Disclosures on managing human rights risks

A joint report from ACCA and the
Net Balance Foundation with CAER

This report is part of a series of research projects carried out by *ACCA Australia and New Zealand* in collaboration with the Net Balance Foundation.

The series analyses disclosures on areas of non-financial performance by Australian Securities Exchange (ASX) companies.

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This report examines the human rights governance, risk management and reporting quality of companies in the ASX 100. The report focuses predominantly on the 47 companies in the ASX 100 identified by CAER as having high-risk exposure to human rights issues, on the basis they are operating in countries with human rights concerns.

The report also addresses, in brief, the approach of the remaining 53 ASX 100 companies not operating in countries of concern but with potential exposure to other human rights risks.

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Glossary

AHRC	Australian Human Rights Commission
ANZ	Australia and New Zealand Banking Group Limited
ASX	Australian Securities Exchange
BLIHR	Business Leaders Initiative on Human Rights
CAER	Corporate Analysis Enhanced Responsibility
EIRIS	Experts in Responsible Investment Solutions
ESG	Environmental, social and governance
GRI	Global Reporting Initiative
IFC	International Finance Corporation
ILO	International Labour Organisation
ISO	International Standards Organisation
MNC/MNE	Multinational corporation/enterprise
NGO	Non-government organisation
NZX	New Zealand Exchange
OECD	Organisation for Economic Cooperation and Development
S&P	Standard and Poor's
SA8000	Social Accountability Standard
SIRIS	Sustainable Investment Research Institute
SR	Social responsibility
UN	United Nations
UNEPFI	United National Environment Program Finance Initiative
UNGC	United Nations Global Compact
UNHRC	United Nations Human Rights Council

Foreword

Protecting human rights has been universally accepted as a worthy objective. Building on the aspirational aims of the Universal Declaration on Human Rights (adopted in 1948), over the last fifty years a number of international covenants have been developed which help to define human rights better and how these should be protected by states. The role of business in respecting human rights has been, however, until recently, less clear.

The research carried out by the Net Balance Foundation, in collaboration with CAER and ACCA, provides new and important insights into the exposure and performance of the Australian Stock Exchange top 100 companies in regards to human rights, especially as compared to the leading companies worldwide. The headline findings in this report indicate that 90 % of the 47 companies operating in countries of concern do not appear to be managing their exposures adequately. In the absence of an international business framework for managing human rights, this is not, perhaps, a surprising result.

The endorsement in June 2011 by the UN Human Rights Council of the *Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy Framework* is a game changer and for the first time creates a framework for how corporations should go about respecting human rights.

Human rights will remain a complex and challenging aspect of corporate governance. Ultimately, all corporations have legal and ethical obligations to understand their material human right impacts and obligations at a country, operational and supply chain level, and to prevent abuses where they might or do occur. In the context of increasing stakeholder scrutiny of company performance, including from employees, customers and shareholders, the findings of this research, read in conjunction with the UN's *Guiding Principles on Business and Human Rights* provide an excellent platform for ASX 100 corporations and others to begin the process of improving their efforts to respect human rights and thereby to protect their 'social licence to operate'.

Professor David Kinley
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Executive summary

This report focuses on the adequacy of disclosure about risk management and performance in a crucial area of corporate responsibility – human rights.

While it is primarily the responsibility of governments to protect human rights, business has an obligation to respect them. Companies that do not make human rights part of their core strategy and governance systems are exposed to additional risks, while those that do are less exposed and can accrue significant benefits.

International guidelines, including the 2011 *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework* (UNHRC 2011) and the *OECD Guidelines for Multinational Enterprises: 2011 Update* (OECD 2011), in conjunction with the way in which international law is developing, provide evidence of the increasing focus on business and human rights. Further, while the emphasis recently has been on the environmental impacts of climate change, we are seeing signs of this changing to a focus on the impact on people, and the questions of sharing limited natural resources, which also raises questions of rights.

The primary focus of this report is on the most exposed companies in the ASX 100 share price index – that is, companies that have the most obvious potential exposure to human rights issues because they are operating in countries with serious human rights concerns, and because of the nature of these companies' activities.

The foremost finding of this report is that of the 47 ASX 100 companies identified as 'exposed' to human rights risks through their areas of operations, 90% appear to have management systems that are insufficient to mitigate exposure to human rights risks. Only 15% disclose evidence of human rights policy commitment and only 6% are judged to have adequate reporting on human rights management and outcomes. Corresponding research on the remaining 53 companies that are not captured in this definition, although they may still have other human rights exposures (eg supply chain, labour, discrimination), showed that these companies also fail to demonstrate adequate policies or disclosures on human rights.

Australian companies have improvements to make to reach the standards of their UK and European counterparts. Similar cohorts in the UK and Europe are identified as having greater exposure to operational human rights risk, and greater proportions of these groups are assessed as having 'adequate' policies, management systems and reporting in place to manage this exposure. Even so, the Australian companies achieved slightly better results compared with their North American counterparts, despite a similar level of risk exposure.

When consideration is given to the new business framework endorsed by the UN Human Rights Council on 16 June 2011, namely the *Guiding Principles on Business and Human Rights* (UNHRC 2011), it would appear that there is room for ASX 100 companies to improve how they manage and publically disclose their performance on human rights.

1. Introduction

THE IMPORTANCE OF HUMAN RIGHTS TO BUSINESS

> *The worst corporate-related human rights abuses, including acts that amount to international crimes, take place in areas affected by conflict, or where governments otherwise lack the capacity or will to govern in the public interest.* (Ruggie 2010a)

In the context of the globalisation of business operations it is widely accepted that business has both the responsibility and the opportunity to have a positive impact on issues of social justice. The rationale for this has a legal basis and acting in a socially just manner is also often seen as a prerequisite to protecting an organisation's *social licence to operate*. As a major source of investment and job creation, businesses can generate economic growth, reduce poverty and promote the rule of law, thus contributing to the realisation of human rights (Ruggie 2008a).

Globalisation brings numerous challenges to corporations through their interaction with entities across the world, exposing businesses to diverse cultures, norms and legal structures. Multinational enterprises, in particular, have greater exposure to human rights risk when they operate in countries that are politically unstable or governed by oppressive regimes. By undertaking operations in such countries, the international corporation may be seen to be providing implicit and/or direct support to the government of that country, through abiding by local laws, incorporating through the local judicial system, paying local taxes and using government services such as security, police and public infrastructure.

There are often gaps in human rights protection in such countries and the governments, and their agents, do not always have a good record of respecting human rights. Therefore, to avoid infringing the rights of others, businesses in these situations need to go beyond basic compliance with local laws and regulations and to develop their own effective human rights due diligence, policies, standards and management processes.

The aim of this report is to provide an analysis of human rights risk exposure and disclosed management of these risks in the ASX 100, and the extent to which these risks are being addressed.

DEFINING HUMAN RIGHTS FOR BUSINESS

> *Basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status…include civil and political rights, such as the right to life, liberty and freedom of expression; and social, cultural and economic rights including the right to participate in culture, the right to food, and the right to work and receive an education.* (Amnesty International 2011a)

Human rights have been defined in a number of ways. The Australian Human Rights Commission (AHRC), Australia's national human rights institution, provides an overview of simple definitions that are often used (AHRC 2011a):

- the recognition of and respect for people's dignity
- a set of moral and legal guidelines that promote and protect a recognition of the individual's values, identity and ability to ensure an adequate standard of living
- the basic standards by which inequality and fairness can be identified and measured
- those rights set out in the Universal Declaration of Human Rights.

The Australian Human Rights Commission has also published fact sheets targeted at business to assist business engage with human rights.

The internationally accepted definition of human rights is defined by the International Bill of Human Rights (ie the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights). Human rights are also outlined in the ILO Conventions and specific international treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the Convention on the Rights of the Child (CROC).

Human rights impacts that are particularly pertinent for businesses include the following, adapted from the Australian Human Rights Commission (2009).

- **Labour rights:** discrimination or harassment; underpayment of wages or unreasonable working hours; an unsafe workplace; restrictions on collective bargaining; forced labour; or child labour.
- **Right to life and security of the person:** protection against bullying, injury or death; appropriate level of force used in security operations.
- **Right to health:** safe working environment and protection from industrial accidents, spillages or contamination.
- **Right to housing and an adequate standard of living:** impacts of operations on land, housing, water, farming and the employment needs of the local community.
- **Rights of indigenous peoples:** such groups' livelihoods are particularly vulnerable to the impacts of businesses in their locality and present particular challenges in performing consultation to secure their free, prior and informed consent and equitable compensation.

Other impacts of particular relevance to business include privacy, fair trial (complaint and disciplinary procedures), children's and women's rights, and religious freedoms.

