



## chapter 3.5

# Tracking performance

## ‘Knowing ...’

The third step of human rights due diligence is tracking the company’s performance on preventing and mitigating negative human rights impacts and drawing lessons from this for the business. Tracking enables a company to know whether its human rights due diligence has ‘worked’ and is central to any contin-

uous improvement and change process. For many companies, in addition to their own operations, tracking performance is likely to include monitoring the performance of suppliers, customers and other business partners, since many of their human rights risks will arise through their business relationships.

## SUMMARY OF GUIDANCE POINTS

---

- Guidance point** ① Getting started with tracking
- Guidance point** ② Developing company-specific indicators
- Guidance point** ③ Tracking performance of suppliers and other business relationships
- Guidance point** ④ Verifying performance
- Guidance point** ⑤ Making improvements

### MAIN COMPANY FUNCTIONS LIKELY TO BE INVOLVED IN THE PROCESS

- **CSR/sustainability:** May have a key role in reviewing implementation of the human rights policy
- **Internal audit/assurance:** Monitors compliance with company policies, including human rights commitments, and evaluates effectiveness of internal procedures
- **Procurement:** While various specific functions are likely to have a role in tracking, monitoring supply chain performance on human rights is relevant for most companies
- **Human resources:** Responsible for monitoring effectiveness of measures involving the company's own workforce

### **Guidance point** ① Getting started with tracking

---

Most companies will already have relevant data on human rights-related topics, although they may not be labelled that way. So it is not necessary to start from scratch in developing human rights tracking systems. However, some human rights impacts can be challenging to monitor and report on. In part, this may be because measuring human rights performance often has strong qualitative elements, while many companies tend to be more comfortable with quantitative targets and measures.

Over two years of consultations led by Shift and Mazars under the Human Rights Reporting and Assurance Frameworks Initiative (discussed in [Chapter 3.6](#)) resulted in the development of the UN Guiding Principles Reporting Framework

---

**While many companies tend to be more comfortable with quantitative targets and measures, measuring human rights performance often has strong qualitative elements.**

(publicly available at [www.UNGPreporting.org](http://www.UNGPreporting.org)). While it is a framework for disclosure, many companies are using the Reporting Framework as an internal guide to translate the expectations of the Guiding Principles into the company's management systems, including tracking mechanisms.

The Reporting Framework asks a company to describe what it has in place by way of policy commitment and overall governance of human rights, and then to identify its salient human rights issues and explain how it manages them. While the questions typically evoke descriptive and qualitative answers, the Reporting Framework encourages companies to use appropriate indicators, as well as other metrics, to support their answers. The Reporting Framework will also include supporting guidance for internal auditors and external assurance providers (as of early 2017), which should be particularly helpful in developing tracking systems.

When a company wants to begin or refine its human rights tracking efforts, there may be some simple ways to find information using existing tracking processes:

- ▶ **Information from existing grievance mechanisms** such as reports from whistle-blower hotlines or complaints boxes, or feedback from trade union representatives, will contain relevant information (for example, reports of allegations of worker harassment or excessive overtime);
- ▶ **Employee surveys** often contain valuable human rights-related information, such as experiences of discrimination, perceptions of employee engagement or the listening capacity of management;
- ▶ **Internal audit processes** will already include relevant indicators in many companies;
- ▶ **Country reports** prepared by country directors or regional offices may contain relevant information on the national human rights situation and its connection to the business.

### Guidance point

#### Developing company-specific indicators

---

Early experience shows that companies should not rush to develop metrics before understanding their salient human rights issues. Once a company is ready to develop key performance indicators on human rights, it should consider what is publicly available in the areas it is concerned with (such as the Danish Institute for Human Rights 'Human Rights Compliance Assessment Quick Check'). The UN Guiding Principles Reporting Framework provides cross-references to many leading industry and issue-specific frameworks so that companies can easily see which of their provisions may be relevant.

When developing company-specific indicators, there are broadly three types of information that companies can use to track and report on their human rights performance: processes/inputs, incidents, and outcomes/impacts.

