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THE ROAD FROM PRINCIPLES TO PRACTICE

TODAY'S CHALLENGES FOR BUSINESS IN RESPECTING HUMAN RIGHTS

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Contents

About this research 2

Executive summary 4

Introduction: An inescapable encounter 7

Part I: The intellectual argument is (largely) over 10

Part II: Turning thoughts into action will take time 15

Box – Corporate leaders in human rights: Ahead of the pack, but with a long road ahead 17

Box – Translating principles into practice: The Thun Group and techUK 20

Conclusion: The quickening pace of change 22

Appendix 24

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About this research

The road from principles to practice: Today's challenges for business in respecting human rights is a report by The Economist Intelligence Unit sponsored by a group of organisations including governments, business groups, non-governmental organisations, multinational companies, and law and auditing firms. The study explores the views of businesses worldwide on their responsibility to respect human rights and the ways in which these obligations are carried out.

This paper draws on two main sources for its research and findings, listed below.

- **A global online survey of 853 senior corporate executives carried out in November and December 2014.**

Respondents' companies are active in a wide variety of sectors, the most common of which are financial services, manufacturing, professional services (all 10%), technology, and healthcare (each 9%). About half (51%) of respondents have some human rights oversight role at their organisation. Thirty percent are based in Europe, 29% in the Asia-Pacific region, and 28% in North America, with the remainder from Latin America, Africa, and the Middle East. Their companies span a range of sizes, with 51% having an annual revenue of under US$500 m, and 23% over US$5 bn. Those surveyed mostly occupy senior positions, with 48% at C-suite or board level.

- **Extensive desk research and nine in-depth interviews with independent experts and senior executives of major companies**

  - Anson Maria Elizabeth Chan, former chief secretary during both the British colonial government of Hong Kong and the Hong Kong Special Administrative Region government under Chinese rule, and elected member of the Legislative Council of Hong Kong between 2007-08.
  - Bob Collymore, chief executive officer, Safaricom.
  - Ruth Davis, head of the Cyber, Justice and National Security Programme, techUK.
  - Arvind Ganesan, director, Business and Human Rights Division, Human Rights Watch.
  - Jan Klawitter, government relations manager, Anglo American.
  - Christian Leitz, head of corporate responsibility, UBS.
  - Ed Potter, director of workplace rights, Coca Cola.
  - John Ruggie, Berthold Beitz professor in human rights and international affairs, Kennedy School of Government, Harvard University; former UN secretary general's special representative on business and human rights.
  - Margaret Wachenfeld, director of research and legal affairs, Institute for Human Rights and Business

In addition, the United Nations Working Group on Business and Human Rights provided valuable input on the survey questionnaire, helping to ensure that the survey focused on the most pertinent issues and questions, and used correct terminology.

The Economist Intelligence Unit would like to thank all interviewees and survey respondents for their time and insight. We bear sole responsibility for the contents of this report, which was written by Paul Kielstra and edited by Aviva Freudmann.

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- Universal Rights Group

Defining human rights in relation to business

In this report, and the online survey underlying it, some questions refer to human rights in the context of 11 clusters, or areas of activity. In the survey The Economist Intelligence Unit asks about the relevance of each cluster to businesses in their capacity as employers, suppliers of goods and services, and corporate citizens. We instructed respondents to call a cluster relevant to their organisation if the company's operations and actions in that area of activity could have either a positive or negative impact on relevant rights of individuals and/or a community.

The clusters are as follows.

- Conditions of work and employment (eg, the right to health and safety at work, freedom from discrimination, right to a fair wage and equal pay, freedom from child labour).
- Workplace dialogue (eg, freedom of association, collective bargaining, the right to join a trade union).
- Gross human rights abuses (eg, freedom from torture, cruel and inhumane treatment, including slavery and genocide).
- Adequate standard of living (eg, the right to physical and mental health, food and housing).
- Private life (eg, the right to privacy and family life).
- Rights related to land (eg, the right to livelihood, to own property, to participate in cultural life).
- Civic life and participation (eg, freedom of expression, the right to political expression, right to peaceful assembly, right to information).
- Access to justice (eg, the right to effective remedy, right to fair trial before the law, right to due process).
- Intellectual spiritual and cultural life (eg, freedom of thought and opinion, freedom of religion, the right to participate in cultural life).
- Rights related to the environment (eg, the right to clean water, sanitation, environmental health).
- Education and access to technology (eg, the right to education, right to enjoyment of technological progress).

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Executive summary

Over the last decade, the field of business and human rights has seen a dramatic evolution, from a situation in which companies and human rights activists were at odds, to one in which stakeholders have begun to approach a common understanding of the risks, challenges and opportunities involved. This evolution is best represented by the UN Human Rights Council's endorsement in 2011 of the Guiding Principles on Business and Human Rights, following a long process of consultation and debate among companies, activists, governments and many others.

This watershed event was, however, only "the end of the beginning", in the words of John Ruggie, a former UN secretary-general's special representative on human rights and transnational corporations. Spectacular failures of human rights protection still claim headlines. To cite just one of several recent examples, the tragic collapse of the Rana Plaza commercial building in April 2013 led to renewed questions about the quality of companies' oversight of their suppliers' human rights practices as well as the role of government in protecting such rights.

On the positive side, many in the business community are more focused than ever on human rights and how to apply the 2011 Guiding Principles—even as debates continue on the limits, precise content, and legal status of companies' responsibility to respect human rights. To gain closer insights into this debate, The Economist Intelligence Unit undertook this study, which is based on a survey of 853 senior executives from a range of industries, as well as in-depth interviews with nine corporate leaders and other independent experts. The study's key findings are listed below.

A large majority of executives now believe that business is an important player in respecting human rights, and that what their companies do—or fail to do—affects those rights. In our survey, 83% of respondents agree (74% of whom do so strongly) that human rights are a matter for business as well as governments. Similarly, 71% say that their company's responsibility to respect these rights goes beyond simple obedience to local laws. Finally, for each of the 11 clusters of human rights in our survey, most respondents report that their firms' operations have an impact. This degree of agreement represents a substantial shift from views in the past. Arvind Ganesan, director of the business and human rights division of a non-governmental organisation (NGO), Human Rights Watch, recalls that as recently as the late 1990s, "there was no recognition that companies had human rights responsibilities."

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Companies see human rights mainly as a stakeholder and ethical issue; a business case for respecting human rights focused on more immediate costs and benefits is less widely accepted. The leading drivers of corporate human rights policies, which are broadly consistent across industries and regions, are: building sustainable relationships with local communities (cited by 48% of respondents); protecting the company brand and reputation (43%); meeting employee expectations (41%); and moral/ethical considerations (41%). Although such stakeholder and ethical issues have a substantial impact on the long-term profitability of the company, only 21% say that a clear business case is driving their human rights policy. Similarly, when asked about the main barriers that their companies face in addressing human rights, 15% of respondents agreed with the statement, "Business would incur costs/see profit margins reduced". Moreover, while stakeholder relations are an important business consideration, these can sometimes lack the immediacy of other concerns. This helps to explain why the second-largest barrier to addressing human rights is a lack of resources (27%).

While corporate attitudes are evolving fairly quickly, concrete steps to reform company policies and to communicate such changes externally are slower to follow. Our survey shows that companies are integrating human rights considerations into their policy making. For example, 44% of respondents say that human rights are an issue on which chief executive officers (CEOs) take the lead, and 22% say that they have a publicly available human rights policy in some form. Interpreting these results is a matter of perspective. For some, figures such as these are encouragingly high, given the relatively short length of time that human rights have been on the corporate agenda. As Jan Klawitter, government-relations manager of Anglo American, puts it, "Big corporations need time to change; processes take time to change. (…) It is just a reality." Others focus on the gap between the proportion of respondents willing to acknowledge the importance of human rights to business, and the smaller proportion saying that they have taken action. Mr Ganesan, for example, says that "a lot of companies do not do these things" and sees no real shift in the business environment. Only time will show to what extent the current activity in this field will bring real change.

Companies are still coming to grips with what their responsibilities mean in practice, a process that will also take time. When it comes to human rights, Ruth Davis, head of the cyber, justice and national security programme for IT industry group, techUK, describes businesses as "often uncertain of where to start." Respondents list a lack of understanding of their company's responsibilities in this area (32%) and a lack of training and education for employees (26%) as the first and third most common barriers to progress. Similarly, new initiatives that respondents are most likely to say would help them carry out their responsibilities are about providing data: public benchmarking of company performance (39%) and access to reliable, independent information on country-level human rights situations (32%). Companies are working towards improving their understanding of the issues, either through their own initiatives, or in co-operation with other companies, or with the help of experts and stakeholders. The result of these efforts to date show that there are no shortcuts: efforts to sharpen the corporate focus on respecting human rights will take time and experience.

Current leaders in corporate action on human rights have moved ahead by embedding respect for human rights within their organisations, but acknowledge that they still have much to learn. The 25% of respondents who believe their company's human rights policies outperform those of their competitors have several things in common. These firms are more likely to have internalised respect for human rights: 52% say that moral and ethical considerations are a leading driver of human rights policies, compared

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with just 39% of other firms. The leading companies are also far less likely than other firms to say that their corporate culture hampers progress on human rights issues. Moreover, leading companies tend to have senior leadership actively involved in human rights issues. Unsurprisingly, moreover, leading companies are more likely to have human rights policies in place and to communicate externally and internally on human rights matters. Where they are similar to other companies, however, is in citing a lack of understanding as a barrier to further progress. This is not because their efforts have failed to bring knowledge—quite the opposite. They have made clear how much more there is to learn in a very complex field.

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Introduction

An inescapable encounter

A rapid increase in activity among governments, NGOs and others has created "a burgeoning business and human rights space," to use the phrase of Margaret Wachenfeld, director of research and legal affairs at the Institute for Human Rights and Business (IHRB). Companies are also involved: 63% of all those surveyed, and a majority in every industry with substantial respondent numbers, say that discussions on the topic have become more prevalent at their organisations over the last five years. This reflects the broader societal interest in the issue. Jan Klawitter, group manager for government relations at Anglo American, a UK-based global mining firm, notes that "the topic of business and human rights has come more to the attention of the public. The issue has become much more current." Similarly, what Christian Leitz, head of corporate responsibility at Swiss bank UBS says about his sector applies more widely: "Human rights have increased in relevance over the last decade. There is a growing level of expectation on the topic [from other stakeholders]."

Although a modern issue, the role of business in respecting human rights is also an issue with a long history. Two trends, dating back to at least the end of the second world war, have made some business involvement in human rights issues inevitable.

The first trend is the spread of aspirational statements and, subsequently, legal instruments promoting respect for human rights, beginning with the UN's Universal Declaration of Human Rights in 1948. Although the declaration is non-binding, its force and that of subsequent treaties has increased, through the accretion of formal commitments and also through the hardening of certain human rights principles into customary international law—the generally accepted requirements that derive from expectations rather than written text. The nine core UN human rights treaties signed since 1965 and the eight optional protocols—one of which is given the same status as a core treaty by the UN—cover issues from protection against torture, through anti-discrimination of various kinds, to economic and social rights. These are the most prominent of dozens of international commitments and declarations, which sit alongside domestic laws relevant to diverse aspects of human rights.

The second trend has been the growing internationalisation of business activity, through more global supply chains and sales as well as the development of transnational activities within single companies. This is often associated with the substantial economic and social globalisation that has defined much of international life since the fall of the Soviet Union. In practice, it goes back further. To use just one metric, the 1950s

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and 1960s saw the growth of first American and then European transnational corporations (TNCs) so that, by 1970, figures by the UN Conference on Trade and Development (UNCTAD) suggest there were anywhere between 7,000 and 10,000 such organisations. By the early 1990s this had grown to 37,000 and in 2008 stood at over 80,000.