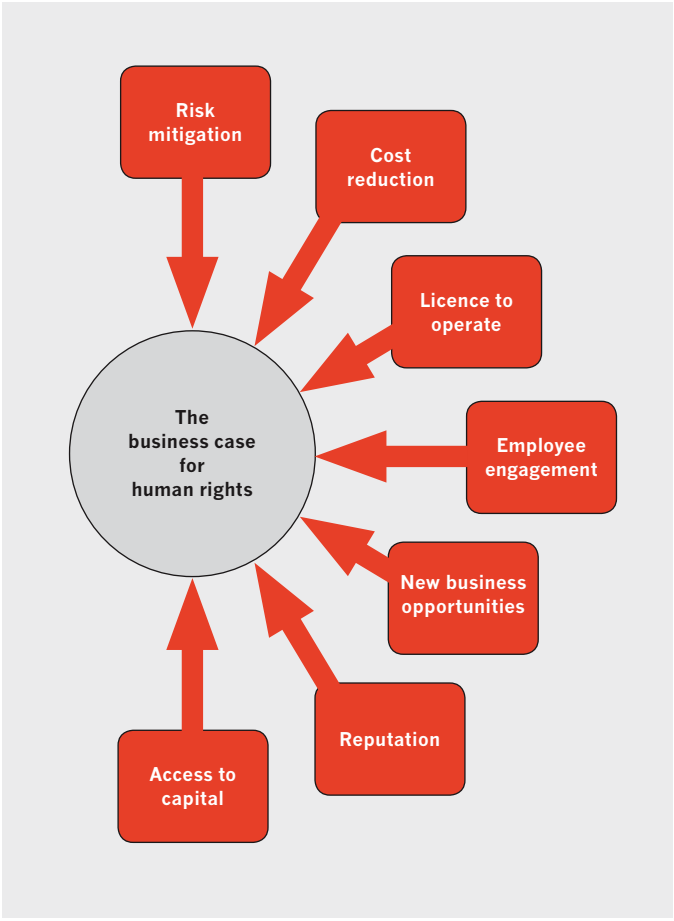
There are also particular circumstances in which human rights abuses are more likely to occur, such as in situations of poverty, poor governance, conflict, and bribery and corruption. Bribery and corruption may affect human rights provision through, for example, diverting resources away from a government-led social programme such as hospital building.

Ruggie (2010a) defines human rights risk in a business context as 'the potential adverse impacts on human rights through a business enterprise's activities or relationships'. Such risks can be identified by enterprises through an assessment of both potential impact and likelihood of occurrence.

THE BUSINESS CASE FOR HUMAN RIGHTS

Human rights can and do operate in a multi-layered way, often by way of a legal standard, a quality assurance mechanism or a moral obligation. With the changing nature of global interconnectivity and increasing societal expectations for responsible business conduct, those companies that consider human rights part of core business practices and can demonstrate good human rights performance may experience a range of commercial and non-commercial benefits.[1]

Figure 1.1: The business case for human rights



- **Risk mitigation:** as well as improving corporate governance, improved risk assessment and management can lead to mitigation of risks such as litigation risk for alleged complicity in human rights breaches, and reputational risk, which may lead to damage to a corporate brand and image. Risk of consumer protest is also reduced.
- **Cost reduction:** costs to business can be reduced by considering human rights risks before technical or investment decisions are made; costs associated with labour disputes and stoppages, security issues, insurance premiums and stakeholder damage control can likewise be avoided.
- **Licence to operate:** active management of human rights, by building relationships with all relevant stakeholders, further strengthens a company's social licence to operate and grow.
- **Staff engagement:** increases in staff loyalty and productivity can be gained with associated attraction, motivation and retention of superior employees.
- **New business opportunities:** a competitive advantage in niche and emerging markets may exist over companies not yet adopting human rights policies, as well as enabling increased access to government contracts.
- **Reputation:** strengthening an organisation's social licence to operate enhances corporate reputation and brand image. Companies that fail to meet the baseline requirements for respecting human rights may face trial in the court of public opinion – by employees, communities, consumers, civil society and investors, and occasionally in actual courts (Ruggie 2008a).
- **Access to capital:** when considering companies in which to invest, many investors now actively screen for material environmental, social and governance (ESG) factors, including allegations of human rights abuses by a company (BLIHR 2011). Strengthened shareholder confidence through management of key risks can also attract new sources of finance (AHRC 2011a; Frankental and House 2000).

1. The Business Leaders Initiative on Human Rights also provides an overview of the business case (see BLIHR 2011).

Reporting of human rights performance, even when that performance is poor, may also yield benefits. For instance, when US company GAP published a self-critical corporate social responsibility report, groups such as Amnesty International and Human Rights Watch acknowledged GAP was making an honest endeavour to improve its performance. This won the company time and support to work on the required changes (Slavin 2004).

EMBEDDING A RESPECT FOR HUMAN RIGHTS IN BUSINESS PRACTICES

Australia's Human Rights Commission observes there are hardly any human rights not relevant to business given that companies' operations can have an impact on so many stakeholders, including employees, customers, suppliers and their employees, business partners, and communities in which a company operates.

Companies working across transnational boundaries, or exposed to other areas of human rights risk, are strongly advised to make human rights a key aspect of their strategic thinking (Robinson 2003; Aldred 2000). Nonetheless, while environmental and other sustainability issues are now commonly part of corporate risk management strategies, companies remain 'uncomfortable with the wide-ranging language of the Universal Declaration of Human Rights' (Slavin 2004).

Although some companies address individual areas of human rights (for instance, they may have policies to promote health and safety, diversity, non-discrimination, collective bargaining and indigenous employment), few have developed overarching human rights frameworks. Best practice indicates that if companies are to ensure effective mitigation of the full range of potential human rights risks, a single organisational human rights policy or statement needs to be evolved, supported by an organisation-wide framework of procedures, systems and reporting mechanisms, within which existing issue-specific policies reside. An explicit organisational framework will provide consistent expectations and comprehensive guidance to employees. It is also a means of managing and measuring overall risk exposure and performance, and will enable the company to communicate its intentions clearly to stakeholders. For example, in the area of gender diversity:

> *It* [gender equality] *doesn't happen by itself. It needs focus, it needs energy, it needs leadership, it needs direction, it needs follow-up, it needs commitment, it needs all the 'hard yards'.* (Gail Kelly, CEO Westpac, (Samandar 2011))

To address this gap, the UN 'Protect, Respect and Remedy' Framework and its guidance for implementing it (UNHRC 2011), developed under the former leadership of the Secretary-General's special representative, Professor John Ruggie, presents a new global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. The guiding principles for business and human rights were officially endorsed by the UN's Human Rights Council in June 2011 and provide businesses, civil society stakeholders and states with a process for operationalising the Framework through practical recommendations and guidance on human rights risk management, governance and legal structures.

The UN 'Protect, Respect and Remedy' Framework consists of three core principles:

1. the state's duty to **protect** against human rights abuses by third parties, including business

2. the corporate responsibility [of business] to **respect** human rights

3. the need for more effective access to **remedies** for victims of any human rights abuses that occur.

The framework and guiding principles can be expected to form the basis for future government regulation, business policies and management responses within UN member countries, including Australia.[2]

In addition to the new UN framework and guiding principles, many related business frameworks, standards, initiatives and voluntary codes have been developed which address specific aspects of human rights. Most notable is the *OECD Guidelines for Multinational Companies*, in which the standards for human rights best practice were recently updated and strengthened (OECD 2011a).[3] These tools,

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2. The Institute for Human Rights and Business has produced a research report on the 'state of play' of human rights due diligence, examining companies current practices against the UN framework (Morrison and Vermijs 2011).

3. The update took effect in June 2011.

while not legally binding, provide guidance for companies on managing human rights risks as well as providing a benchmark by which stakeholders may assess company performance. In practice, many companies do not follow internationally recognised human rights standards, which are typically decoupled from companies' risk and control systems, and lack accountability mechanisms to ensure adherence (Ruggie 2010a). A list of relevant standards and frameworks is provided at Appendix B.

There are also institutional mechanisms established to promote business engagement with human rights. This provides further evidence at an institutional level, of the growing significance for business to have regard for human rights considerations. An example of an institutional mechanism is the UN Global Compact (see Appendix B).