**Table: Types of information that can be monitored and reported**

|                             | Description   | Examples  | Reportable?  |
|-----------------------------|---|---|--|
| <b>1. Processes/ inputs</b> | Processes the company has in place to carry out human rights due diligence and provide remedy | <ul style="list-style-type: none"> <li>▸ Description of supplier audit/assessment programme</li> <li>▸ Description of grievance mechanisms</li> <li>▸ Description of training in human rights that employees receive</li> </ul> | Generally, companies feel more comfortable focusing on processes. However, descriptions of processes alone often don't convey information about their effectiveness. |
| <b>2. Incidents</b>         | Results of monitoring of instances of negative impacts  | <ul style="list-style-type: none"> <li>▸ Reported instances of discrimination</li> <li>▸ Safety violations</li> </ul>   | Companies increasingly report on these metrics with regard to their own workforce, at least in their annual/sustainability reports                                   |
| <b>3. Outcomes/ impacts</b> | Broader and more systematic effects of company activities                                     | <ul style="list-style-type: none"> <li>▸ Wage levels</li> <li>▸ Health of surrounding communities</li> </ul>  | Often, reporting involves the outcomes of impact assessments and long-term indicators; reporting depends on the availability and sensitivity of data                 |

Most existing human rights indicators focus mainly on human rights *incidents*. Recently, there has also been more attention on developing more meaningful *process* or *input* indicators – for example, not just how many staff trained, but also an evaluation of the effectiveness of that training in practice. So in these two areas, at least a company can develop its own indicators without having to reinvent the wheel.

Companies wishing to systematically monitor outcomes (for example, what is the long-term impact of the company's presence on the local community) currently do so mostly by means of case studies for internal, and sometimes external, audiences.



## LEARNING FROM PRACTICE

### EXAMPLES OF INDICATORS RELATED TO TREATMENT OF WORKERS

#### Process/input indicators:

- Percentage of workers trained on the code of conduct (where it includes human rights)
- Percentage of workers who have access to grievance procedures (including trade unions)
- Number of human rights impact assessments conducted
- Frequency of company's dialogues with trade unions representing its own workers, or those in its supply chain

#### Incidents indicators

- Number and breakdown of complaints, and official findings, regarding violations of company policy (for example, employee's right to privacy, right to form and join a trade union, working hours)
- Percentage of staff who experience harassment or discrimination as expressed in employee surveys or through trade unions

### Guidance point

#### Tracking performance of suppliers and other business relationships

---

Tracking performance is important for impacts in the supply and value chain of companies, even though the nature of that tracking may look different. Over the last decades, many companies have set up 'supply chain monitoring programmes' with the aim of preventing abuses in the production process. These programmes usually involve a supplier code of conduct, and follow-up is done by self-assessment and/or auditing by the buying company or its chosen intermediary. If abuses are found, the supplier is required to develop a time-bound improvement plan. The speed with which changes have to be made may depend on the seriousness of the issue, or on the specific requirements of the buyer.



## LEARNING FROM PRACTICE

### RECOGNISING THE LIMITATIONS OF AUDIT ALONE

Most audit-based approaches use a ‘policing’ model, which assumes that suppliers are unable or unwilling to respect human rights, and so buying companies need to impose top-down codes of conduct supplemented by audits to prevent cheating. But such assumptions are increasingly being challenged by research and companies’ own experience, which shows that suppliers are often willing but either lack the capacity to meet such standards in practice, do not have any incentives to do so, or may be put under pressure by companies’ own purchasing practices.<sup>66</sup>

Leading companies are moving to adopt capacity building and other approaches to explore how to change the dynamics generated through policing-based models. A range of examples can be found in Shift, ‘From Audit to Innovation: Advancing Human Rights in Global Supply Chains’, 2013.<sup>67</sup> While these approaches can present challenges of scalability for companies with large numbers of suppliers, it is clear that innovative approaches are needed.

However, experience has shown that top-down auditing programmes are typically inadequate on their own to lead to systemic change in respect for human rights by business partners. Research and company experience in the supplier context have demonstrated that conditions only really improve when the supplier recognises the importance of respecting human rights and the connection to their business, for example, because the buying company is willing to establish a long-term relationship or to make the investments needed for structural improvements (see box on this page).

Tracking the performance of other relationships in the value chain, such as customers, joint venture partners and others, is gaining greater attention. While there are relatively few examples in the public domain, notable exceptions are the financial sector (where the misuse of funds by clients is one of the primary risk areas from an anti-money laundering perspective) and the ICT sector (where companies have been tracking and reporting on the requests they receive from governments to hand over certain user data or give access to user accounts).