The two trends have contributed in recent decades to a debate on whether, how, and in what form, the wider business community should respect human rights. This has arisen, for example, in the context of decisions on investment in pariah states—notably in apartheid South Africa and, more recently, in pre-reform Myanmar. Individual industries have also faced specific, headline-grabbing issues over the years, such as working conditions in information technology (IT) supplier factories; child labour in sporting goods manufacturing; or the controversy faced by the pharmaceutical sector over the use of generic HIV/AIDS treatments in impoverished countries. In 2013 the death of over 1,000 garment workers in Bangladesh when the Rana Plaza factory building collapsed was a painful reminder that the clothing and fashion industry had, after decades of effort, not put its supply chain in order: employees had been required to show up for work despite the discovery of cracks in the building the day before. Although individual issues may rise and fade as they are addressed with differing levels of effectiveness, the broader question of companies' human rights responsibilities persist as globalisation progresses.

The precise nature of these responsibilities, though, has often been contentious. Efforts by the UN to create a code of conduct for TNCs date back to the creation of the Commission on Transnational Corporations in the early 1970s. The code that the Commission finally proposed in 1990 included, among other elements, several paragraphs devoted to a range of human right issues. The draft was abandoned, however, after four years of fruitless disagreement between developed and developing countries over the degree to which it should be legally binding.

In 1998 the UN Sub-commission on the Promotion and Protection of Human Rights created another working group to look at TNCs. Over the following five years, this five-member body drafted a document known as *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights* (the Norms). Opposition from a range of sources, including the business community, certain member states—particularly those in the developed world that objected to direct imposition of binding requirements on companies—and some human rights NGOs that were opposed to imposing on companies obligations properly belonging to states led to this process failing as well.

A contemporary initiative, however, showed that companies were not averse to looking at their human rights responsibilities. In 1999 the UN helped create the Global Compact, a multi-stakeholder body that includes a substantial number of companies of various sizes. All adhere to ten principles, the first six of which are human rights related. After the failure of the Norms, in an attempt to break the stalemate of earlier efforts, the UN secretary-general appointed John Ruggie, who had been involved in the Global Compact, to the position of "special representative on the issue of human rights and transnational corporations and other business enterprises".

Mr Ruggie oversaw a process that involved wide consultation on the best way forward. The initial outcome of this was the publication of the *Protect, Respect, Remedy* framework, which clarified the duties of states to protect rights, of companies to respect them and for both to have appropriate remediation mechanisms in place should things go wrong. A more significant step was publication of the Guiding Principles on Business and Human Rights, which the UN Human Rights Council (UNHRC) endorsed in 2011. These have achieved widespread acceptance among

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stakeholders, having, for example, been inserted largely verbatim into the OECD's *Guidelines for Multinational Enterprises*. Since that year, the UN Working Group on Business and Human Rights, a body of five experts created by the UNHRC, has been actively promoting the dissemination and implementation of the principles as well as identifying and encouraging best practice.

Rather than creating any new binding obligations, the Guiding Principles aim to improve standards and practices by outlining the existing responsibilities of both governments and companies. For states, the duty to protect involves enacting laws consistent with their treaty obligations, enforcing them, and interacting with businesses—such as in public procurement or investment assistance— in a way that encourages and supports companies' human rights efforts. Although the state's duty to protect is a crucial part of the human rights whole, this study focuses on companies. For all businesses, large and small, the Guiding Principles explain that respecting human rights effectively involves consideration of their own direct activities as well as the broader impact of what they do. This should include, at a minimum, a human rights policy in some form, appropriate human rights due diligence, and a remediation process in the event of a complaint or grievance. The Guiding Principles, however, are not comprehensive. Mr Ruggie notes that, "by themselves, they will not end all the challenges. They mark the end of the beginning. Now that we have a common foundation of minimum standards and processes, they will need to be developed in a more granular way."

This study by The Economist Intelligence Unit, drawing on a survey of 853 senior executives from a range of industries, as well as in-depth interviews with nine corporate leaders and experts in this area, looks at how that development is faring. It examines the current state, and possible evolution, of corporate thinking and behaviour, as executives wrestle with the practical implications of respecting human rights.

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1 Part I: The intellectual argument is (largely) over

Businesses accept that corporate actions are relevant to human rights…

Although the current climate makes corporate discussion of human rights predictable, more striking is how many senior executives now accept that business has an important role in this area. For example, 83% of respondents agree (74% of whom do so strongly), that human rights are a matter for business as well as governments. These figures remain high irrespective of company size, industry sector, and geographic region.

This represents a fairly recent substantial shift in sentiment. Mr Ganesan recalls that in the late 1990s the situation was quite different: "At that time, there was no recognition that companies had human rights responsibilities. Between 2000 and 2006, small core groups of companies in many sectors began to say that they had. One big impact of the Guiding Principles is that they institutionalised a decade-long trend."

An example from Coca Cola shows the practical difference that this shift can make: Ed Potter, director of global workplace rights at Coca Cola, has seen an evolution in the willingness of his company's largely independent bottlers to engage on this issue. "In 2005" he says, "there was a lot of resistance, not philosophical but over how the company would influence the issue. In 2014 we adopted a consolidated human rights policy. It took eight months in 2005 to align with the bottlers. It took 15 minutes last year."

…That respecting human rights requires more than mere compliance with local laws…

Seventy-one percent of respondents say that their firm's responsibility to respect these rights goes beyond simple obedience to local laws. Moreover, the survey indicates that where state governance is weak, companies' actions tend to have greater human rights relevance. Respondents who report that poor local enforcement of laws is a leading barrier to their firm addressing human rights issues are generally as likely as, or more likely than, the full sample to see their companies' operations as having relevance in to every human rights cluster considered in the survey. This helps to explain the greater relevance of company operations to possible land-rights issues and to gross human rights abuses reported by respondents based in the developing world, notably Africa.

For Mr Klawitter of Anglo American, this result is consistent with the difficulties around respecting human rights that may be caused by poor state governance. It also increases demand for companies to deliver services more usually provided by governments in more developed countries, such as access to water, roads or education. "The question is 'Where do you draw the line of what is the responsibility of the business?' If you provide the services, you are responsible if something goes wrong. That is why the complementarity of the state duty to protect, and the company's duty to respect, is so crucial," he explains.

He adds, however, that this additional burden in weakly governed states is more a variation on a theme applicable worldwide than a stark difference between countries with weak and strong governance. Even where governance is stronger, a majority of respondents still see their activities as relevant to every human right covered by the survey with the exception of land rights, and here the figure is 48%. Mr Klawitter

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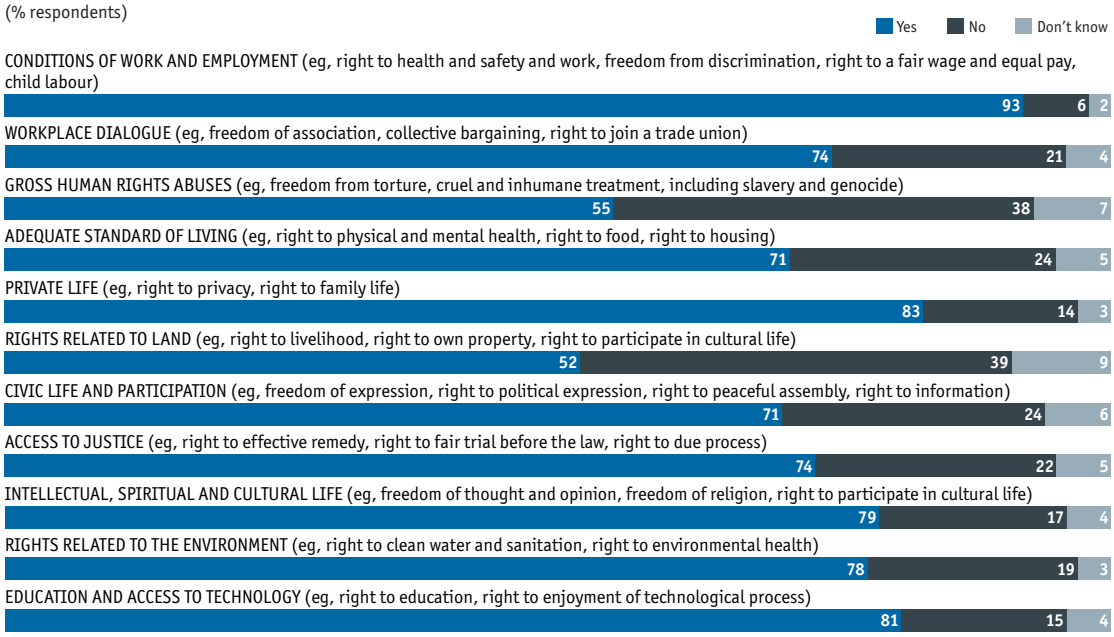
…And that the impact that companies have on human rights is wide-ranging.

For each of the following clusters of human rights, please indicate whether they are relevant to your business operations?
Relevant = Where your company's operations and actions could have either a positive or negative impact.
(% respondents)



explains that for his company "you are broadly dealing with the same set of salient human rights risks in any kind of context, whether developed or developing. Take Australia and Canada, for example, where you have potentially vulnerable indigenous people [living near substantial mineral resources]."

Most executives now also understand that companies affect human rights in many ways. Specific rights sometimes have obvious sectoral links: respondents from the construction (70%) and energy (61%) industries, for example, are more likely to see land rights as relevant to their operations than are respondents from the field of education (37%). More striking, though, is how consistently respondents recognise that their companies' activities have an impact on a broad range of human rights. In each of the 11 clusters of human rights identified in our survey, a majority of respondents say that these are relevant to their own firm's operations. In particular, roughly three-quarters or more believe that their company's activities affect employment issues (both working conditions and collective bargaining rights); the right to a private life; to education; to an intellectual and cultural life; to environment-related rights; and to access to justice. Rather than being about high-profile controversies, human rights challenges are a part of a wide range of daily business activities.

Such a perspective sometimes arises from experience. Ms Davis, of techUK, notes that IT "is perhaps not an obvious choice for a sector with human rights issues, but regime changes in the Middle East in the last four years shone a light into problem areas." In particular, the turmoil there revealed that overthrown regimes in Egypt and Libya had used certain commercial cryptographic and filtering software in a repressive manner. "Many tech companies are keen to make sure that the capabilities they are selling are used to prevent harm, not to cause it," she adds. Other companies draw on detailed research to identify potential human-rights problem areas. Coca Cola, Mr Potter reports, conducted a human rights risk analysis of its entire value chain, which identified seven priority risks, ranging from employment and health and safety issues, through to land rights, compliance with transparency and due diligence requirements.

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However, the business case for respecting human rights is less immediate.

A company that recognises the relevance of its activities to various human rights is also more likely to perceive previously identified problems in new ways. Mr Klawitter notes that a company might have already understood that land acquisition might present a variety of risks, but viewing it from a human rights perspective also identifies the impacts on people's daily lives. "In addition to looking at technicalities, a human rights approach brings a more interconnected view to the company," he says.

Although executives have become sensitive to a range of human rights issues, only 21% say that a clear and immediate business case, involving a risk-benefit analysis or a gain in competitive advantage, is driving their human rights policy. Moreover, short-term profit considerations can slow corporate activity in the human rights area. In our survey, 15% of respondents said that the potential cost of respecting human rights, or a possible loss of profits related to respecting human rights, are among the five biggest barriers to taking action in this area faced by their company.