THE AUSTRALIAN CONTEXT

Australia is a signatory to a number of international human rights agreements[4], including:

- Universal Declaration of Human Rights (1948)
- Convention on the Elimination of Racial Discrimination (CERD) (1965)
- International Covenant on Civil and Political Rights (1966)
- International Covenant on Economic, Social and Cultural Rights (1966)
- Convention on the Elimination of Discrimination against Women (CEDAW) (1979)
- Convention on the Rights of the Child (CROC) (1989)
- ILO Declarations on Fundamental Principles and Rights to Work (1998)
- Convention on the Rights of Persons with Disabilities (DISCO) (2006)
- OECD Guidelines for Multinational Enterprises (updated in 2011 to include a chapter on human rights).

4. Dates shown indicate the year each instrument was adopted by the UN.

Australia has no national human rights act. There are, however, a range of human rights protections ranging from the Australian Constitution, Australia's international obligations, Commonwealth and State legislation,[5] the work of civil society and regulatory agencies and, culturally, a social attitude of democracy and fairness. The Federal Government has also undertaken a number of initiatives recently to define human rights more clearly and give them better effect, including:

- the National Human Rights Consultation (2008/9)
- the development of a National Human Rights Framework (2010) including the proposed consolidation of Commonwealth anti-discrimination laws (exposure draft legislation for public comment expected early 2012)
- a National Human Rights Action Plan (expected in December 2011), which will outline future action to improve the promotion and protection of human rights in Australia
- the Human Rights (Parliamentary Scrutiny) Bill, re-introduced in September 2010 and currently before Parliament, which will establish a new Parliamentary Joint Committee on Human Rights to assess new legislation for compatibility with Australia's human rights obligations.

As noted above, the Australian Human Rights Commission has a mandate in relation to human rights and has provided guidance to business about engaging with human rights. It is understood the Commission is in the process of updating its business and human rights fact sheets.

The Australian Network of the UN Global Compact was launched in 2009 to assist Australian organisations to integrate and operationalise the 10 Global Compact Principles within organisations core business practices. In 2010 the Global Compact Network Australia established a Human Rights Working Group for Business to provide Australian businesses with an informal forum for joint learning and sharing best practice regarding human rights (HUB).

5. For instance, at the Commonwealth level: the Race Discrimination Act 1975; the Sex Discrimination Act 1984. At the State level: the ACT has a Human Rights Act (2004) and Victoria has a Charter of Human Rights and Responsibilities (2006).

2. Methodology

This report examines human rights risk exposure and public disclosure of human rights management among companies in the ASX 100 as at May 2011. The primary focus of the report is on the 47 most exposed companies in the ASX 100 – that is, the companies that have the most obvious potential human rights risks because they operate in countries with serious human rights concerns, as classified by EIRIS, as well as a consideration of corporate activities (see Part A below). In addition, Net Balance Foundation undertook an analysis of the approach to human rights within the remaining 53 'less exposed' companies of the ASX 100 (see Part B).

PART A

The analysis for this study was sourced from an ESG research software platform developed and maintained by EIRIS (EIRIS 2011), a leading global provider of independent research into the ESG and ethical performance of companies. EIRIS assessments of Australian companies are undertaken by, and make use of, information and research provided by CAER.

To determine the human rights risk exposure of companies listed on the ASX 100, this study considered the countries of operations for each company, using a list developed by EIRIS that identifies those countries with high risk for human rights concerns. The report also considers companies operating in the extractive resource industry, namely oil, gas or mining, that have operations in non-OECD countries.

To determine the extent of human rights concerns within a country, EIRIS considers a country's respect for political rights and civil liberties, and known human rights violations, as well as those human rights that are of particular relevance to companies, including the rights of employees and women's economic rights. EIRIS also takes into account a country's degree of political instability and the gravity of armed conflict(s) occurring on its territory.[6] This study considers those companies listed on the ASX 100 that have exposure to 'high-risk' countries identified by EIRIS, which include countries such as the Democratic Republic of Congo, Iraq, Libya and Zimbabwe.

Oil, gas and mining companies with operations in non-OECD countries are also regarded as facing serious human rights risks, through their potential to have a direct impact on land, livelihoods, the natural environment, and conflict.

Human rights risks do occur in other indirect aspects of company operations (eg procurement). Nonetheless, focusing on human rights as a single primary area of concern (rather than assessing human rights as part of a broader definition of sustainability performance) provides clearer and more concise data for the purpose of drawing conclusions about the human rights risks exposure and management of ASX 100 companies.

The criteria used by CAER for researching companies on the issue of human rights are grouped into three broad areas, namely policies, systems and reporting, as outlined in Table 2.1.

Table 2.1: Assessment criteria for high-exposure companies

AREA	CRITERIA
Policy	Supports international initiatives and frameworks
	Covers relevant key issues rather than being just a general statement
	Communicates internally and to important stakeholders such as partners and suppliers
	Senior accountability for policy within company
Systems	Human rights integrated into due diligence process
	Human rights implementation procedures
	Monitoring and reviewing performance
	Support for capacity-building projects
Reporting	Policy made public
	Quantitative disclosures re output from the Systems above
	Evidence of compliance statement and independent verification

The data were compiled in May 2011 using annual and sustainability reports for the 2010 fiscal year, websites and other publicly available information. CAER also communicates directly with companies it researches as part of its due diligence processes, providing additional information to the assessment.

6. A more detailed explanation of EIRIS' approach can be found in the *FTSE4Good Index Series: Inclusion Criteria* (FTSE 2010). EIRIS reviews this list bi-annually considering a variety of sources, including the Freedom House 'Freedom in the World' Annual Survey, World Bank 'Political Instability' Indicator, CIRI Human Rights Data Project, Project Ploughshares' annual 'Armed Conflicts Report', International Confederation of Free Trade Unions, Human Rights Watch Annual Reports, and Amnesty International Annual Reports. At the time of the study the list used was that for October 2010.

PART B

While the focus of this research report is on those 47 companies within the ASX 100 with operations in countries with known human rights issues, it is nonetheless recognised that the remaining 53 companies may also need to have robust human rights policies, frameworks and management systems in place. A number of companies not operating in 'high-risk' countries will have material exposure to other areas of human rights risk. For example, beyond operating in countries of concern, companies may be exposed to human rights risks through their supply chains, as well as through discrimination complaints, labour rights and bribery and corruption issues.[7]To get an overview of human rights management within the remaining 53 ASX 100 companies, Net Balance Foundation conducted a high-level review of publicly available information on these companies' approaches from their reports and websites. The scope of this secondary area of research was limited to public disclosures on human rights commitments, policies and performance such as that outlined in corporate sustainability reports and on corporate websites. This research was conducted in July 2011.

Table 2.2: Assessment criteria for less-exposed companies

EVIDENCE OF	CRITERIA
Human Rights Policy	Refers to an explicit reference to human rights risk management within an organisation's overall policies, or a stand-alone policy specifically dealing with a company's approach to managing human rights.
Human Rights included in Risk Management	Refers to evidence that human rights issues are being included within an organisation's risk-management process.
Signatory to the UNGC	Refers to an organisation that is listed publicly as a participant of the UNGC. This involves a public commitment to the UNGC's 10 principles, including respect for human rights and non-complicity in human rights abuses.
Use of the GRI Reporting Framework	Refers to an organisation's alignment of its sustainability reporting with the GRI Reporting Framework.
Reporting against GRI HR Indicators	Refers to an organisation's reporting of its performance (qualitative or quantitative) against the GRI indicators
Public Reporting on HR Performance	Refers to not only reporting but also disclosure of statistical or other numerical information by a company, relating to its human rights performance.

7. See Appendix C for an overview of other research in this area.

3. Results and findings

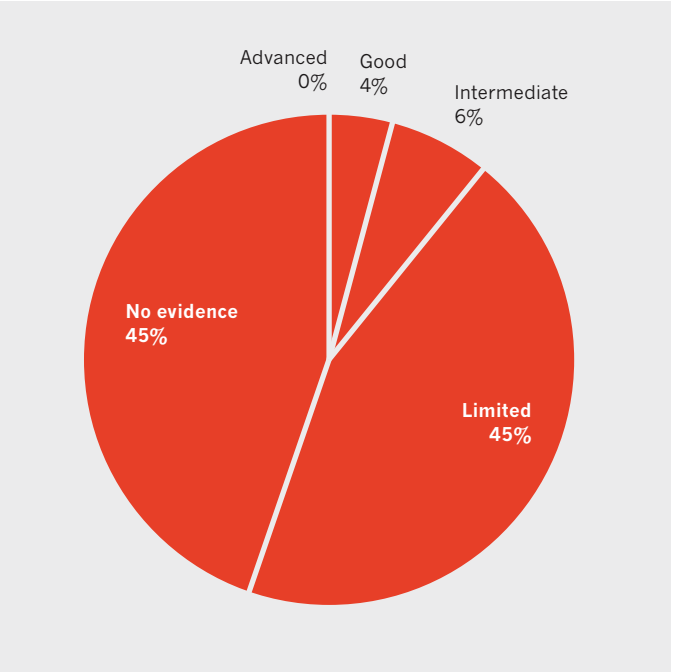
RESULTS OF PART A: HIGH-EXPOSURE COMPANIES

The research identified 47 companies within the ASX 100 faced significant human rights concerns through the nature of their operations and the countries in which they operated. An examination of the policies, systems and reporting mechanisms these companies have in place to manage this exposure were found to be inadequate. Figure 3.1 illustrates the overall response to human rights risk by the 47 companies identified as 'exposed'.

