. Background

Under the Guiding Principles, endorsed by the United Nations Human Rights Council in 2011, companies have a responsibility to prevent, address and remedy human rights abuses in their global supply chains. The Guiding Principles were drafted by the UN Special Representative on Business and Human Rights, John Ruggie, between 2005 and 2011.

The Guiding Principles establish that companies have a forward-looking responsibility to prevent negative human rights violations when they do occur.² Companies have traditionally relied on supplier audits to identify human rights issues requiring additional management and remediation of negative impacts. Audits, however, can be skewed towards regions and worksites with existing human rights violations and may not include information gathered directly from those negatively affected by a company's operations. Additionally, auditors on site are often under-trained and lack the time and skills to build relationships with workers. This makes it especially difficult for auditors to detect the worst violations, such as forced labor and child labor. Because of this, establishing effective grievance mechanisms across global supply chains to complement audits and capture feedback directly from affected rightsholders are an effective and realistic method for companies to monitor practices that may otherwise remain hidden through an audit, and to quickly act upon and resolve any complaints (See Box 2).³

As a fundamental part of a company's human rights due diligence, investors need to understand how grievances are communicated to and monitored by executives and boards of directors. When human rights risks pose a material risk to the business, corporate boards have a fiduciary responsibility to act. Corporate directors need to be able to understand and evaluate if and how human rights risks impact the company, and when they do, what questions to ask management to ensure that they can adequately consider and respond to these risks posed by human rights in their decision-making on business strategy and risk oversight. Without proper leadership engagement within the company, the establishment of grievance mechanisms will fall short of their ability to add value to business and benefit society.

Providing complaint mechanisms for direct employees is a well-established practice for many companies; however, to effectively manage risks to human rights and a company's license to operate throughout global supply chains, effective grievance mechanisms must be available to their suppliers and workers. As such, companies should set expectations for their suppliers and facilitate achievement of these standards as a part of their supplier assurance mechanisms. This is particularly relevant to protecting especially vulnerable populations such as migrants who were recruited by labor brokers to work for suppliers. Allowing these rightsholders to voice complaints, problems, or suggestions without fear of punishment or retribution is a vital component in protecting human rights in global supply chains and preserving companies' license to operate.

2. UN GUIDING PRINCIPLE 31: COMPONENTS OF AN EFFECTIVE GRIEVANCE MECHANISM

- **Legitimate:** obtaining buy-in and trust from the stakeholder groups for whose use the grievance mechanism(s) are intended, and showing accountability for the fair conduct and resolution of complaints;
- **Accessible:** a usable process for all stakeholder groups for whose use they are intended, in proper languages, utilizing translators and adequate assistance for those who may face particular barriers to access;
- **Predictable:** providing a clear and known procedure with a time frame for each stage, and clarity on the types of process and outcome available as grievances are processed;
- **Equitable:** ensuring that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- **Transparent:** keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- **Rights-compatible:** ensuring the outcomes and remedies accord with internationally recognized human rights;
- **A course of continuous learning:** drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms;
- **Based on engagement and dialogue:** consulting the stakeholder groups on their design and performance and focusing on dialogue as the means to address and resolve grievances.

Ensuring that all mechanisms are understood and trusted by workers is especially vital. It is essential to ensure that grievance mechanisms are appropriate for the workers' level of literacy, language, and technology access. Companies should utilize pre-existing stakeholder engagements with workers and stakeholders where feasible to ensure that workers trust and utilize the process. Failure to integrate existing systems or stakeholder feedback can have a negative impact on uptake. For example, when Tesco tried to establish an operational-level grievance mechanism in the agricultural sector of the Western Cape of South Africa, the team rushed to establish the mechanism instead of taking time to dialogue with the community to obtain buy-in and input. This negatively affected uptake and effectiveness of the mechanism.⁴ By following the Guiding Principles criteria above, companies can create mechanisms where rightsholders feel empowered to share grievances, creating a dialogue between communities and companies alike.