Where businesses are pro-active in the area of human rights, longer-term issues of brand and reputation management tend to drive the activity, rather than efforts to secure a short-term business advantage. Our survey shows that the four main drivers of corporate activity in this area are: building sustainable relationships with local communities (48%); protecting the company brand and reputation (43%); meeting employee expectations (41%); and moral/ethical considerations (41%)

Although the order varies, these are the top responses in almost all industries and geographic regions. This focus on relationships with stakeholders does not surprise Mr Ganesan. "In almost all instances, the starting point [for companies addressing human rights] is that they know they need to deal with stakeholders," he says.

This raises whole new levels of complexity, as the sources of risk to stakeholder relationships include not just the immediate activities of the business but most actions that affect business profile more broadly. The executives surveyed understand this: for example, 85% agree that sponsors of major global sporting events should use their influence to ensure that the rights of workers and local communities involved are respected by all. On the other hand, to cite just one of any number of possible examples, recent events in Hong Kong show starkly how missteps by business in a human-rights-related controversy can have a pronounced impact. Several prominent business organisations there

From the following list, please select all that apply to your company.
(% respondents)

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were actively critical of the pro-democracy protesters' plans to shut down the central business district with a sit-in in support of, *inter alia*, freedom of speech, democratic rights, and the appropriate formal power that business should have in government. Though some of the organisations' executives privately denied that their newspaper ads condemning the "Occupy Central" movement were expressing opposition to the protesters' demands for universal suffrage, they were broadly seen to be doing so by the general public. Even international businesses were involved, with the "Big Four" accounting firms taking out a newspaper advertisement stating their opposition. The active opposition of the business organisations and the Big Four created resentment toward the business community amongst the general public in Hong Kong. Some Hong Kongers even argue that the failure of other international businesses to speak up in favour of universal suffrage was just as damaging to public perceptions of the business community.

Anson Chan, former chief secretary of Hong Kong under both UK and Chinese rule, currently leads Hong Kong 2020, a democratic reform group that was sympathetic to the protests but not actively involved with them. In looking at the outcome of these events for the business community, Ms Chan explains that executives "may believe they have been successful. Business has concluded that it is better to keep your head low, do what you are told, and your interests will be protected."

She notes, however, that such an approach has hurt important stakeholder relationships. One is with employees. In the most notable example, Ms Chan considers that the advertisement placed by the "Big Four" was not just a public-relations disaster, it also "provoked their own staff into taking out a counter-advertisement saying that this does not represent our own views". The text of the employee statement began with the phrase "You boss," which in Cantonese, the *South China Morning Post* reports, is a term that can be "an expression of anger bordering on vulgarity, hinting at the strong sentiments behind the unusual public comment." The reaction by businesses, says Ms Chan, has also done little to enhance relations with the community. Business leaders "are increasingly perceived by the man in the street as an elite in cahoots with government, and that government is protecting them at the expense of the public good. This is the main gripe."

Relationships with stakeholders certainly have an impact on the bottom line in a variety of ways. As Mr Klawitter notes, "over the past few years, large infrastructure and extractive projects have experienced significant cost overruns because of delays resulting from community opposition." He adds that the positive stakeholder relations arising from a good track record in human rights improve access to resources—not just to raw materials, where government and community relations matter, but also to talented employees who prefer to work for such a firm.

Similarly, Mr Potter explains that years of building trust make it easier to deal with problems when they arise. A decade ago, he says, if a human rights issue became apparent, accusations and responses would have taken place in public from the start, usually in a spirit of hostility. "Today, we are far enough along, and have robust enough stakeholder relationships, that we are able to address and resolve most issues outside of the public spotlight. We are not disparaged in the way we would have been until about 2009; we have reached the point where we get the benefit of the doubt from responsible stakeholders."

The underlying drivers of human rights policy, then, are substantial business considerations. Some, such as project delays from community opposition or the impact of a crisis on sales, can be immediate, but our respondents seem to consider brand as well as employee and community relations as typically longer-term considerations rather than part of the immediate

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business case. The longer-term nature of the motivations does not necessarily impede progress: it may even shelter existing projects amid economic turmoil. Mr Ruggie has been surprised that in the leading firms he has visited, despite the economic difficulties of recent years, "commitment to community engagement is seen as so important to being able to run the operation that [human rights efforts] have not been affected."

On the other hand, without some immediate or obvious payoff, new initiatives on human rights can languish. Ms Wachenfeld points out that human rights tend to be part of a complex environmental and social risk agenda that includes climate change and biodiversity. It can be difficult to "capture the attention of senior management, even in this area, when there are 15 different other things" she says. Mr Ganesan adds that some business and human rights conferences turn into a kind of "large therapy session for a number of people who feel like they are swimming upstream within their own companies." In particular, survey respondents say that human rights efforts within their companies suffer from a lack of funding: the second biggest barrier to addressing these issues, according to respondents, is lack of money and staff (27%). Bob Collymore, CEO of Safaricom, a Kenyan mobile communications company, comments that such behaviour "all comes back to short-termism. If businesses see life in the short term, they will not deal with human rights issues that are spread over a number of years." Human rights, then, represent a long-term, strategic consideration, rather than an immediate, tactical one of the sort that tends to generate a sense of urgency.

A caveat

These findings, of course, require some nuance. Even if a large majority agrees that corporate actions are relevant to human rights, that view is not universal: 28% of respondents, for example, believe that respecting human rights is simply a matter of compliance with relevant local laws. Moreover, some variation inevitably exists in how those surveyed view their role in respecting rights. For example, 62% overall agree that avoiding a repetition of events such as the Rana Plaza factory disaster is primarily the responsibility of the multinationals that purchase products from these suppliers, and not the responsibility of the local government. But among consumer goods firms—a sector that includes the clothing and fashion industry—agreement drops to 48%. This proportion is still (slightly) higher than the 45% within that industry who disagree with the proposition. Yet the split of opinion within the consumer goods industry suggests that it is easier to assign responsibilities where such obligations do not impinge directly on one's own firm.

Finally, even if most companies now accept business responsibilities in the field of human rights, concrete action by businesses in a complex situation is not a given. It is therefore necessary to turn from a discussion of attitudes to an examination of whether, and how, business behaviour is actually changing.

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2 Part II: Turning thoughts into action will take time

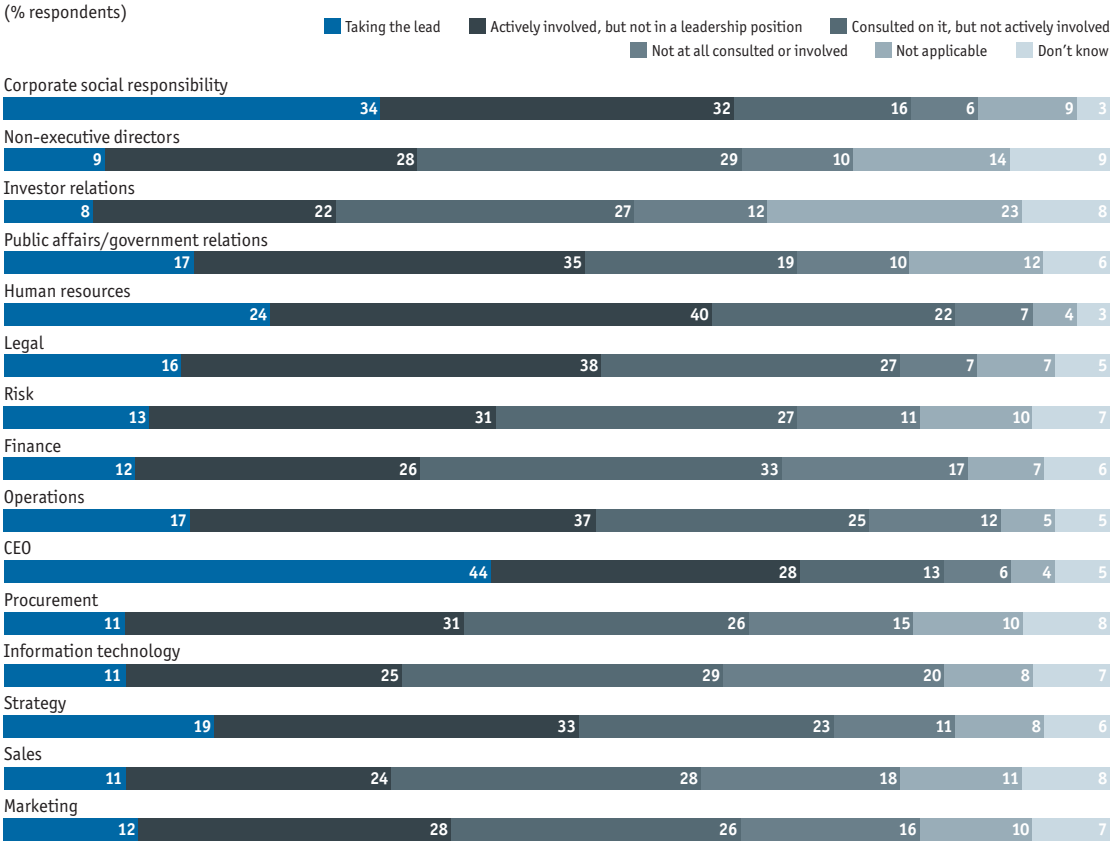
While our survey shows broad agreement on the importance of business respecting human rights, this view is not, as yet, matched by efforts in this direction. In particular, attention in this area by C-suite executives can be difficult to obtain. In Mr Potter's experience, "The number of leading companies that have made substantial progress is actually quite small."

What the current state of activity means, though, depends on whether the glass is seen as being partly full or partly empty.

Speed is in the eye of the beholder

On the plus side, companies have integrated their human rights activities and responsibilities into a wide range of departments, well beyond corporate social responsibility (CSR). According to respondents, the CEO is most likely to take the leading role in this area (44%), followed by CSR (34%). Human resources (24%) and strategy (19%) also often have such responsibility. Looking beyond leadership, seven separate functions are actively involved in this area at more than 50% of respondents' companies.

For each of the following functions in your company, please indicate the level of its involvement in meeting your company's responsibility to respect human rights (eg, by implementing and overseeing your company's policy commitment on human rights). Please select one option per row
(% respondents)



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Such broad-based corporate involvement—with an active C-suite setting the tone and many corporate departments involved—is "the keystone of success," says Mr Potter. "This range of actors is crucial. At Coca Cola, human rights governance comes out of the global workplace rights group, but the reality is that we need to have other functions, such as procurement, technical, legal, public affairs, and enterprise risk on board."

On the other hand these numbers, which may seem surprisingly high given the recent arrival of human rights on many corporate agendas, suggest potential concerns as well. For example, even though 83% of respondents agree that human rights are a matter for business, at 56% of firms surveyed the CEO does not take a leading role, and at 37% of companies nobody does. Moreover, the existence of formal responsibility does not always mean substantial activity: in Mr Ganesan's experience, "a lot of companies do not do these things."

A similarly mixed picture emerges from looking at other survey data. As Ms Wachenfeld puts it, "All of the process steps in the Guiding Principles are critical. They are the means for laying the groundwork for a systematic approach to what companies are doing." On human rights policy, for example, the *Principles* recommend that companies have a publicly available statement that, among other things, draws on external and internal expertise in its formulation. The statement or policy should also be communicated internally to all personnel as well as externally to business partners and other relevant stakeholders. Among respondents, though, 22% have a publicly available policy and a further 19% have a purely internal one. Of those with a publicly available policy, 37% consulted external stakeholders when drafting it and 62% communicate it to stakeholders.

These figures show that only a minority are following best practice in a fundamental area. However, this may not necessarily be a cause for concern, considering that the Guiding Principles have been in place for just a few years. "We have to acknowledge that big corporations need time to change; processes take time to change. It is not an excuse for doing nothing: it is just a reality," says Mr Klawitter.