In summary, no company demonstrated an 'advanced' response to human rights issues. Only 4% demonstrated a 'good' response (BHP Billiton and Rio Tinto), 6% an 'intermediate' response (Amcor, ANZ Banking Group and Brambles), and 45% a 'limited' response. Almost half (45%) demonstrated 'no evidence' of response to the risks posed. This suggests that around 90% of the ASX 100 companies with high human rights risk exposure (as defined in this study) may have ineffective risk-management responses in place to manage human rights concerns. It may be that in some cases companies have put systems in place to address human rights risk but have failed to communicate these publicly to investors and the broader stakeholder community.

Notably, the 17 companies rated as having very high exposure[8] demonstrate, on average, a better management response to human rights risk than their peers, with 18% achieving a 'good' or 'intermediate' response (compared to 10% across the group). This shows that some leading companies have recognised the need for improved management of human rights risks.

Figure 3.1: Human rights – overall response



Out of the three areas (policies, systems and reporting) examined in this report, ASX 100 companies scored most favourably for policies.

While the primary focus of this report is on the 47 companies in the ASX 100 that are the most exposed to potential human rights issues, the actual degree of exposure for all companies will be higher when taking into consideration other human rights risk areas, such as company supply chains and labour rights.

A review of public disclosure of human rights frameworks and reporting among the remaining 53 companies in the ASX 100 revealed a similar pattern, with limited evidence of robust governance systems to manage human rights concerns (this is discussed in more detail in the results from Part B).

8. Companies that are very highly exposed to human rights concerns are defined in this study as those that have more than 1,000 employees or revenue and/or asset value of over GBP 100 million in high-risk situations. A high-risk situation pertains to operations in high-risk countries and/or those with oil, gas, or mining operations in non-OECD countries.

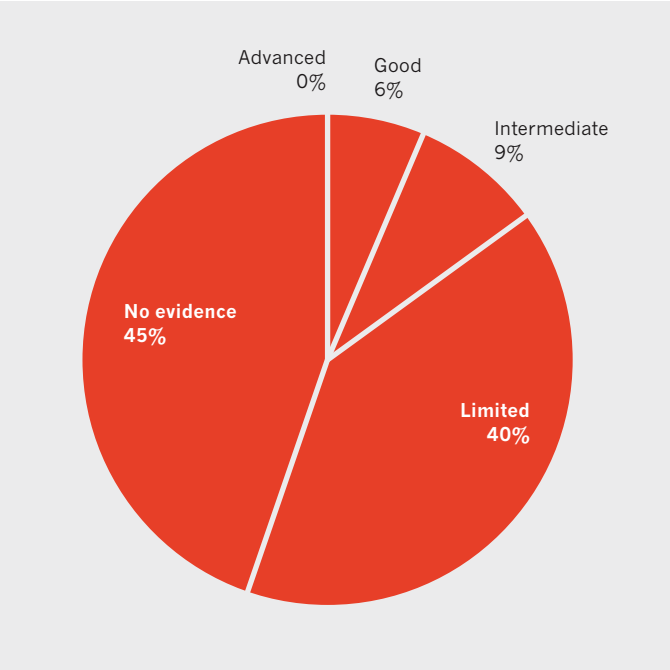
POLICIES

The existence of an explicit, robust, public human rights policy demonstrates an organisation's commitment to respecting human rights and to manifesting this respect throughout the enterprise. The policy should be reflective of the organisation's particular situation, including the size and scale of its impacts (Ruggie 2010a). While many companies use broad and aspirational language to describe their respect for human rights, more detailed guidance in specific functional areas through a formalised policy and framework is necessary to give those commitments meaning (Ruggie 2008a).

The policy research element assessed a company's commitments on human rights on a number of aspects beyond the mere **existence** of a policy, including:

- explicit commitments to core ILO criteria, the human-rights-related business initiatives to which it is a signatory (ie the United National Global Compact), and its statement of support for the Universal Declaration of Human Rights
- how well a company's human rights policy is communicated
- whether the policy has the support of senior management
- commitments (in the case of oil, gas and mining companies) in relation to indigenous peoples' rights and use of security guards.

Figure 3.2: Human rights policy rating



Although this was the area of the research in which companies scored highest, the findings reveal that a significant majority (85%) of the 47 ASX 100 companies have inadequate policies in place to address the human rights exposure they face. No company received an 'advanced' rating, 6% were rated 'good' (Brambles, BHP Billiton and Rio Tinto), 9% 'intermediate' (Amcor, ANZ Banking Group, Foster's Group and Lend Lease) and 40% limited. Of the 47 high-risk ASX 100 companies, 45% showed 'no evidence' of a human rights policy – either in existence or under development.

SYSTEMS

An organisation's management systems provide the framework to ensure successful implementation of a policy. Examining a company's human rights systems requires analysis of the management mechanisms in place to enable the company to implement its human rights policy. It considers issues such as training on the policy, risk management processes, stakeholder consultation and engagement on human rights issues, and monitoring and remedial mechanisms.

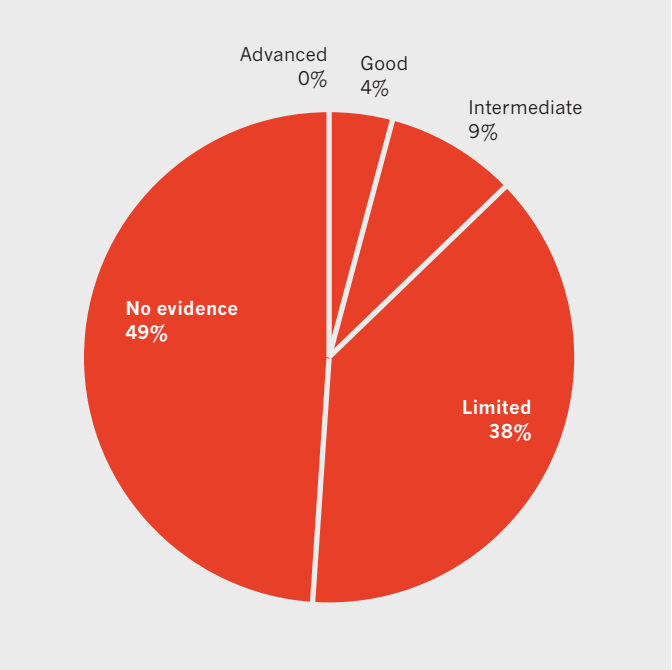
The existence of such systems is important because it allows a company to demonstrate that human rights issues are being integrated into its operational decision-making processes (Ruggie 2008a).

> *Monitoring and auditing processes permit a company to track ongoing developments...Tracking generates information needed to create appropriate incentives and disincentives for employees and ensure continuous improvement.*

Appropriate compliance systems are especially advisable where a state (for example Australia) determines corporate criminal accountability via an examination of a company's policies, rules and practices, rather than basing it on the individual acts of employees or officers (Allens Arthur Robinson 2008). It is important to note that companies do not necessarily have to have a separate human rights management system, they can be integrated into existing management systems and processes.

Figure 3.3 illustrates the analysis of the human rights management systems in place in the 47 exposed ASX 100 companies. No company was rated as 'advanced'. Only 4% were rated 'good' (BHP Billiton and Rio Tinto), 9% 'intermediate' (Amcor, ANZ Banking Group, Brambles and Origin Energy), 38% 'limited' and almost half (49%) showed 'no evidence' of having systems in place. This suggests that around 87% of risk-exposed ASX 100 companies have inadequate human rights risk-management systems in place.