III. The Business Case for Grievance Mechanisms

Establishing a clear, step-by-step system for how grievances are handled demonstrates effective human rights due diligence and risk management. Global businesses report that stepping up on their human rights due diligence and implementing comprehensive grievance mechanisms not only helps them avoid risk associated with violations, it also can lead to a competitive advantage in their sector, geography and supply chain.⁵ In addition to monitoring and mitigating potential negative human rights impacts, companies that establish effective grievance mechanisms position themselves to reap a competitive advantage through proactive management of human rights issues.

Risks of Inaction

For rightsholders impacted by a company's activities, the absence of an effective mechanism to remedy their grievances may have a serious impact on their ability to access their human rights, maintain their welfare and dignity and benefit from personal and economic development opportunities.⁶ Without these alternatives, workers may turn to litigation or public protest to express their grievances, causing drawn-out negotiations and tarnishing corporate reputation as well as limiting an industries' license to operate.

Companies increasingly recognize that staying in the dark on human rights-related issues is not safer. An appropriate response, with remediation and data collection, is essential for risk management. In addition, companies are increasingly being held responsible for the negligent actions of their suppliers. For example, Nestlé has been sued twice over allegations of child labor in its cocoa supply chain.⁷ On top of possible litigation risks that can come from such public allegations, companies can be penalized by the market. In 2017, for example, JBS was accused of selling beef supplied from a farm under federal investigations for employing forced labor-like conditions on workers. As a result, Waitrose took corned-beef from Brazil off its supermarket shelves and conducted an investigation, along with several other European grocers. According to *The Guardian*, JBS paid USD\$2 million between 2013 and 2016 for cattle reared on the farm where prosecutors claim workers were subjected to modern slavery.⁸

Identifying and addressing risks within management gives the company more control over issues that arise further up the supply chain. Inefficient management of grievances can impact the business in a number of ways: this includes operational risk from worker strikes and litigation risk where affected stakeholders take their grievances to a judicial forum and others.

Under the UK Modern Slavery Act and other pending legislation around the world, companies are and will continue to be required to report on their human rights due diligence, a major component of which is effective grievance mechanisms. As legislation continues to evolve, companies should be prepared to report on more nuanced parts of their human rights due diligence policies, including grievance mechanisms. Lack of preparedness may result in regulatory risks in the form of fines and unanticipated compliance costs.

3. TOOLS FOR DEVELOPING EFFECTIVE GRIEVANCE MECHANISMS

BY QUINN KEPES, PROGRAM DIRECTOR, VERITÉ

Grievance mechanisms are effective when they are easy to understand, include protections regarding confidentiality and reprisals, and provide stakeholders with fair and efficient resolution of complaints and access to resources and support. Verité has developed [tools](#) to help companies modify their current systems or create new ones to ensure that grievances are dealt with in the proper manner. Investors can point portfolio companies to these resources to establish early warning systems for companies to mitigate risks and provide the appropriate remedy.

Establishing a transparent process that is mindful of local contexts is vital for companies to avoid serious business risks. In [China](#), Verité piloted an on-site helpline, which resulted in the successful resolution of 99 percent of complaints at a major construction site. Verite and REACH (Research-Education-Action-Change) developed a hotline and in-person grievance system for [Guatemalan coffee sector](#) workers, with funding from Keurig Green Mountain and the U.S. Department of State. The Grievance Reporting and Information Dissemination (GRID) system, designed based on interviews with over 300 workers, provided over 1,000 workers with information about their labor rights, a grievance channel, and referrals to service providers. It also allowed brands to identify high-risk suppliers through an innovative web interface.

Opportunities

Grievances from workers and communities are likely, if not inevitable, in any company's operations. Companies may use audits, certifications and supplier assurance mechanisms to monitor and manager their extended supply chains. These protocols are strengthened when accompanied by accessible and transparent grievance mechanisms. Companies that establish grievance mechanisms and ensure that their suppliers do the same capture valuable information and help to prevent future incidents.