Nor does a lack of formal policy necessarily mean that human rights considerations are absent, he adds. For Anglo American, attempting to adhere to the Guiding Principles, has meant "extracting previously integrated human rights elements from our risk and management processes, putting them into a policy, and now we are trying to embed it in other processes. Many larger companies will probably have a lot of relevant things already in place, maybe without looking at it through a human rights lens."

Others take a different view. Mr Ganesan notes that the simple existence of a policy does not mean very much on its own; what matters is its content and implementation. More generally, companies that wish to are able to use the Guiding Principles as a tool, "but has the business environment changed? Clearly not," he believes.

What the data show undoubtedly is that some companies have involved several corporate departments in addressing human rights policy, with ultimate responsibility resting with the top leadership, and that they have instituted policies and have been communicating on human rights. An analysis of the companies in our survey that believe they are the top performers in the field of human rights shows the importance of this broad-based corporate involvement. [See box: Corporate leaders in human rights: Ahead of the pack, but with a long road ahead]

Moreover, many companies are active in this area: only 20% say that their firms have no priority human rights goals in the next 12 months. Mr Ruggie sees "a deep-dive learning process and period of hard work and implementation, which does not generate as much noise" as international consultations, but is just as

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important to progress. Only time will tell, though, how effectively this process will lead to the practical embedding of human rights considerations within companies at a level that is consistent with what executives currently say about their importance.

Corporate leaders in human rights: Ahead of the pack, but with a long road ahead

In The Economist Intelligence Unit's survey, one-quarter of respondents strongly agree that their company outperforms competitors on human rights policy. The companies in this self-benchmarked group of 210 firms, known here as "Leaders", have a variety of things in common that point to greater chance of success in this field.

The first is a higher level of commitment to, and belief in, the relevance of human rights throughout the organisation. This begins at the top. Leading companies are more likely than others to have a chief executive officer (CEO) who takes an active role on human rights policy (59% compared with 39%), and for the CEO's activity to be a top driver of the firm's commitment to respect these rights (34% versus 21%). Similarly, non-executive directors play a primary or active human rights role at 49% of Leaders compared with 33% of other companies.

This has a marked effect on executive perceptions, such as appreciating the implications of business activity for human rights. Those surveyed within the Leaders were noticeably more likely (13% more so, on average) to see their operations as relevant to all 11 clusters of rights covered by the survey.

More importantly, respect for human rights is becoming internalised within the top companies. Respondents from Leaders are far more likely to cite moral and ethical considerations as one of the most important drivers of the company's human rights commitments (52% compared with 37% for other firms) and to believe that respecting human rights goes beyond mere legal compliance (78% versus 69%). This percolates through the firm: while an apathetic corporate culture is a leading barrier to addressing human rights issues at one in eight other companies, only one in 29 respondents at Leaders report this.

This does not surprise Bob Collymore, CEO of Safaricom, a Kenyan mobile communications business. He says that the key to embedding human rights thinking across his company has been to understand the importance of those rights to the firm's stated overarching mission, to "transform lives." He calls these "simple words that describe a lot of things. The rights of children do not affect our ability to sell air time, but they affect the community that we serve. Ignoring them would not be conducive to doing business over the next 30 years. In creating a product that seeks to transform the lives of subsistence farmers, you see that you also have to deal with issues of gender violence. [Taking an active human rights role] is just the right thing to do."

Arvind Ganesan, director of the business and human rights division at a non-governmental organisation, Human Rights Watch, has also seen divergent attitudes at leading and other firms. In his experience, "At companies that take respecting human rights seriously, you see this attitude embedded among senior management. If you see a lack of management commitment, you can guarantee that people in the company will not be aware [of their responsibilities to uphold human rights]." Anson Chan—former chief secretary of Hong Kong under both UK and Chinese rule and the

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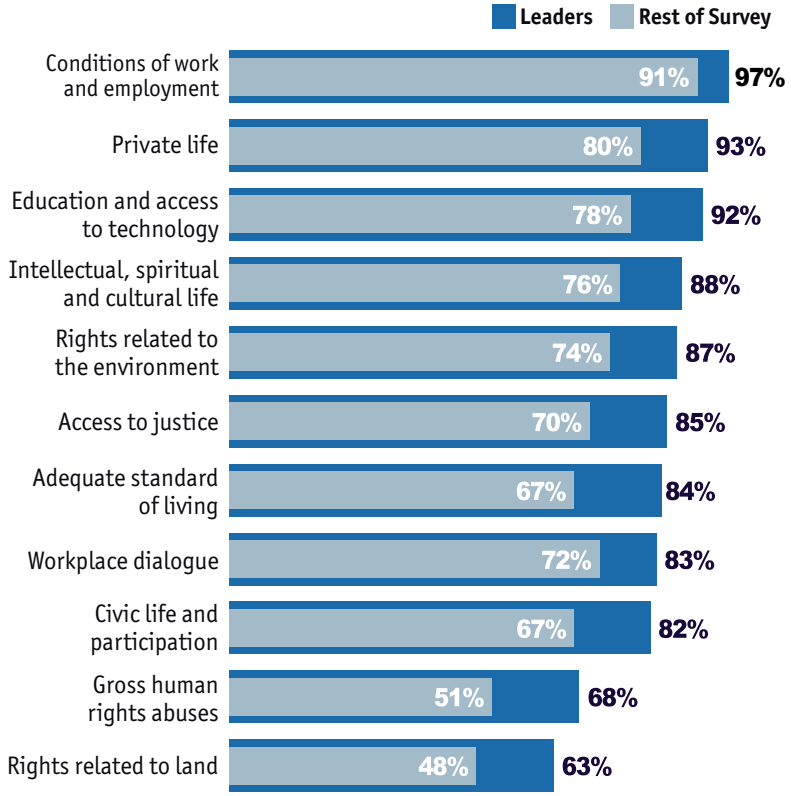
Leaders are more likely than others to see their operations as relevant to a range of rights

(% respondents)



Source: Economist Intelligence Unit.

current convenor of Hong Kong 2020, a democratic reform group—agrees. What sets apart businesses that do well on human rights "is an appreciation of what lies at the heart of good corporate governance. With ethics, you can have any amount of regulation, but if people at the top do not make it their business to make sure everyone understands, it will not get done."

Not surprisingly Leaders are more active on human rights in a variety of ways. On oversight, 78% of Leaders have at least one department taking the lead on human rights, compared with 59% at other firms; similarly, on average within Leaders nine teams are either leading or actively involved compared with seven at the latter. Leaders are also much more likely than others to have an internal statement on human rights (44% versus 29%) and a public statement of policy (30% compared with 19%). They also communicate the statement of policy to business partners far more regularly (73% to 57%).

The most surprising finding, however, is one area of similarity between Leaders and the rest of the survey respondents. Both list lack of understanding of human rights responsibilities as the most common barrier to addressing human rights issues. Roughly the same number in each group—32% of Leaders and 29% of others—do so.

Intuitively, it seems likely that the greater commitment and activity of Leaders in this field has given them a better understanding of what is required of them. A more likely explanation of the data is that Leaders and non-leaders alike perceive a gap in their knowledge, simply because there is so much to learn in this area. Even for the firms that have applied themselves for years, the lacunae in knowledge remain daunting. For example, Ed Potter, director of global workplace rights at Coca Cola, notes that in order to be aware of potential human rights issues around procurement, his company needs a detailed overview of the various tiers of its supply chain for roughly 30 agricultural commodities in 207 countries. The company is methodically working through this task, focusing first on higher-risk goods in countries with a greater likelihood of human rights issues. Yet it is such a huge job that, he says, tongue in cheek, "my great-great-grandchildren will be alive when we eventually complete this journey."

Commitment and application, then, set apart the companies that are ahead on human rights; on the other hand, the differences between Leaders and others are not so significant that it is impossible for the rest of the pack to catch up, should they adopt similar measures. For all companies, though, there is no shortcut around the hard work needed to understand and fulfil the requirements of an effective policy.

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A steep learning curve

Mr Collymore notes that "Businesses know that human rights are a problem. You only have to be a garment manufacturer in Bangladesh to know you have a problem if you get it wrong. [But what to do] is an uncomfortable discussion to have in an executive boardroom." For those companies that do wish to address human rights issues better, the leading difficultly, often underappreciated by the wider public, is not knowing what to do. As Ms Davis puts it, executives are "often uncertain of where to start." Lack of understanding of the company's human rights responsibilities (32%) and lack of training and education for employees (26%) are the first and third most-cited barriers to progress in the survey. The former is among the top two issues in every global region and, as explained above (see Corporate leaders in human rights: Ahead of the pack, but with a long road ahead), it is the primary difficulty cited even by those who rate their firms' performance in this area highest.

Mr Klawitter observes that "the notion of human rights abuses is an alien and scary one among technical functions who are more used to 'impacts' and structured, technical processes to address them, as opposed to legal ones. There is still a lack of understanding." Even when senior management grasps the nettle, the novelty of the issue can slow the transmission of knowledge through the company. Mr Ruggie explains that "It takes time. It takes training. Things have to be translated into operations-speak if they are going to be effectively internalised by people on the ground." Not surprisingly, then, the new initiatives that respondents are most likely to say would help them are related to data: public benchmarking of company performance (39%) and access to reliable, independent information on country-level human rights situations (32%).

Organisations are trying to fill this void in different ways. Some focus on a specific sector, a specific right, or both—such as the Digital Rights Project, which centres on access to electronic media; and the Behind the Brands project, which takes a close look at food and beverage manufacturers. More recently, a group including investors and NGOs has begun work on a new, transparent, publicly available, general benchmark of corporate human rights performance. Ms Wachenfeld, whose organisation— the Institute for Human Rights and Business (IHRB)—is one of the project participants, explains that the demand is there: "companies seem to be looking to each other to see what they should be doing, and as the business and human rights agenda gathers steam, they need ways to be able to measure how they are doing for external and internal audiences. The idea behind the benchmark is to create a race to the top and, in doing so, strengthen accountability."

The work, which is just beginning, will involve substantial challenges, including defining appropriate and obtainable metrics for specific human rights areas such as land usage or treatment of indigenous peoples in communities affected by company operations. On the other hand, she notes that research providers for investors with expertise in environmental, social and governance risks have for some years been gathering substantial human rights-related information. She therefore remains optimistic that the first part of the benchmark, covering 300 agricultural, apparel, extractives, and ICT companies, will appear in 2016 as planned.

Meanwhile, companies and trade groups in various sectors have been working together to understand their human rights responsibilities, share best practice, and even gather reliable, country level data (see box: "Translating principles into practice: The Thun Group and techUK"). Efforts so far give a mixed message: the extent of information needed is still vast, but progress is occurring.

Better information, when it arrives, may do more than aid implementation of corporate human rights policies. It might even bolster the immediate business case for respecting human

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rights. Ms Wachenfeld reports that executives "tend to say quietly that [the new benchmark] will be helpful because it will move senior management. It changes the risk-reward calculus by making more visible the reward [of acting] and the risk of not doing anything."

Translating principles into practice: The Thun Group and techUK

For John Ruggie—former special representative of the UN secretary-general on the issue of human rights and transnational corporations and other business enterprises, and now professor of human rights and international relations at the Kennedy School of Government, Harvard University—the Guiding Principles published by the UN were only the start. "A lot of energy is now going into figuring out, company by company or sector by sector, how exactly we make these work for us." Ruth Davis— head of cyber, justice, and national security at techUK, an information technology industry organisation— agrees: the Principles "are the driving impetus behind starting to think about this. Now they need further translation into sector-specific contexts. Different sectors need practical guidance."