Figure 3.3: Human rights management systems



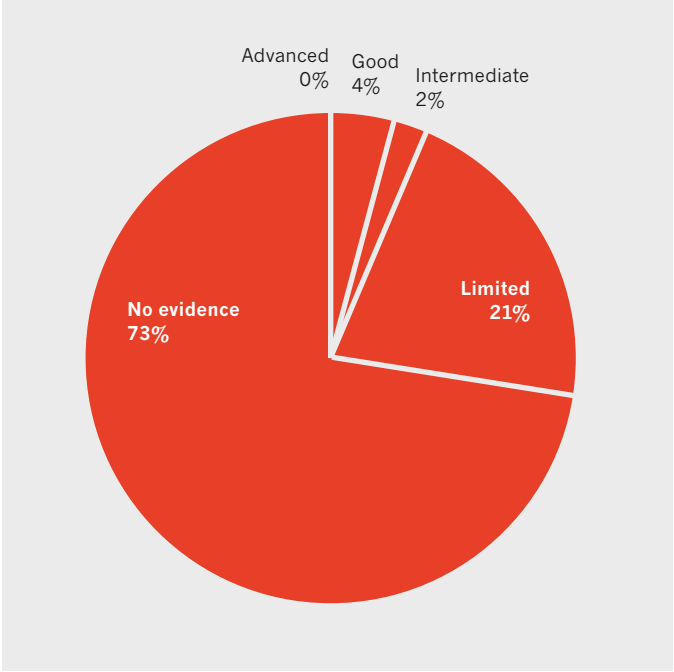
REPORTING

The assessment of a company's human rights reporting looks at the information a company makes publicly available about its human rights policy, mechanisms and performance. It also looks at whether a company responds publicly to alleged human rights abuses.

Public reporting provides further evidence of the extent of a company's commitment to human rights and to transparency, and provides a form of accountability to stakeholders, including investors. Reporting should reflect actual and potential human rights risks and impacts and should ideally be subject to third-party assurance (Ruggie 2010a).

The ratings for human rights reporting were the lowest among all categories.

Figure 3.4: Human rights reporting



No company received an 'advanced' ranking for its human rights reporting. Only 4% were ranked 'good' (BHP Billiton and Rio Tinto), 2% as 'intermediate' (Newcrest Mining), 21% as 'limited' and 73% showed 'no evidence' of reporting. This means that only 6% of companies report on human rights risks and management to an acceptable level.

Inadequate reporting on human rights issues creates three potential risk areas.

1. **Exposure risk:** lack of external reporting may reflect a lack of internal policies and systems and human rights risks that are not being assessed.

2. **Investment risk:** lack of external reporting may lead investors to assume that there is a lack of policies and systems in place and consequently to make an inaccurate assessment of the company's human rights governance structure. This may result in divestment of the asset by investors, even though satisfactory policies are in place.

3. **Reputational risk:** the sincerity of a company's commitment to human rights may be questioned if the actions (performance reporting) are misaligned with the intentions described in policy and statements.

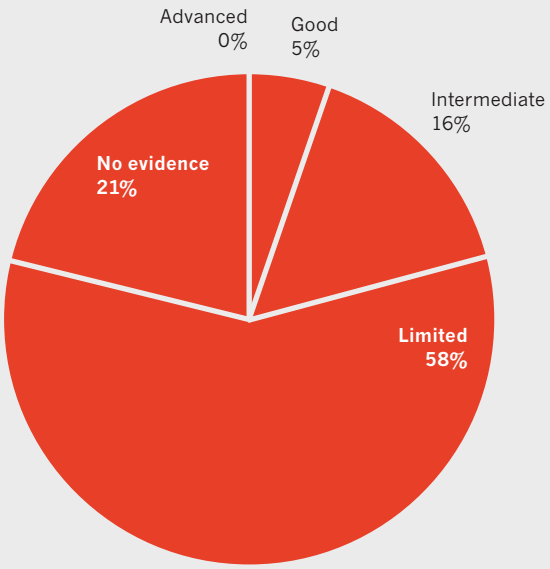
COMPANIES THAT REPORT AGAINST THE GRI FRAMEWORK

The Global Reporting Initiative (GRI) provides a common framework for sustainability reporting, to assist organisations in managing and reporting their economic, environmental, social and governance performance responsibly and transparently.

Corporations that use the GRI framework should report their results against relevant human rights indicators (between 9 and 11 in total). One would therefore expect to see a superior response by the 19 GRI reporters within the target group of 47 risk exposed ASX 100 companies (see Figure 3.5).

While companies that report against the GRI demonstrate better governance on average ('no evidence' responses decreased from 45% to 21%), the overall response to management of human rights risk remains inadequate.

Figure 3.5: Addressing human rights risk – GRI reporters



HOW AUSTRALIA COMPARES WITH THE WORLD[9]

Figure 3.6 shows the relative exposure of a similar cohort of companies to the ASX 100, across the UK (FTSE 100), Europe (FTSE World Index Europe ex-UK) and North America (FTSE World Index North America).[10] Companies based in the European Union have the highest exposure to human rights risk (as defined for the purpose of this study), followed by those based in the UK. Companies in Australia have a similar level of exposure to those in the US.

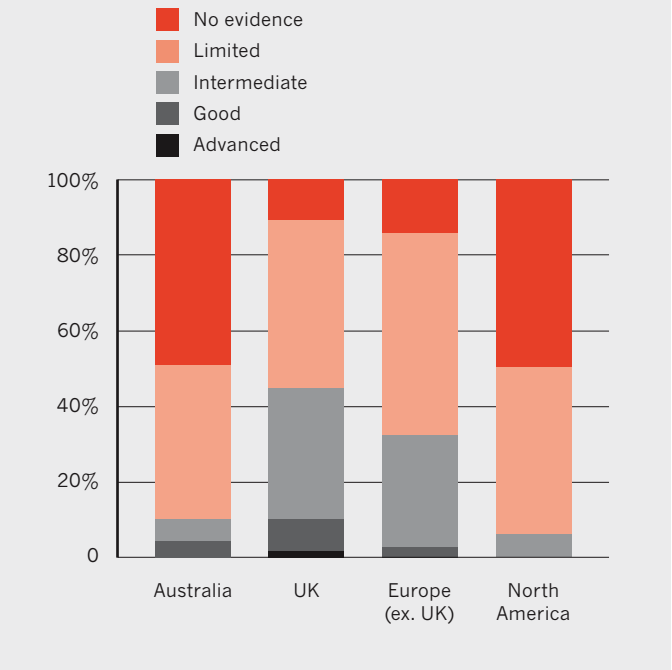
Figure 3.6: Human rights exposure – international comparison

9. Data for comparison provided by CAER.

10. Please note that the ASX 100 and the FTSE 100 cover 100 companies, the FTSE World Index Europe ex-UK includes 348 companies, and FTSE World Index North America includes 683 companies.

Companies in the UK, followed by those in the European Union, are more advanced in addressing human rights risk than Australian and North American companies. Some companies in the UK achieved an advanced ranking. Almost 50% of companies in the UK and just over 30% in the European Union were assessed as adequate, compared with Australia's 10% (see Figure 3.7). North American companies performed more poorly than Australian companies with no companies assessed as good and only 6% assessed as intermediate.

Figure 3.7: Addressing human rights risk – international comparison



While it is clear improvements across all regions are required, the better performance of the UK and the European Union could reflect the existence of active campaigners in these regions; the growth in socially responsible investment and consequent related queries from investors (eg FTSE4Good human rights criteria); stronger regulatory environments (eg the European Convention on Human Rights 1950 and the UK Human Rights Act 1998) and a more informed and active consumer interest on sustainability issues, as well as higher levels of exposure to human rights risk.

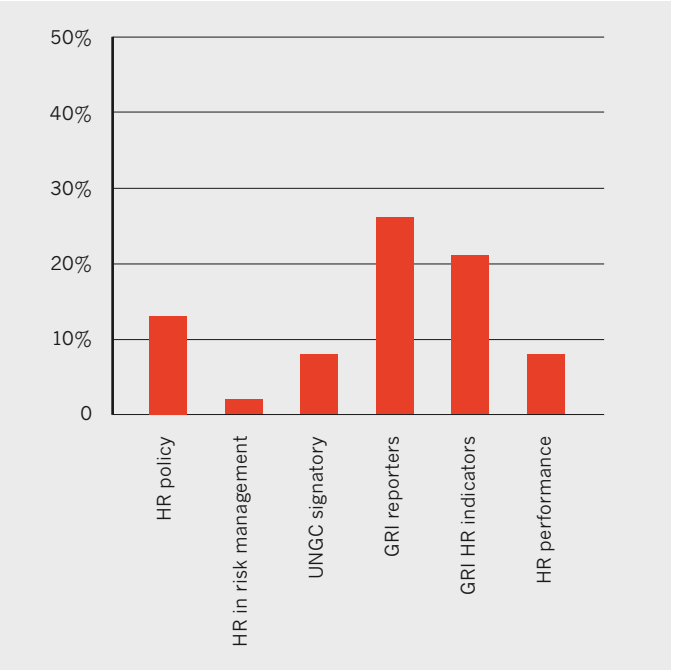
RESULTS FROM PART B: LESS-EXPOSED COMPANIES

The review of publicly available information from reports and websites of the 53 companies falling in the 'no exposure' category found very limited information on companies' approaches, management and reporting of human rights risk and governance systems. Although detailed reporting from all of this group was not expected (there will be a number of companies in this group that do not have a material exposure to human rights risk), a proportion of these 53 companies do and so this study included a high-level review of reporting disclosures in this group.