### COUNTRY INSIGHTS: TURKEY



#### From policeman to partner

“The suppliers, if they trust you, if they feel your approach to them as a positive improvement too, then they start being cooperative. They start approaching you, taking a step with you, instead of making it a forced action.”

Göktuğ Ünder, Social Compliance Director, DeFacto. For more on this, see the Turkey case story on the [project website](#).

66. See, for example, EY, ‘Human rights and professional wrongs’, 2016, available at [www.goo.gl/TusF6E](http://www.goo.gl/TusF6E).

67. [www.goo.gl/2Y5BGy](http://www.goo.gl/2Y5BGy)

## Guidance point

### Verifying performance

---

Many companies have established systems for verifying the information that they receive through tracking processes, and can build on expertise in the internal audit or compliance department in this regard. Approaches that some companies have found useful for verifying performance on human rights and other non-financial risks include the following:

#### **Non-financial letter of representation**

In order to obtain assurance from business units or country operations, some companies use a process that involves the signing of a so-called 'non-financial letter of representation' (LOR). Usually, a business unit or country director signs an LOR to provide assurance that business is being done in line with company principles. Such letters can include human rights components (for example, questions on discrimination, child labour or freedom of association).

#### **Verification through multi-stakeholder initiatives**

Companies may be part of multi-stakeholder initiatives (MSIs) that have verification processes (and often also grievance mechanisms). Examples include the Fair Wear Foundation,<sup>68</sup> Fair Labor Association,<sup>69</sup> Global Network Initiative<sup>70</sup> and the Electronic Industry Citizenship Coalition.<sup>71</sup> In these initiatives, companies commit to a set of standards against which their own operations, and often those of their suppliers or other business partners, are measured. The initiatives may also conduct (or commission) assessments of suppliers on behalf of their member companies.

Usually, such initiatives are industry or issue specific. Membership of an MSI can help support a company's human rights due diligence efforts, but this depends on how robust the MSI's processes are in practice (and are seen to be by other stakeholders).

#### **Verification by external parties**

A growing number of assurance providers are offering to verify companies' human rights performance. The guidance being developed for assurance providers using the UN Guiding Principles Reporting Framework will be a helpful reference point for companies that want to ensure that such third parties bring the necessary expertise to bear.

---

68. <http://www.fairwear.org/>

69. <http://www.fairlabor.org/>

70. <https://www.globalnetworkinitiative.org/>

71. <http://www.eiccoalition.org/>

Other independent third parties may work with companies on the condition that they share the findings publicly. Examples include:

- **NGOs:** Unilever has collaborated with Oxfam to study labour issues in its Vietnam operations and supply chain, focusing on those that are important to workers but often difficult for companies to assess and manage, such as freedom of association and living wage.<sup>72</sup>
- **Multi-stakeholder and industry organisations:** for example, the Fair Labor Association has monitored a part of Nestlé's cocoa supply chain for child labour and other labour rights issues in Cote d'Ivoire.<sup>73</sup>
- **International organisations:** for example, the International Labour Organization has engaged with JTI, a tobacco company, to monitor the effectiveness of child labour programmes in various countries including Brazil and Malawi.<sup>74</sup>



## LEARNING FROM PRACTICE

### COLLABORATIVE APPROACHES TO TRACKING

As with assessing impacts, tracking is a moment in time in the due diligence process when it is particularly important to integrate the perspectives of affected stakeholders, or those with credible insight, into companies' views. This is especially so where the company and its stakeholders are in dispute about a particular situation, and stakeholders are unlikely to accept the company's own evaluation of the effectiveness of its approach. Some extractive companies, in particular, have developed models involving both companies and local communities in the joint monitoring of the company's human rights efforts in order to build trust in the outcomes of the tracking process.