A range of organisations have been, and still are, engaged in a variety of efforts to create such advice. Here we look in detail at two initiatives where business organisations themselves have been the prime movers. The Thun Group, an informal collection of banks, produced one of the first guides: after two years of study in 2013 the Group published a discussion paper on how to implement the relevant sections of the Guiding Principles, notably those on due diligence. More recently, in late 2014, techUK released a guide on human rights and national security risks arising from exports. Several commonalities in the experience of these initiatives show a way in which sectors and companies may develop the expertise needed in this field.

First, companies are looking for guidance in this area. Christian Leitz, head of corporate responsibility at Swiss bank, UBS, recalls that the sector that received the least amount of attention during the Ruggie-led process to create the Guiding Principles was that of financial services. Yet, the Thun Group began as a discussion between four major banks on the subject of human rights in May 2011—before the formal endorsement of the Guiding Principles by the UN Human Rights Council. the informal club soon grew to seven. Ms Davis, meanwhile, reports that "the push for this guidance came very much from our member companies. There is a lot of good practice in the industry within individual companies, but they wanted more clarity."

A second similarity is the extent to which these efforts reveal the complexity of putting human rights policies into practice. The techUK advice makes clear, for example, that due diligence in sales involves not just knowing one's customers but also the political and legal context in which they operate. Companies, however, often lack access to such data. Ms Davis explains that, as a result of this need, techUK made a point of listing various government and other information sources in its guide.

The Thun Group's discussion paper also identifies this need. Mr Leitz notes that "People assume this is a clear-cut topic. It is a lot more complex. The level of information is more limited than people assume. One suggestion would be that consulates should play a stronger role in providing companies with more information on the ground." Because it covers a wider range of corporate activities than the techUK report, the Thun Group report unveiled even more complexity. Mr Leitz explains that one of the areas that they had to work through was

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"what respecting human rights means to the different businesses within a bank. The easiest translation was in investment banking, which has had social risk management for quite a while. It becomes more complex in institutional asset management and retail banking. You need to tailor it based on the part of the bank you are looking at."

A perhaps inevitable result of this complexity is that it is extremely difficult to give companies comprehensive, normative advice on human rights in a field where good practice is still emerging. Rather, current efforts are best seen as starting a conversation. TechUK expects to refine its advice after it has been in the field for about a year, says Ms Davis, while the Thun Group's paper explicitly gave as the goal of its publication to "generate constructive dialogue among banks and other stakeholders interested in taking the issues forward."

Finally, as the desire for dialogue implies, effectively understanding a sector's human rights responsibilities benefits from stakeholder co-operation. As Mr Leitz puts it, "you have experts on human rights from all quarters and disciplines, and experts on banking, but few people who can connect the two complex topics." This involves a wide variety of interlocutors. Not only have banks been collaborating and talking increasingly with non-governmental organisations, says Mr Leitz, discussions with governments are of value to both sides as well: "One reason why there was such willingness by governments to join discussions with the Thun Group is that knowing how companies interpret the Guiding Principles helps them to formulate their own "National Action Plan" on business and human rights.

Overall, then, the amount of industry-level advice on the implications of respecting human rights is likely to grow in response to strong demand. But the process will involve slow collection of best practice in specific circumstances rather than a one-off statement offering solutions to complex issues.

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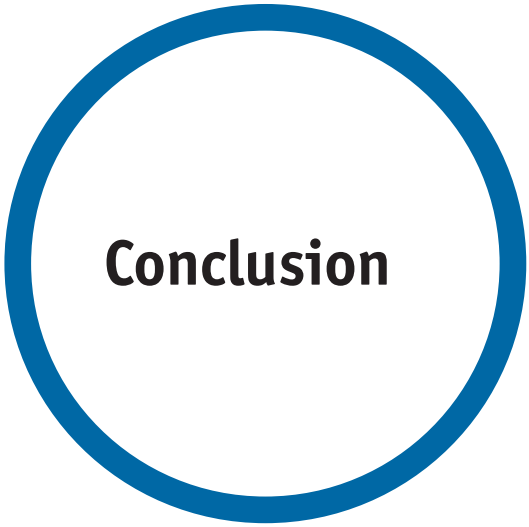

The quickening pace of change

The intersection of business and human rights has seen significant activity in the last decade. The most visible may be the UN's Guiding Principles, but other important progress has occurred and is continuing to do so. Executives have largely accepted that companies have a role in this field. Practical changes have also taken place in a range of businesses, albeit at a slower pace. The reasons for this lack of speed, even at well-disposed firms, include the difficulties in understanding this complex field and problems in implementing thoroughgoing change. Yet, leading firms have shown that it is possible to integrate human rights considerations into business processes, and even corporate culture, in a way that brings about change. The reports and discussions arising from the efforts of a UN working group and numerous other actors are creating an ever-growing body of expertise. Not everyone in the business community is on board, and many human rights weaknesses are still visible, but our survey indicates that the long-term outlook seems positive in many ways.

Some observers may find this picture surprising, or overly optimistic. But taken at face value, these findings raise another important question: Is progress to date sufficient?

The record indicates that in this field, the evolution of practice may begin slowly but soon speeds up. Human rights soft law has a way of hardening. The UN's Universal Declaration of Human Rights, for example, was originally understood by signatories as an aspirational statement of principles. Now it is far more.[1] The Guiding Principles do not impose any new requirements on companies, but this is not necessarily true of the growing number of government "National Action Plans" on business and human rights helping to implement them (five countries already have one in place, with another 18 under development). At the same time, regulatory requirements for transparency about human rights policy have grown. Mr Ganesan notes "a slow and steady movement towards a certain type of regulation [in the US and Europe]. Companies have to disclose if they have a human rights policy. This is an evolution. Today it is about disclosure; perhaps in five or ten years this will evolve into a review of whether the content of these policies is sound. The train has left the station."

This process—turning soft laws into hard laws—is occurring in fits and starts. In 2014 the UN Human Rights Council adopted a resolution advanced by Ecuador and South Africa to begin negotiations on a legally binding international treaty. The initiative is controversial and a treaty

[1] See Robert Blitt, "Beyond Ruggie's Guiding Principles on Business and Human Rights: Charting an Embracive Approach to Corporate Human Rights Compliance," Texas International Law Journal, 2012, for a discussion of the hardening of human rights soft law.

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is far from certain. Yet Mr Ganesan sees in the Council's vote a sign of frustration at the slow pace of progress, and numerous NGOs have signalled their support. This support is not limited to governments and activists: although the reaction by most businesses has been negative, questioning not only the desirability but the efficacy and feasibility of such an instrument, 20% of respondents to our survey said that a binding international treaty would help them with their responsibilities to respect human rights. Mr Collymore explains that, unlike many of his business colleagues, he would be a big supporter of such a pact. "We need to move from voluntary compliance to something harder. I have a lot of respect for the Guiding Principles. They were no easy task [to achieve], but it is all a bit too voluntary," he says.

The scope of business activities understood to affect human rights is evolving as well. Ms Wachenfeld explains that "We have increasingly been seeing many other [environmental and social] issues being framed in terms of human rights. Using human rights terminology highlights the link to effects on people, moving issues out of a purely scientific or technocratic discourse. It becomes an overarching terminology that has a resonance with global audiences and that stakeholders are using to cover a wide range of issues that may not have been addressed." This trend will only add to demands for improved corporate performance.

Business executives, then, have recognised the importance and relevance of human rights. They will, however, have a limited time to achieve the understanding they need in order to turn aspirations into practice. The Guiding Principles have created space for such action, but have not settled the debate about the appropriate legal environment. If the principles are indeed the beginning of thoroughgoing change, the legal environment will evolve from them. If companies do not change sufficiently, contentious disagreements about imposing more restrictive regulation will be reinvigorated.

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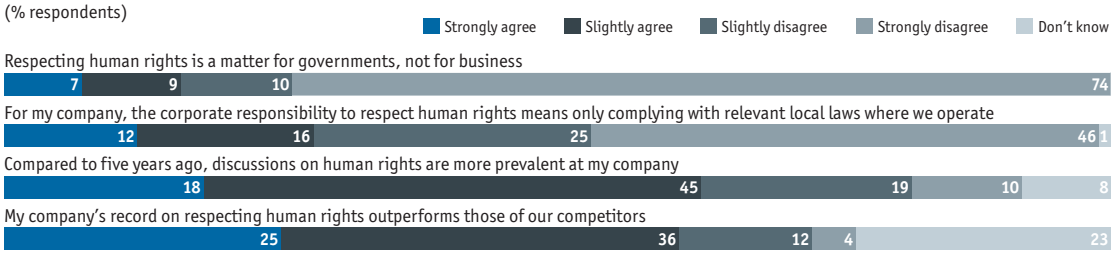
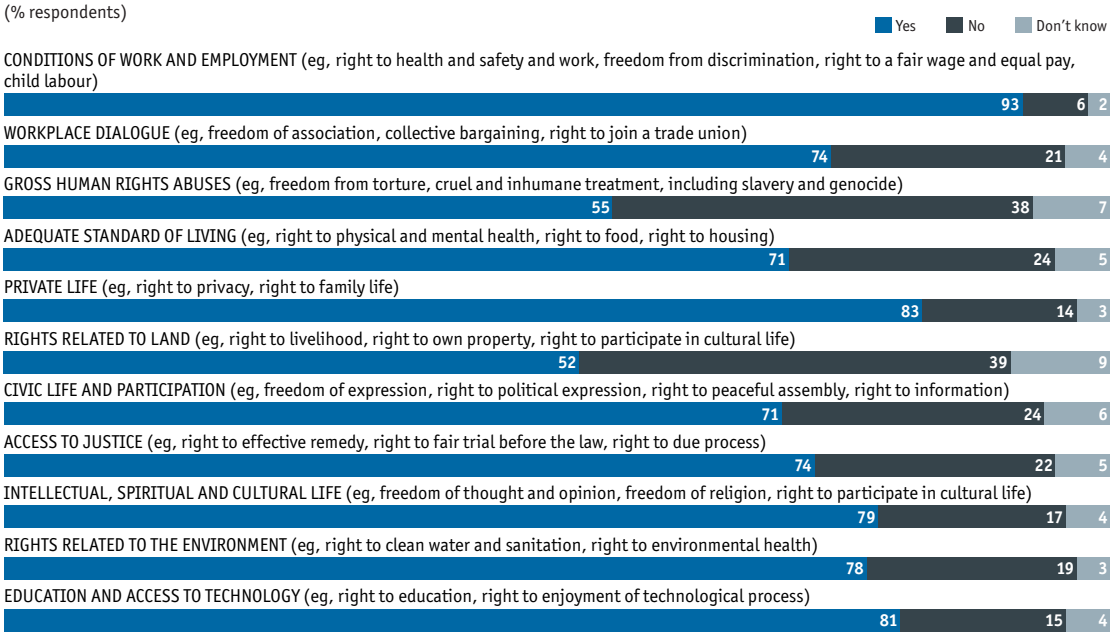
Appendix

To what extent, if at all, do you agree or disagree with the following statements?
(% respondents)



For each of the following clusters of human rights, please indicate whether they are relevant to your business operations?
Relevant = Where your company's operations and actions could have either a positive or negative impact.
(% respondents)