Figure 3.8 shows that only 13% of this group referenced the existence of a Human Rights policy. Of the 26% of companies that were committed to using the GRI framework, 78% actually reported against the GRI human rights indicators, but only 8% of companies reported quantitative human rights performance data (including one non-GRI reporter). Of the GRI reporters, nearly half (43%) provided evidence that a human rights policy was in place.

The four companies (National Australia Bank, Transurban Group, Westpac Banking Corporation and Woolworths) in this group are signatories to the UN Global Compact. All used the GRI framework to guide their reporting and reported publicly against the GRI human rights indicators. Three of the four also had a human rights policy in place.

Figure 3.8: Public disclosure of Human Rights management in the 53 'less-exposed' companies in the ASX 100



CASE STUDIES

Two case studies were selected from companies that had performed well in the analysis, to illustrate how the principles discussed have been put into practice. The aim of the case studies[11] is to offer insights for other companies. The first case study provides an example of how ANZ has approached its commitment to human rights. The second case study examines how human rights issues have been managed by BHP Billiton in one of its operations in Colombia.

11. All material in the case studies is included without exception or favour. No judgements are made in favour of, or against, the companies profiled.

4. Case study: ANZ

RESPECTING PEOPLE AND COMMUNITIES: ANZ'S APPROACH TO HUMAN RIGHTS

ANZ published its approach to human rights in August 2010 in a policy statement titled *Respecting People and Communities: ANZ's Approach to Human Rights* (ANZ 2010) which outlines the bank's commitments and standards to respect and promote human rights in the way it does business. This document is, in turn, supported by the organisation's *Code of Conduct and Ethics* and other Group policies. This commitment is particularly pertinent given the company's changing operating environment with increasing exposure in Asia, a region with significant human rights concerns. ANZ's human rights standard outlines how the company is integrating human rights across its business practices. This standard has been incorporated into customer lending screening, the global sourcing policy and the supplier code of practice. The standard also details the management systems, including training, in place to support implementation and internal communication.

The bank has committed to working with stakeholders to develop a robust, pragmatic framework for human rights, including implementation, verification and compliance across global operations. ANZ's commitment is manifest in the bank's adoption of international frameworks, including the UN Global Compact, the OECD Guidelines for Multinational Enterprises and the Equator Principles for project finance.

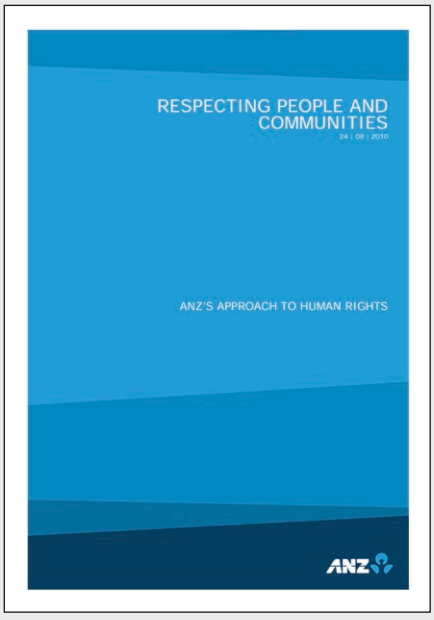
ANZ's approach to human rights commits the organisation to:

- treating employees with respect and value difference
- providing a fair and safe working environment for employees
- engaging effectively with employees
- treating customers fairly
- respecting human rights in customer relationships
- contributing to social and economic development of the communities the company serves
- considering human rights in sourcing and purchasing decisions
- avoiding corruption and bribery in all their forms.

Recent actions ANZ has undertaken (ANZ 2011) to embed these principles within business operations include:

- launching a new Global Sourcing Policy, including a commitment that all procurement be undertaken in line with the bank's human rights standards
- launching a new Supplier Code of Practice (SCOP) outlining the standards that suppliers are expected to meet as a condition of doing business with ANZ
- building human rights standards into training programmes for procurement managers and staff responsible for lending decisions
- revising people policies, including the development of a new Global Equal Opportunity, Bullying and Harassment policy.

Figure 4.1: The 2010 policy statement from ANZ



5. Case study: BHP Billiton

HUMAN RIGHTS IN THE EXTRACTIVE SECTOR: THE CERREJÓN COAL MINE

> *The extractive industry is regarded as a high-risk industry and the prevailing challenges in this sector are manifold. Without adherence to human rights standards, mining can cause loss of land and livelihoods, degradation of the natural environment, and increased violence and conflict by security forces and regimes and rebel groups in weak governance zones. The most marginalised members of communities – such as women, children and indigenous peoples – tend to both be excluded from the economic benefits of mining and to bear the brunt of any negative social and environmental impacts.* (OECD Watch 2007) (Oldenzielet al. 2010)

BHP have made notable efforts to address human rights risks and the firm was one of the top performers in this study, scoring 'good' across all three criteria (policies, systems and reporting). This responsiveness was evident in a recent case where human rights risks could have had financial and brand impacts on BHP Billiton.

BACKGROUND

In June 2007, a formal complaint was lodged with the OECD Contact Point against BHP Billiton, co-owner (with Anglo-American and Xstrata) of Cerrejón Coal in Colombia. The complaint alleged that Cerrejón attempted to depopulate an area of the La Guajira peninsula by the destruction of the 200-year-old township, Tabaco, and the forced expulsion of the remaining population via expropriation. Further, it alleged that another five villages were suffering from 'strangulation policies', designed to make living in the area unviable and drive the population out. Key areas of concern related to welfare programmes, actions of private security forces, lack of compensation, non-compliance with health regulations and other impacts on local communities.

The OECD agreed to await the results of an independent 'social review' of the mine's past and present social engagement, which had already been commissioned, to assess the allegations.

COMPANY RESPONSE

The independent panel identified 11 main issues and 24 specific action items. Cerrejón responded by outlining plans to address each of the action items and the Cerrejón website has regular update reports on progress made against each recommendation. BHP Billiton provides a website statement and case studies in its 2008 and 2010 sustainability reports (BHP Billiton 2008, 2010). Cerrejón called on state authorities to promote human rights in the region, while condemning actions by paramilitaries, guerrillas and crime rings in the area. In addition they created a new, high-level position in their Social Responsibility department in order to strengthen further their work in human rights.

RESULT

In December 2008, Cerrejón and the Tabaco Relocation Committee reached a final agreement, to bring outstanding resettlement issues to a close and to continue to report progress against this and other action items every six months.[12] Following the release of the public report, and subsequent actions undertaken by Cerrejón, the OECD Contact Point closed out its assessment in 2009.

Figure 5.1: An extract from the 2008 Sustainability Report

Cerrejon Coal Independent Review of Social Performance

Challenge

Located on the Guajira Peninsular in north-east Colombia, South America, Cerrejón Coal produces high-grade thermal coal. The company is Colombia's largest coal exporter and second-largest foreign-exchange producer, employing some 5,000 people and around the same number of contractors. During 2007, Cerrejón Coal paid US$180 million in taxes to Colombia along with royalty payments of close to US$130 million.

Since, 2001, when we became a co-owner of Cerrejón Coal with Anglo American and Xstrata Coal (each holds a third) we have worked with our co-owners and mine management to address community relations issues relating to the mine before, and during, our involvement.

In July 2007, we received notice from the OECD contact point in Australia that they had received a complaint alleging a breach of the OECD Guidelines for Multinational Enterprises. The OECD decided to await the results of an independent 'social review', which had already been commissioned, of the mine's past and present social engagement and social issues before progressing to assessment.

Source: BHP Billiton (2008).

12. Independent third-party review progress reports and final report are available online (Cerrejon 2011).

6. Conclusions and recommendations

There is an increasing expectation by a variety of stakeholders that businesses should actively mitigate exposure to, and remedy any contribution to, infringements of human rights. As companies increasingly operate across transnational boundaries and in countries with weak regulatory frameworks, they need to put in place appropriate human rights policies and due diligence systems to demonstrate commitment to and proactive management of this potential risk area.