Amplifying the voices of rightsholders allows companies to identify violations early, preventing disruption in the workforce and creating a more stable environment for rightsholders.⁹ By providing these mechanisms and obtaining buy-in from those who will utilize them, companies can increase workplace morale, improve worker retention, reduce incidents and improve productivity. Outside of the workplace, establishing these processes also helps companies bolster their social license to operate within a community.¹⁰

4. OPPORTUNITIES FOR INVESTOR ACTION

[The Investor Alliance for Human Rights](#)

In 2018, the Interfaith Center on Corporate Responsibility launched the Investor Alliance for Human Rights, a platform for investors to engage companies, states and standard-setting bodies on human rights to ensure they create enabling environments for responsible business conduct. From the perspective of institutional investors, the effective uptake of human rights due diligence by corporations is important and necessary to help not only companies but also investors ensure they meet their own human rights and fiduciary responsibilities. The Alliance works with multiple stakeholders, and provides investors with relevant standards, guidance and tools to help them maximize their leverage through informed collective action as well as their individual capacity to address human rights risks, by integrating human rights criteria into investment decision-making and corporate engagements.

[Principles for Responsible Investment](#)

The Principles for Responsible Investment have run several engagements focused on human rights issues—ranging from human rights in the extractive industry, to working conditions and forced labor in agricultural supply chains. Signatories can find opportunities for open engagement and resources through the PRI website and on the PRI collaboration platform—demonstrating how investor dialogues have moved the needle on several indicators of forced labor in global supply chains.

Companies may also utilize grievance mechanism channels through multi-stakeholder initiatives, such as the Roundtable for Sustainable Palm Oil (RSPO). Many of these multi-stakeholder initiatives are designed with the Guiding Principles' recommendations for effective grievance mechanisms in mind. They can be helpful in collecting industry or sector-specific data to allow for corporate precompetitive collaboration to address systemic issues. This can be particularly helpful where entire industries are seeking a social license to operate in a new geography or are seeking to prevent future incidents where prior grievances have been ignored. Rightsholders might feel more comfortable submitting complaints to larger, independent bodies instead of directly to companies or their proxies.

Companies should be prepared to integrate these multi-stakeholder initiatives into their grievance mechanisms ecosystem,¹¹ and to adapt to new systems within these initiatives, such as the RSPO's, new pilot technology platform for elevating the worker voice on palm oil plantations.¹² Companies can utilize multi-stakeholder grievance mechanisms to further understand impacts as part of—but not in place of—a comprehensive company-based approach.

By tracking and analyzing data collected through grievance mechanisms, companies can complement supply chain audits and supplier scorecards with information grounded in the lived experience of rightsholders. This can ultimately help to identify the root causes of specific issues that may not be brought to light through audits alone.

5. EFFECTIVE GRIEVANCE MECHANISMS IN ACTION

BY DAVID SCHILLING, SENIOR PROGRAM DIRECTOR FOR HUMAN RIGHTS, INTERFAITH CENTER ON CORPORATE RESPONSIBILITY

The April 2013 Rana Plaza building collapse in Bangladesh was devastating for the 1,138 workers killed, the 2,500 workers injured and their families. It could have been prevented had there been a functioning grievance mechanism in place at the time. The day before the collapse, workers left the 8-story building because they saw major cracks in the walls. Rather than address the danger, owners forced workers back in the building the next day. A month following the tragedy, global brands, IndustriALL Global Union and UNI Global Union signed the independent, legally binding [Accord for Fire and Building Safety](#) (Accord), an agreement designed to work towards a safe and healthy garment industry in Bangladesh.

That same month, the [Bangladesh Investor Initiative](#), coordinated by ICCR, was formed to encourage apparel brands and retailers to join the Accord. Over 200 investors from 12 countries, with a total of \$4.5 trillion assets under management, supported the Accord and its efforts to create safe workplaces through: inspections, remediation, and an effective worker [complaint process and mechanism](#), allowing for workers to raise concerns about health and safety risks in a timely, safe and confidential fashion.

The Accord's complaint mechanism has been effective because it is part of a larger, comprehensive approach that includes training workers how to detect health and safety issues, the formation of factory safety committees, and a commitment by participating brands to a set of basic rights. Those basic rights include the right to: participate in the factory safety committee, refuse unsafe work, file a complaint when a workplace safety problem is observed, and protection against reprisal for reporting safety-related matters. Examples of worker concerns covered by the complaint mechanism include remediating cracked walls, the burst of a boiler close to production lines, and reinstating and back paying workers wrongfully terminated, such as for pregnancy. Each complaint and its resolution is posted on the Accord's public website. Based on the UN Guiding Principles 'Components of an effective grievance mechanism', the Accord's complaint mechanism can catch issues that have not been addressed through a factory inspection process or that emerge in real time and need immediate attention before they cause serious injury or injustice.