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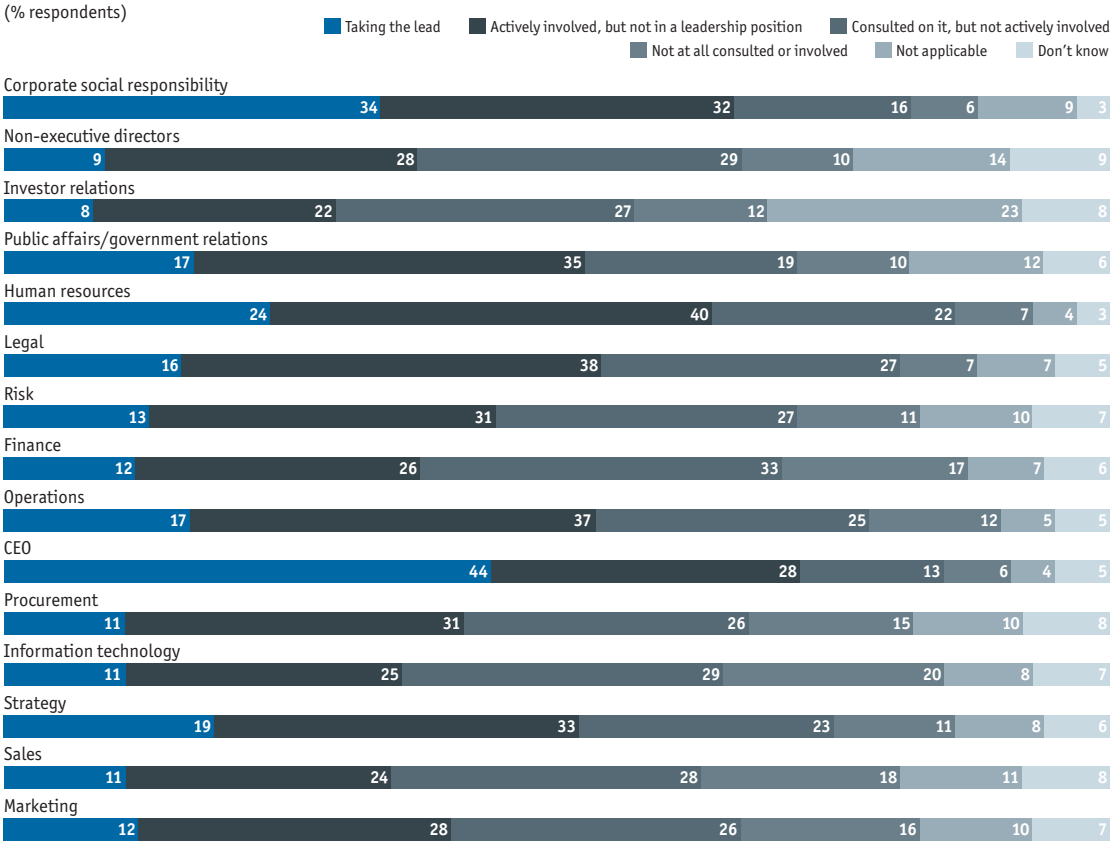
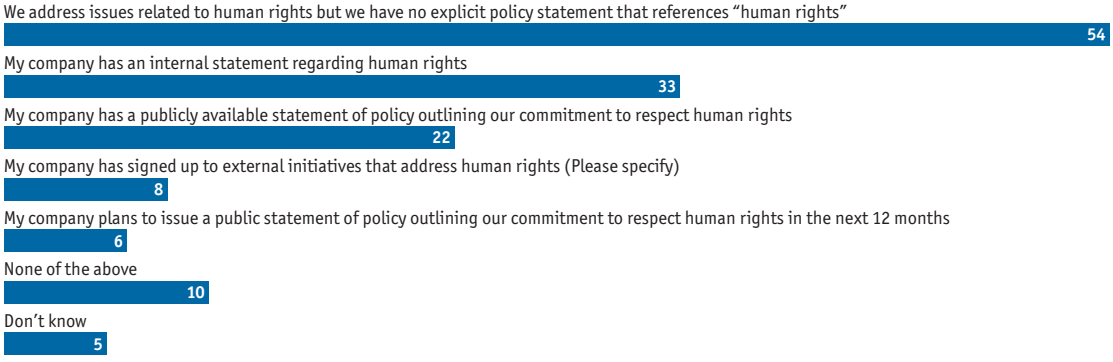
For each of the following functions in your company, please indicate the level of its involvement in meeting your company's responsibility to respect human rights (eg, by implementing and overseeing your company's policy commitment on human rights). Please select one option per row
(% respondents)



From the list below, please select all that apply to your company:
(% respondents)



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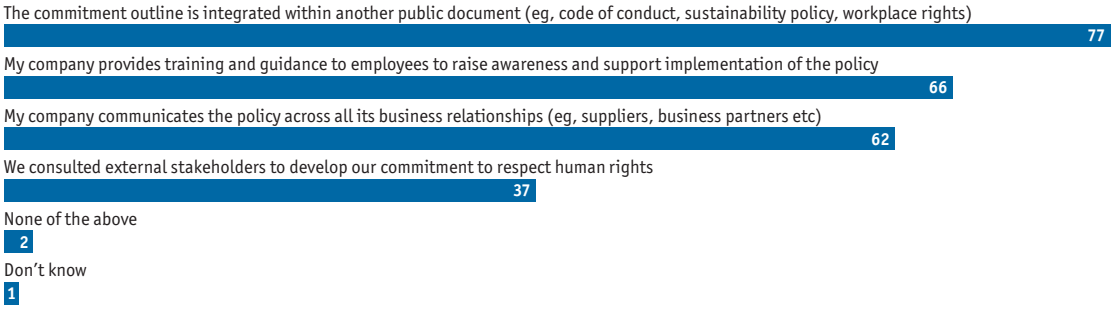
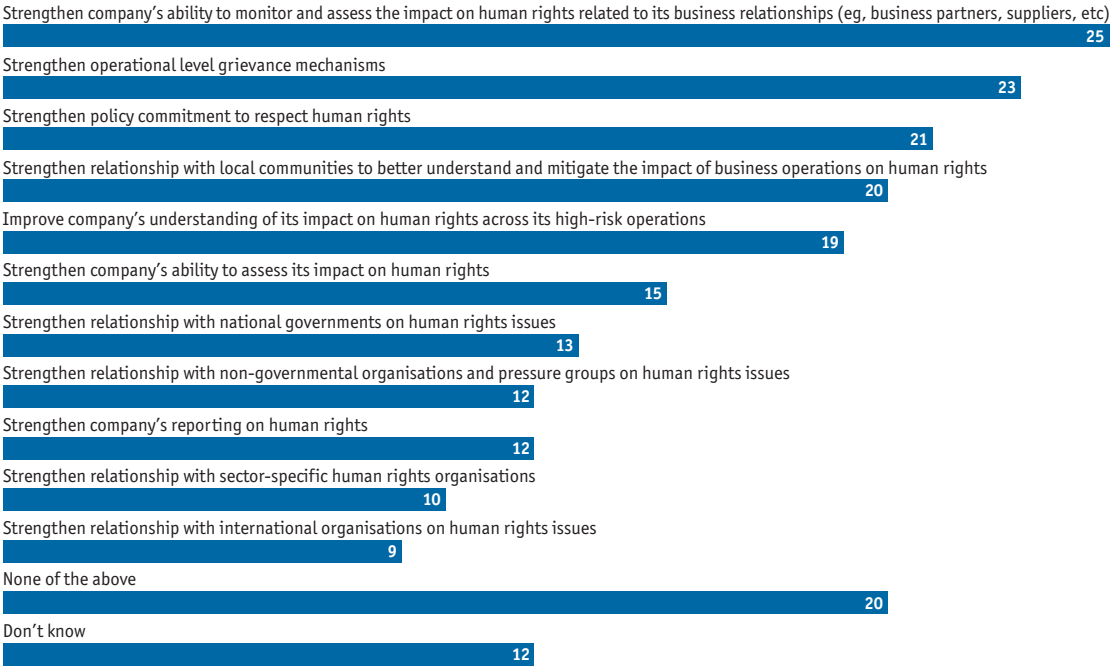
Please select all that apply to your company's public statement of policy outlining its commitment to respect human rights.
(% respondents)



Which of the following, if any, are priorities for your company over the next 12 months? Select up to four options
(% respondents)



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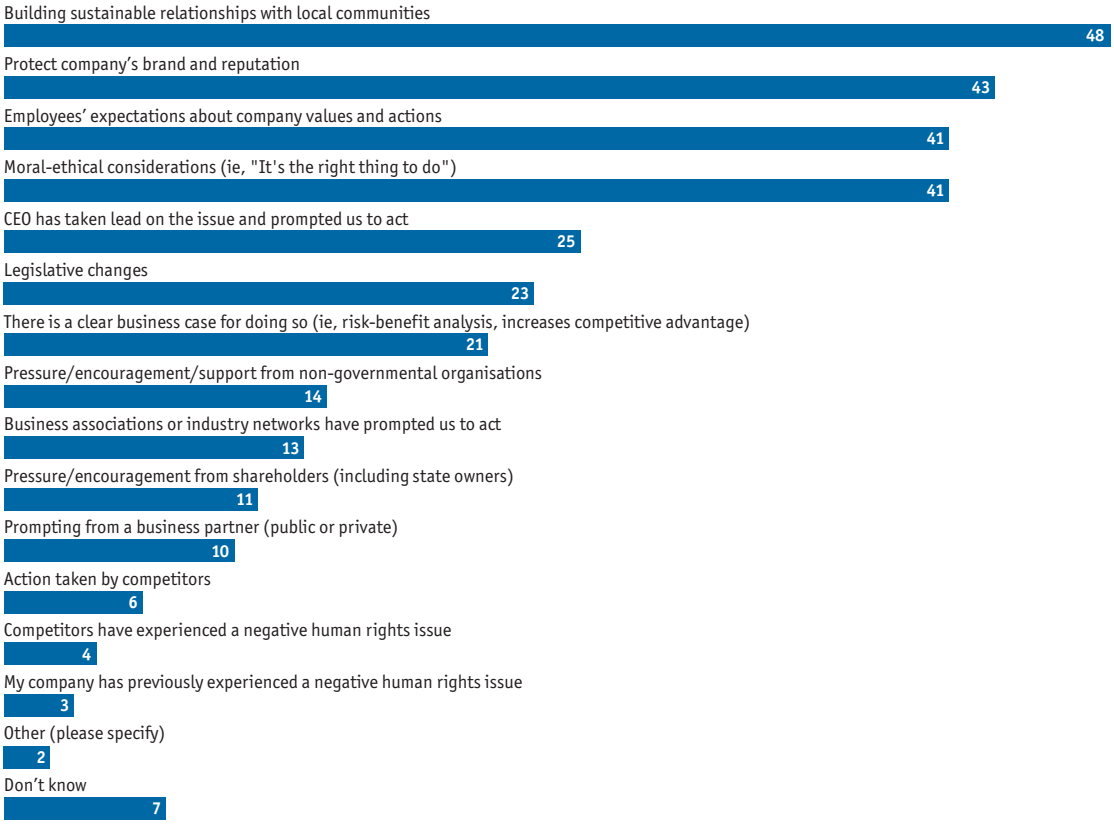
From the following list, please select all that apply to your company.
(% respondents)

Which of the following, if any, are the biggest drivers for your company's commitment to respect human rights?
Select up to five options
(% respondents)