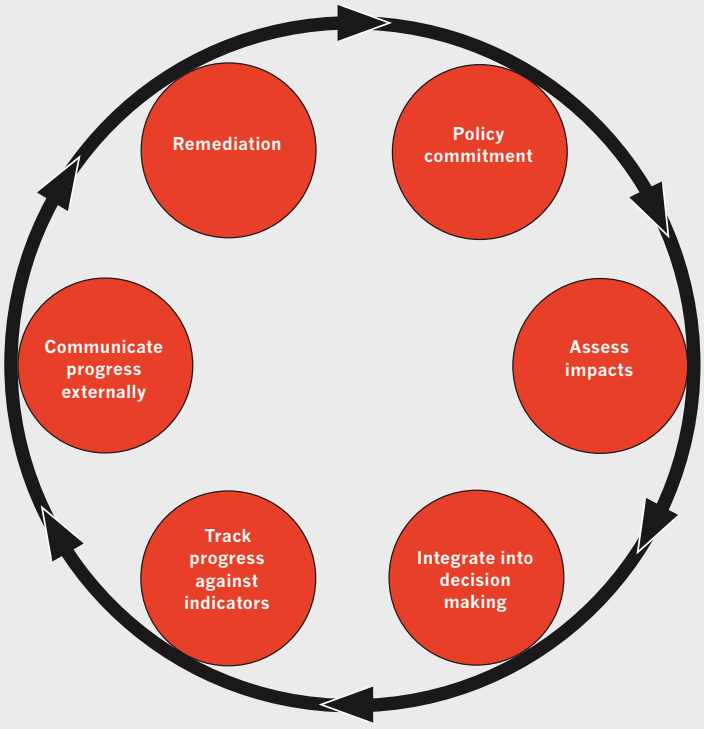
This study found that 90% of the 47 ASX 100 companies exposed to human rights risks in their areas of operations have inadequate responses in place. This result was similar to the findings of an examination of the 53 'less exposed' companies in the ASX 100. While slightly advanced compared with the performance of similar companies based in North America, Australian companies have some work to do to reach the standards of their counterparts in the UK and the European Union. Further study is warranted to understand better the regulatory and other drivers of stronger performance in these regions.

The new *UN Framework and Guidelines for Business and Human Rights* (June 2011) provides clear guidance for companies on processes for assessing actual and potential human rights risks, as well as for integrating human rights considerations into existing due diligence policies, practices and reporting mechanisms.

Although it is possible that exposure to human rights risk is being managed through other policies and practices within businesses, best practice requires the development of a clearly articulated framework and coordinated approach to managing the issue, to ensure no aspects or risk areas are overlooked.

While the UN Principles and Framework provide an excellent approach for developing a coordinated management response (see Figure 6.1), there are four key areas worth highlighting to assist businesses embed a comprehensive human rights approach. These include governance, risk assessment and mitigation, management integration, and capacity building.

Figure 6.1: The UN 'Protect, Respect and Remedy Framework' – a due diligence approach for business



GOVERNANCE

The results of this research indicate that very few ASX 100 companies have appropriate executive-level engagement and board-level oversight of human rights impacts and risks. An important first step to remedy this is for each organisation to develop, with executive and board-level input, an appropriate organisation-wide, public policy/ statement that addresses the key human rights risks in its operations.

Best practice indicates that for greatest impact and clarity, the policy/statement should stand alone or be well defined if included as part of another organisational code-of-conduct type document. The policy or statement should have the following characteristics:

- clear support for the Universal Declaration of Human Rights or similar international covenants (eg OECD 2010)
- articulation of high-level principles and reference to organisational performance standards, and
- a commitment to integrating human rights considerations into existing business decision-making and performance reporting processes.

RISK ASSESSMENT AND MITIGATION

An important starting point for most companies should be to carry out a human rights risk /due diligence assessment across all relevant operations at an individual business unit level. A key objective of the assessment should be to identify the materiality (ie probability and consequence) of human rights risks. This process should be carried out in consultation with operational risk management staff and the scope of the assessment should include both direct (own operations) impacts and indirect (supply chain, contractors, business partners) impacts.

The outcomes from the risk-assessment process should be used to develop an organisational human rights management strategy or plan, with clear accountabilities and actions for mitigation and addressing specific impacts and risks at both a business unit and a corporate level.

MANAGEMENT INTEGRATION

A key aspect of respect for human rights is the integration of human rights considerations into existing corporate and business unit management systems. Given that 'human rights' is an overarching term covering a range of existing performance indicators (eg occupational health and safety (OH&S), employment equity, child labour, security, diversity, freedom of association, privacy), in most instances human rights impacts and risks can be addressed by existing management and performance reporting systems. A key feature of the management system should be the inclusion of specific policies and procedures that remedy human rights abuses should they occur.

To ensure human rights policy expectations are adequately incorporated into existing management systems, the development of a human rights management framework could assist in clarifying focus areas and accountabilities.

CAPACITY BUILDING

Ultimately, the objective of developing a coordinated, organisation-wide approach to human rights is to improve the quality of business decision making. To ensure organisational policy and management performance expectations are met, it is important staff understand the strategic importance of adopting an organisational approach to human rights and are supported with appropriate training and other capacity-building measures.

Underpinning all these measures is a requirement for greater transparency. A company's willingness to report its approach and to demonstrate independent monitoring of implementation, risks and impacts is essential for building a credible reputation with stakeholders and demonstrating respect for human rights.

Appendix A: The ASX 100 companies

(As at 25 May 2011)

Company	Sector
AGL Energy Limited	Gas, water and multi-utilities
Alumina Limited	Industrial metals and mining
Amcor Limited	General industrials
AMP Limited	Financial services
Ansell Limited	Health care equipment and services
APA Group	Oil equipment, services and distribution
Aquarius Platinum Limited	Mining
Aristocrat Leisure Limited	Travel and leisure
Asciano Limited	Industrial transportation
ASX Limited	Financial services
Atlas Iron Limited	Mining
Australia and New Zealand Banking Group Limited	Banks
Bank of Queensland Limited	Banks
Bendigo and Adelaide Bank Limited	Banks
BHP Billiton Limited	Mining
Billabong International Limited	Personal goods
Bluescope Steel Limited	Industrial metals and mining
Boart Longyear Limited	Oil equipment, services and distribution
Boral Limited	Construction and materials
Brambles Limited	General industrials
Caltex Australia Limited	Oil and gas producers
CFS Retail Property Trust	Real estate investment trusts
Challenger Limited	Financial services
Charter Hall Office REIT	Real estate investment trusts
Coca-Cola Amatil Limited	Beverages
Cochlear Limited	Health care equipment and services
Commonwealth Bank Of Australia	Banks
Commonwealth Property Office Fund	Real estate investment trusts
Computershare Limited	Financial services
Connecteast Group	Construction and materials

Company	Sector
Crown Limited	Travel and leisure
CSL Limited	Pharmaceuticals and biotechnology
CSR Limited	Industrial metals and mining
David Jones Limited	General retailers
Dexus Property Group	Real estate investment trusts
Downer EDI Limited	Construction and materials
DUET Group	Gas, water and multi-utilities
Equinox Minerals Limited	Mining
Fairfax Media Limited	Media
Fortescue Metals Group Limited	Industrial metals and mining
Foster's Group Limited	Beverages
Goodman Fielder Limited	Food producers
Goodman Group	Real estate investment trusts
GPT Group	Real estate investment trusts
Harvey Norman Holdings Limited	General retailers
Iluka Resources Limited	Mining
Incitec Pivot Limited	Chemicals
Insurance Australia Group Limited	Non-life Insurance
Investa Office Fund	Real estate investment trusts
James Hardie Industries SE	Construction and materials
JB Hi-Fi Limited	General retailers
Leighton Holdings Limited	Construction and materials
Lend Lease Group	Real estate investment and services
Lynas Corporation Limited	Mining
Macarthur Coal Limited	Mining
Macquarie Group Limited	Financial services
MAp Group	Industrial transportation
Metcash Trading	Food and drug retailers
Mirvac Group	Real estate investment trusts
Myer Holdings Limited	General retailers
National Australia Bank Limited	Banks

Company	Sector
Newcrest Mining Limited	Mining
News Corporation	Media
Oil Search Limited	Oil and gas producers
Onesteel Limited	Industrial metals and mining
Orica Limited	Chemicals
Origin Energy Limited	Gas, water and multi-utilities
OZ Minerals Limited	Mining
Paladin Energy Limited	Industrial metals and mining
PanAust Limited	Mining
Perpetual Limited	Financial services
Primary Health Care Limited	Health care equipment and services
Qantas Airways Limited	Travel and Leisure
QBE Insurance Group Limited	Non-life Insurance
QR National Limited	Industrial transportation
Ramsay Health Care Limited	Health care equipment and services
Resmed Inc	Health care equipment and services
Rio Tinto Limited	Mining
Santos Limited	Oil and gas producers
Seek Limited	Support services
Seven West Media Limited	Media