## Guidance point

### Making improvements

Tracking should support continuous improvement in a company's approach to respecting human rights. The learning can feed into the other elements of the responsibility to respect, such as:

#### *Policy commitment and embedding*

- Updating of the policy, for example, the specific rights it addresses, or who is accountable for implementation;
- More specific guidance for functions that are not performing well because it is unclear what is expected of them;
- Performance data can help inform adjustments to the content or focus of training;
- Staff with human rights expertise could be assigned to poorly performing parts of the company to support them;

72. [www.goo.gl/N89ap8](http://www.goo.gl/N89ap8)

73. [www.goo.gl/34pWTj](http://www.goo.gl/34pWTj)

74. [www.goo.gl/GUDsDT](http://www.goo.gl/GUDsDT)





### Start small and do it well

Toks is a chain of 132 restaurants in over 20 cities in Mexico. It has an extensive supply chain and one of the key ingredients is coffee, the production of which is known to involve child labour and other severe human rights impacts. Toks found that it was connected through a number of tiers of its supply chain to poor coffee-growing communities where child labour is prevalent. The company decided to focus on a small, remote community in the state of Chiapas, where such impacts were occurring. After initial hesitation on the part of the community, Toks found, through its engagement with the community, that a number of root causes of child labour were present, including poverty, inefficient production, discrimination against people with disabilities, and poor social services more generally.

Together with local NGOs, Toks set up an intensive and holistic programme that included agricultural training, capacity building, the provision of better equipment, and education to improve farming conditions and workers' rights. The company also worked with parents to improve education and day care for children, and paid for treatment and support for children with disabilities.

According to Gustavo Pérez Berlanga, CSR Director of Toks: "Our holistic approach and integral vision made this project a success. It's a very little drop in the ocean, but it's not only about scale, but also about quality: the existence of a good case practice can have a catalysing effect on similar initiatives elsewhere. We aim to have many of these projects in the future."

### Assessing impacts

- Tracking performance may uncover certain risks that were not identified and that need to be addressed;
- Existing impact assessment processes can be refined;
- A specific country or business unit may be chosen for more in-depth assessment based on performance over the past year;

### Integrating and acting

- Good performance could lead to targets being set higher (this is already commonplace in the area of health and safety); meeting those targets could be made part of a bonus system where this is not yet the case (connecting back to embedding);
- A larger or different part of the supply chain pool could be monitored based on the outcomes of the company's responsible sourcing programme;

### Remediation and grievance mechanisms

- If reports from grievance mechanisms show a significant spike in a particular issue, focused attention may be needed at the specific business unit/site/factory.



## WRAPPING UP - COMMON PITFALLS TO AVOID

### TRACKING WHAT CAN BE MEASURED RATHER THAN WHAT IS IMPORTANT TO TRACK

Because tracking of human rights impacts beyond health and safety is still relatively underdeveloped, there has been little guidance to date for companies on how to do it well. Therefore, there may be a tendency to focus on what it is possible to track rather than what is important to track and report on. If quantitative data is not available, anecdotal evidence and case studies may be more important than tracking ‘hard’ data on an irrelevant issue or on processes (such as the number of audits or training sessions conducted) that do not provide any insight into the effectiveness of those approaches.

### EXCLUSIVE FOCUS ON AUDITING

Research and anecdotal evidence has shown that policing-based auditing models lead to limited sustained improvements in relation to human rights (see discussion in the box above). Audits can provide important snapshots in time but are not enough, on their own, to address improvements in supplier performance. Companies can learn from a growing body of experience with engagement and capacity-building approaches, and reflect on what may make most sense for their business given their salient human rights risks.

## Some suggestions for SMEs

### Use smaller-scale methods to obtain feedback

Small companies are unlikely to need large-scale employee surveys, but there is almost always some way that workers are asked for feedback and this can include questions related to human rights. This could involve human rights topics such as discrimination, or workers’ opinions on the company’s efforts to respect human rights.

### Benefit from shorter communication lines to make improvements

Improvements may be able to be made more speedily and informally, as smaller companies generally require simpler procedures for organisational change. For example, improvements can be discussed and agreed in regular team meetings. ◀



## Key sources and websites

- Shift and Mazars, UN Guiding Principles Reporting Framework [www.UNGReporting.org](http://www.UNGReporting.org)
- GRI Sustainability Reporting Standards [www.globalreporting.org/standards](http://www.globalreporting.org/standards)
- Danish Institute for Human Rights, ‘Human Rights Compliance Assessment’ [www.goo.gl/7hERt](http://www.goo.gl/7hERt)