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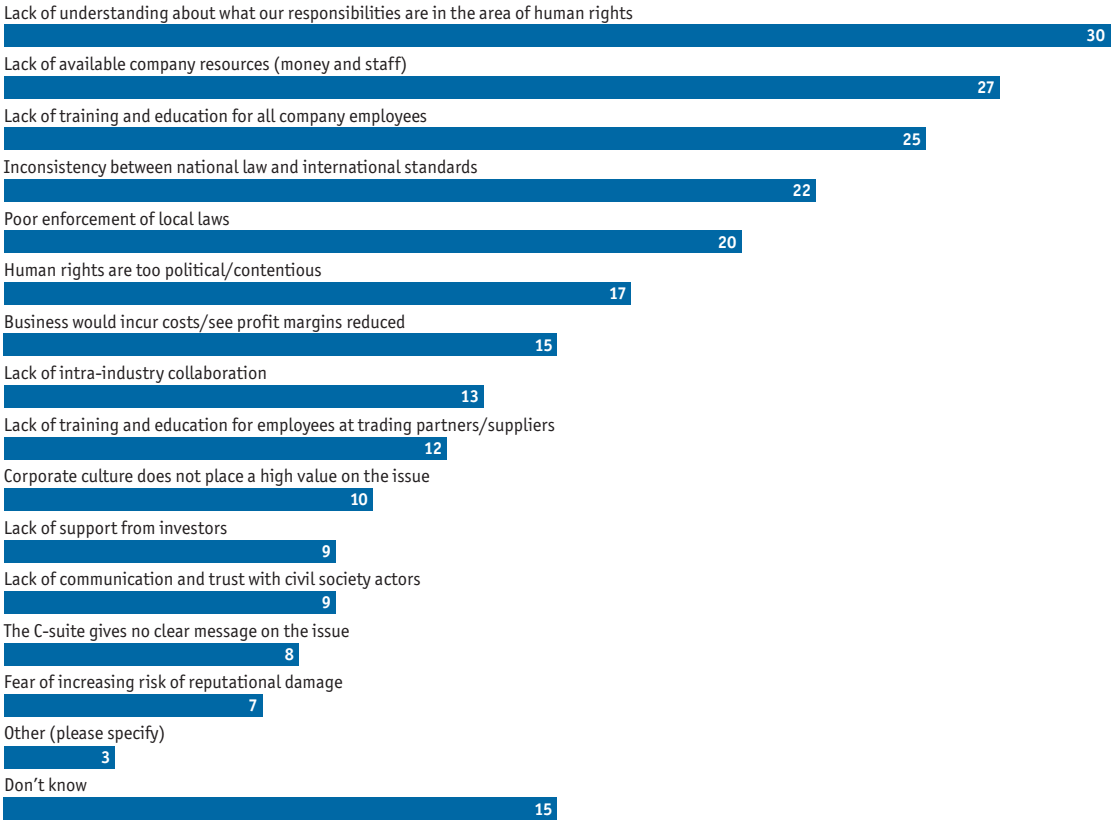
Which of the following, if any, are the biggest barriers your company faces in addressing human rights?
Select up to five options
(% respondents)



Which of the following, if any, would enable companies to better fulfil their corporate responsibility to respect human rights?
Select up to three options
(% respondents)

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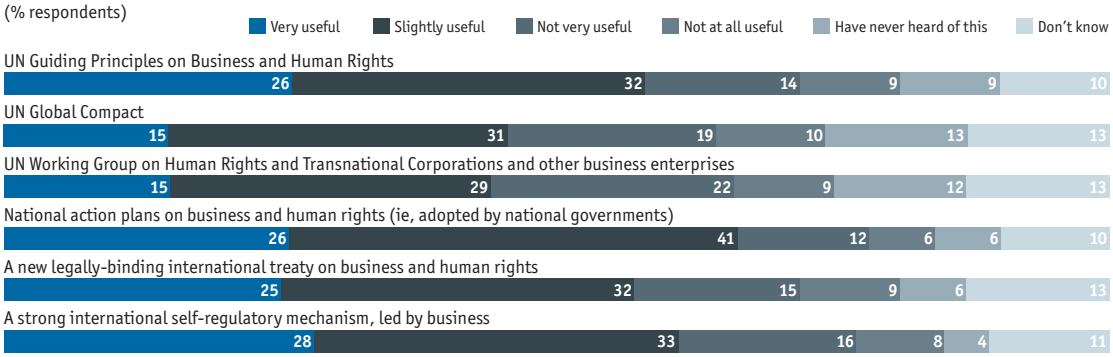
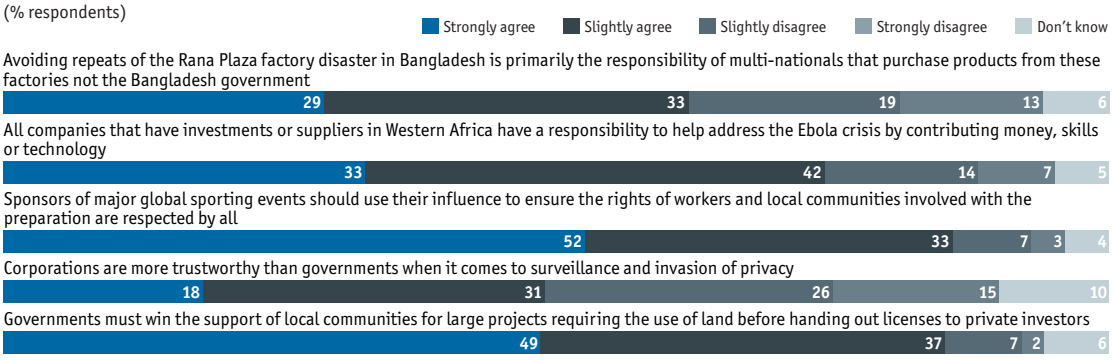
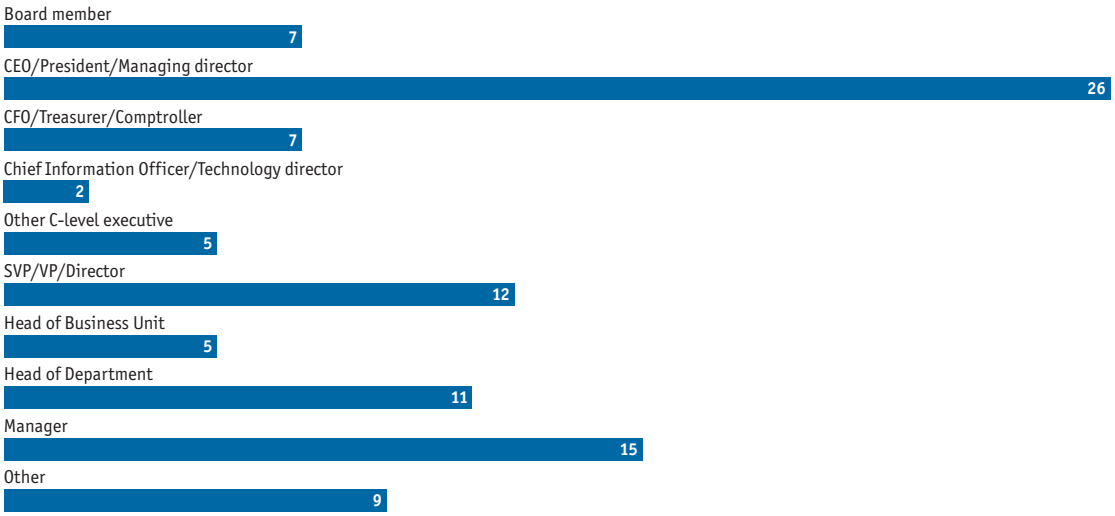
How useful, if at all, would you say the following are or would be in helping your business respect human rights?
(% respondents)



To what extent, if at all, do you agree or disagree with the following statements?
(% respondents)



Which of the following best describes your title?
(% respondents)



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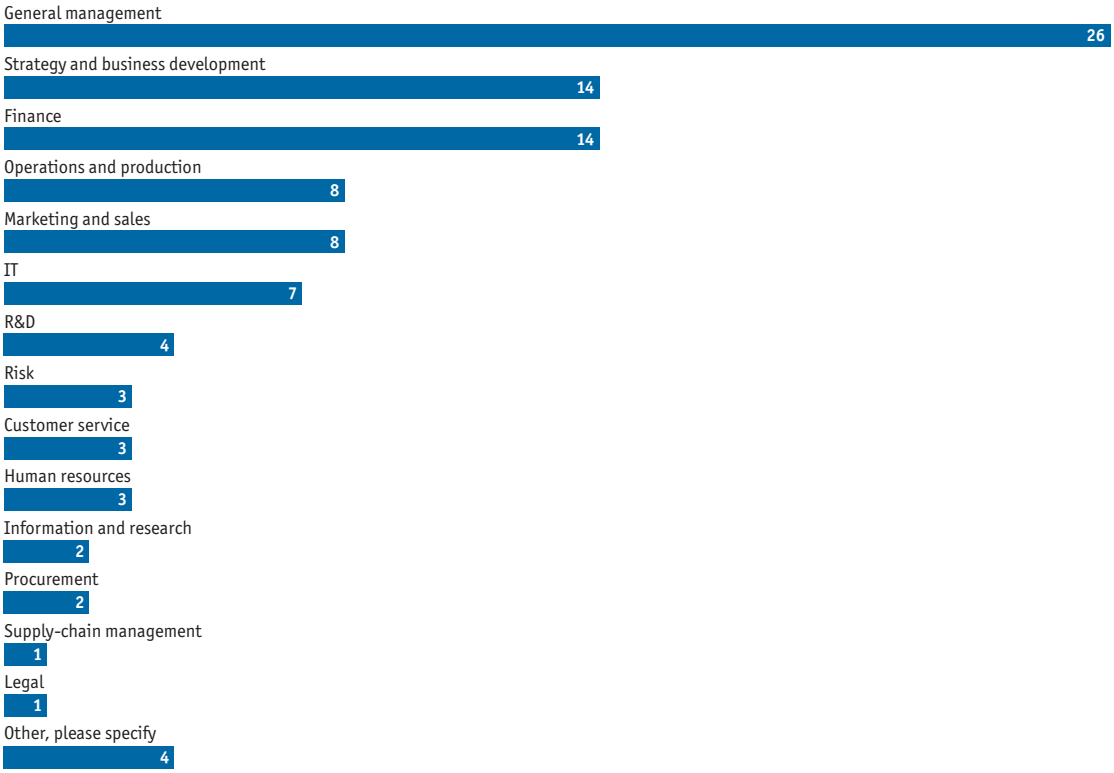
What is your main functional role?
(% respondents)



In your role, do you have any oversight over human rights?
(% respondents)

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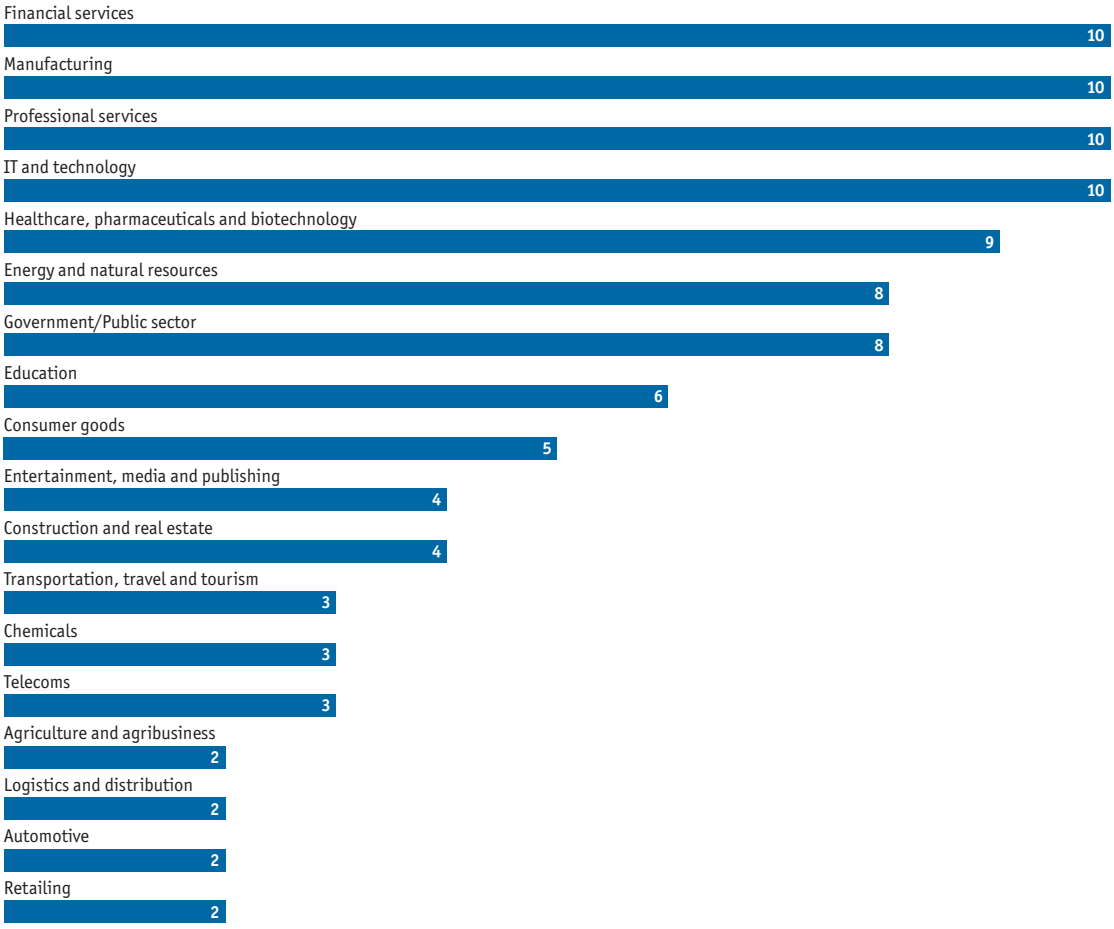
What is your primary industry?
(% respondents)