IV. Investor Questions for the Food and Beverage Sector

Food and beverage companies are particularly susceptible to human rights risks without proper management systems; given that a number of prevalent commodities are produced using unsustainable methods (deforestation, desertification, along with others) and operate in opaque supply chains, they often utilize informal labor practices to remain under the radar.¹³ Environmental degradation and human rights abuses often go hand-in-hand in the production of food, making grievance mechanisms for rightsholders to report abuses all the more important. Investors can utilize the above information on risks in addition to the engagement questions below to understand whether or not a portfolio company has properly set up grievance mechanisms, a crucial component of their human rights due diligence.

The following questions can be used by investors in regular dialogue with portfolio companies. These questions can be posed to any company with considerable supply chain exposure but have been particularly developed for use with food and beverage companies sourcing commodities such as palm oil, sugar, cattle, coffee, cocoa and others.

- Does the company have a human rights policy aligned with the UN Guiding Principles on Business and Human Rights that is shared with all suppliers?
- Is the board regularly briefed on how management is protecting human rights in global supply chains? When material, does the board discuss these issues within their deliberations on business strategy and risk oversight?
- Who within the company has overall responsibility for ensuring that grievances are properly tracked, managed and remedied?
- How is the company's human rights due diligence process, as understood by the Guiding Principles, integrated into its risk analysis strategy?
- Does the company have an internal grievance mechanism for direct employees? For suppliers and sub-contracted workers?
- Does the company utilize any additional regional, sector-specific or other stakeholder grievance mechanisms to supplement its own monitoring? If so, how does the company track and remedy each grievance through different channels?
- Are any of the grievance mechanisms executive or administered by an independent entity?

- How does the company communicate its various grievance processes to workers? Does the company work with any local partners to achieve buy-in to these systems?
- How does the company socialize the grievance mechanism with workers? Are there worker/management dialogue modules that encourage workers to use and trust the grievance mechanism?
- How does the company respond when a grievance is reported? How does the company support rightsholders through the process and prevent reprisal?
- What partners and neutral human rights experts does the company utilize when grievances are brought? How does the company properly integrate stakeholder input/expertise into the remedy process while keeping anonymity where appropriate?
- Does the company disclose its grievance process and results? If so, how often and in what format?
- How does the company track the success of its grievance mechanisms? What key performance indicators are used to measure success and areas for improvement?
- How does the company integrate lessons learned into their company systems? How do they ensure new policies and procedures are being implemented by suppliers, managers, etc.?
- How does the company handle non-compliant suppliers that have been named or implicated in a grievance?



ADDITIONAL RESOURCES FOR INVESTORS

[Best Practice Guidance on Ethical Recruitment of Migrant Workers](#)

Interfaith Center on Corporate Responsibility

[Corporate Human Rights Benchmark](#)

Corporate Human Rights Benchmark Ltd

[Developing Effective Grievance Mechanisms in the Banking Sector](#)

BankTrack and Oxfam, Australia

[Doing Business with Respect for Human Rights](#)

A project of Oxfam, SHIFT & UN Global Compact Network, Netherlands

[Free and Fair Labor in Palm Oil Production](#)

The guide was developed by a forum of experts comprised of NGOs, workers organizations, representatives of unions, investors and philanthropic organizations from the United States, Europe, Malaysia, and Indonesia.

[From Poor Working Conditions to Forced Labor - What's Hidden in Your Portfolio](#)

Principles for Responsible Investment

[Help Wanted Guide: Fair, safe and legal working conditions begin with hiring](#)

Verité

[Human Rights Reporting: Are Companies Telling Investors What They Need to Know?](#)

SHIFT

[Know the Chain](#)

Humanity United, the Business & Human Rights Resource Centre, Sustainalytics, and Verité

[Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights](#)

SHIFT

[SEC Sustainability Disclosure Search Tool](#)

Ceres

[United Nations Guiding Principles on Business & Human Rights](#)

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[The United Nations Guiding Principles Reporting Framework](#)

United Nations

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