What is your organisation's annual global revenue in US dollars?
(% respondents)

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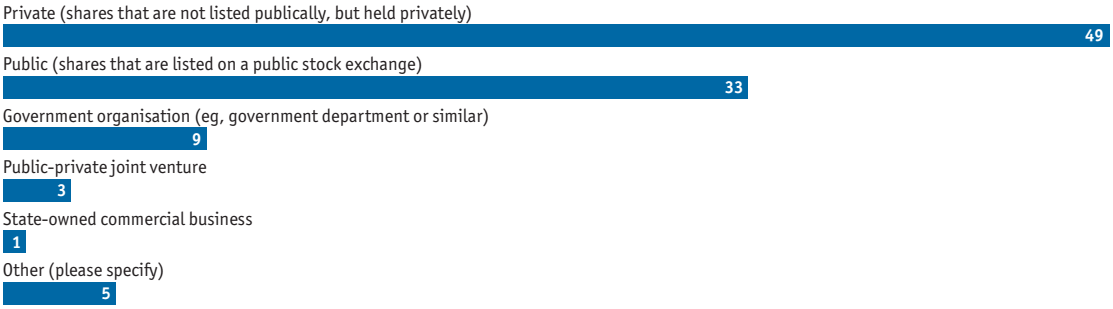
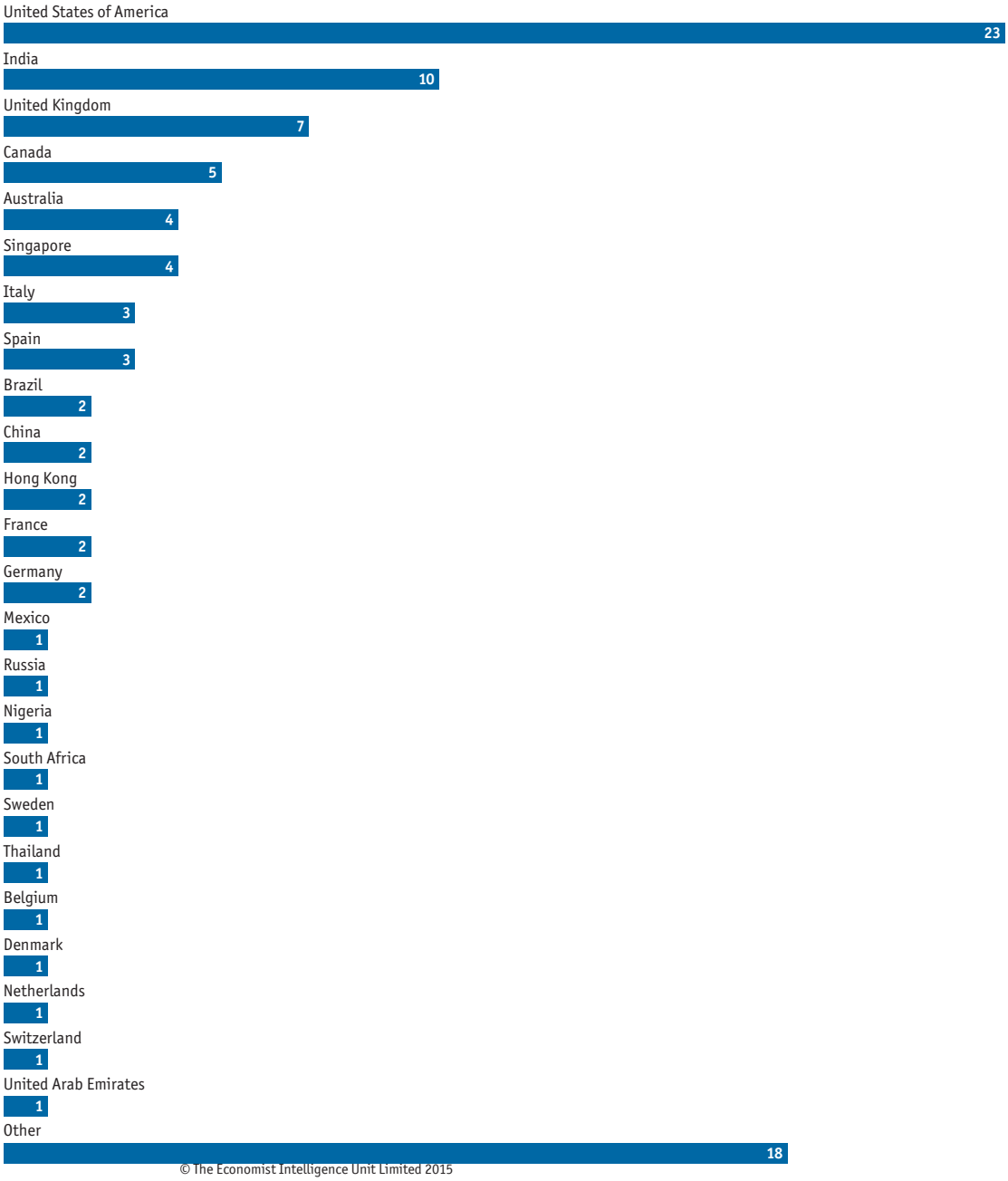
What is the ownership structure of your organisation?
(% respondents)



In which country are you personally located?
(% respondents)



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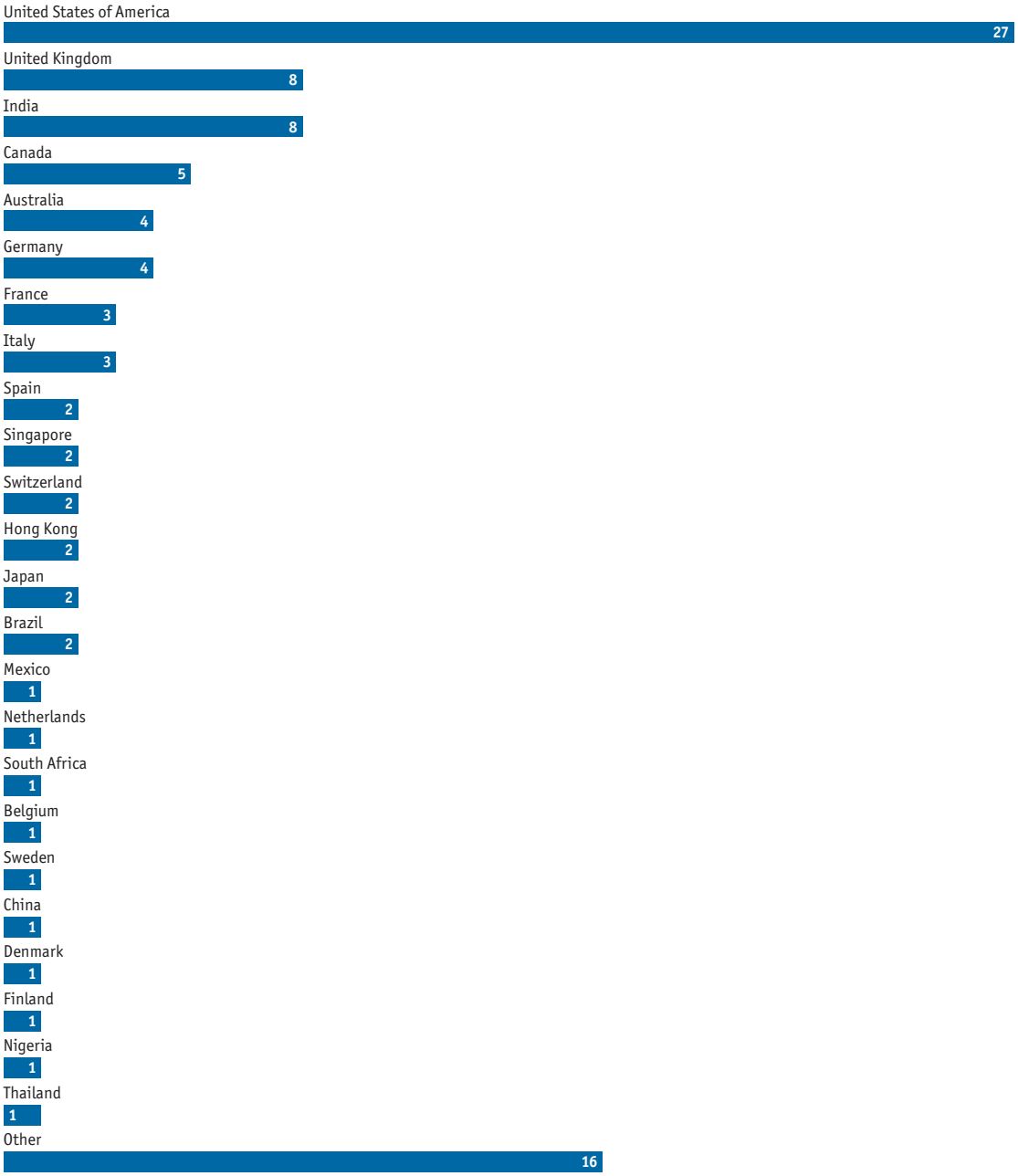
In which country is your company headquartered?
(% respondents)



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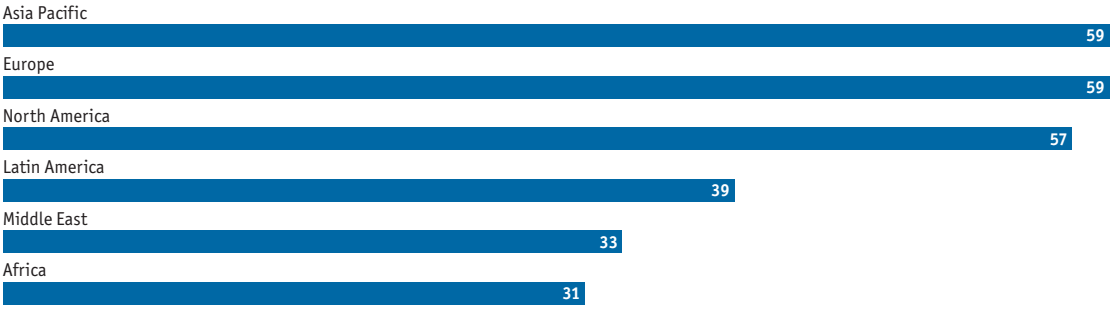
In which region or regions does your company operate? Please select all that apply
(% respondents)



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