Company	Sector
Sims Metal Management Limited	Support services
Sonic Healthcare Limited	Health care equipment and services
Spark Infrastructure Group	Electricity
Stockland	Real estate investment trusts
Suncorp Group Limited	Banks
Tabcorp Holdings Limited	Travel and leisure
Tatts Group Limited	Travel and leisure
Telstra Corporation Limited	Fixed line telecommunications
Toll Holdings Limited	Industrial transportation
Transfield Services Limited	Support services
Transurban Group	Industrial transportation
UGL Limited	Construction and materials
Wesfarmers Limited	General retailers
Westfield Group	Real estate investment trusts
Westfield Retail Trust	Real estate investment trusts
Westpac Banking Corporation	Banks
Woodside Petroleum Limited	Oil and gas producers
Woolworths Limited	Food and drug retailers
WorleyParsons Limited	Oil equipment, services and distribution

Appendix B: Standards, guidelines and initiatives

GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS: IMPLEMENTING THE UNITED NATIONS 'PROTECT, RESPECT AND REMEDY' FRAMEWORK

The UN 'Protect, Respect and Remedy' Framework (UNHRC 2011) consists of three core principles:

1. the state's duty to protect against human rights abuses by third parties, including business

2. the corporate responsibility to respect human rights, and

3. the need for more effective access to remedies for victims of any human rights abuses that occur.

The *Guiding Principles for Business and Human Rights* are designed to provide practical recommendations for the implementation of the framework, and were officially adopted by the UN's Human Rights Council in June 2011.

There has been some opposition to the draft UN Guiding Principles for Business and Human Rights, with Amnesty International, Human Rights Watch and other groups arguing that the draft framework should not be adopted because it fails to outline clearly enough how governments should regulate business activity, and how companies should avoid abusing human rights. Furthermore, they believe due diligence procedures and risk assessments should be mandatory for all private and state-owned enterprises. They also believe grievance procedures are too limited and that appropriate remedies need to be emphasised, with well-resourced follow-up mechanisms put in place to ensure the framework is being implemented in an appropriate fashion (Wilkinson 2011).

OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

First released in 1976 and revised in 2011, the OECD Guidelines for Multinational Enterprises (see OECD 2011b) are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct in areas such as employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition and taxation.

The 42 governments adhering to the Guidelines adopted the 2011 update at the 50th Anniversary Ministerial Meeting in 2011. The revised Guidelines include new recommendations for addressing human rights, living wages, internet freedom and company responsibility for their supply chains.

AUSTRALIAN HUMAN RIGHTS COMMISSION

The Australian Human Rights Commission (AHRC) was established in 1986 by the federal Parliament as an independent statutory organisation charged with protecting and promoting the human rights of all people in Australia (AHRC 2011b). The Australian Human Rights Commission has also published fact sheets targeted at business, to assist businesses to engage with human rights.[13]

INSTITUTE FOR HUMAN RIGHTS AND BUSINESS

The Institute for Human Rights and Business (IHRB) is a global centre of excellence and expertise on the relationship between business and internationally proclaimed human rights standards. The Institute aims to deepen understanding of human rights challenges and issues and the appropriate role of business through dialogue and analysis. The Institute works to raise corporate standards and strengthen public policy to ensure that the activities of companies do not contribute to human rights abuses, and in fact lead to positive outcomes. Professor John Ruggie of Harvard University, who recently completed his term as the UN Secretary-General's Special Representative on Business and Human Rights, will succeed Mary Robinson as Chair of IHRB's International Advisory Board in January 2012.

13. Factsheets are available to download from http://www.hreoc.gov.au/education/hr_explained/index.html

PRINCIPLES CONCERNING MULTINATIONAL ENTERPRISES AND SOCIAL POLICY

The International Labour Organization's Tripartite Declaration of Principles (ILO 2006) offer guidelines to multinational enterprises (MNEs), governments, and employers' and workers' organisations in such areas as employment, training, conditions of work and life, and industrial relations. Its provisions are reinforced by certain international labour conventions and recommendations and it works towards enhancing the positive social and labour effects of the operations of MNEs.

UN GLOBAL COMPACT

The United Nations Global Compact (UNGC) is a voluntary initiative for businesses committed to aligning their operations and strategies with 10 universally accepted principles in the areas of human rights, labour, environment and anti-corruption. Two human rights principles are included in the 10 overall principles:

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights, and
- Principle 2: Make sure they are not complicit in human rights abuses.

The UN Global Compact has a local network in Australia, whose members include Australia Post, Nestle, Westpac and Woolworths, among others.

GLOBAL REPORTING INITIATIVE

The Global Reporting Initiative (GRI) is a network-based organisation with participants representing business, civil society, labour and professional institutions.

In 2006, the GRI developed the G3 sustainability reporting guidelines. The guidelines set out the principles and indicators that companies should use to measure and report their economic, environmental and social performance. The guidelines are open-source and reporting companies declare an application level (C, B or A) to indicate the extent to which they have reported against the core GRI indicators.

In March 2011, a new version (3.1) of the GRI reporting guidelines was released. Eleven human rights indicators were introduced or updated, covering investment and procurement practices, non-discrimination, freedom of association and collective bargaining, child labour, forced and compulsory labour, security practices and indigenous rights.

Table B1: GRI human rights reporting guidelines

GLOBAL REPORTING INITIATIVE HUMAN RIGHTS GUIDELINES	
Investment and procurement practices	HR1: Percentage and total number of significant investment agreements and contracts that include clauses incorporating human rights concerns, or that have undergone human rights screening.
	HR2: Percentage of significant suppliers, contractors and other business partners that have undergone human rights screening, and actions taken.
	HR3: Total hours of employee training on policies and procedures concerning aspects of human rights that are relevant to operations, including the percentage of employees trained.
Non-discrimination	HR4: Total number of incidents of discrimination and corrective actions taken.
Freedom of association and collective bargaining	HR5: Operations and significant suppliers identified in which the right to exercise freedom of association and collective bargaining may be violated or at significant risk, and actions taken to support these rights.
Child labour	HR6: Operations and significant suppliers identified as having significant risk for incidents of child labour.
Forced and compulsory labour	HR7: Operations and significant suppliers identified as having significant risks for incidents of forced or compulsory labour, and measures to contribute to the elimination of all forms of forced or compulsory labour.
Security practices	HR8: Percentage of security personnel trained in the organisation's policies or procedures concerning aspects of human rights that are relevant to operations.
Indigenous rights	HR9: Total number of incidents of violations involving rights of indigenous people and actions taken.
Assessment	HR10: Percentage and total number of operations that have been subject to human rights reviews and/or impact assessments.
Remediation	HR11: Number of grievances related to human rights filed, addressed and resolved through formal grievance mechanisms.

ISO 26000

In November 2010, the International Organisation for Standardisation (ISO) launched a non-certifiable International Standard, providing guidelines for social responsibility (SR). ISO 26000 (ISO 2010) offers guidance on translating principles into effective, socially responsible actions to organisations of all types in both public and private sectors, in developed and developing countries. The standard has an extensive section on human rights and discusses issues of complicity, discrimination, the position of vulnerable groups, labour practices, and civil and political rights, as well as economic, social and cultural rights, and is consistent with the UN framework (see page 27).

THE DANISH INSTITUTE FOR HUMAN RIGHTS

The Danish Institute for Human Rights has developed a number of tools for businesses to enable them to assess their performance against international human rights standards. This includes a Human Rights Compliance Assessment (HRCA), a HRCA Quick Check, and risk tools for business.

HUMAN RIGHTS TRANSLATED: A BUSINESS REFERENCE GUIDE

The Castan Centre for Human Rights Law at Monash University, in collaboration with the International Business Leaders Forum, Global Compact and the Office of the UN High Commissioner for Human Rights, has produced a guide to explain universally recognised human rights in a way that makes sense to business. The publication is intended to illustrate, through the use of case studies and suggested practical actions, how human rights are relevant in a corporate context and how human rights issues can be managed. The publication was launched in December 2008.

GUIDE TO HUMAN RIGHTS IMPACT ASSESSMENT AND MANAGEMENT (HRIAM)

A collaborative project of the IFC, Global Compact and International Business Leaders Forum has led to the development of this guide to provide practical advice to companies on how to identify and assess the human rights risks and impacts of their business activities, integrate the results into their management systems, and ultimately improve their performance. The guide includes specific scenarios, tools, and interactive exercises for businesses.

BUSINESS LEADERS INITIATIVE ON HUMAN RIGHTS

The Business Leaders Initiative on Human Rights (BLIHR) was a business-led programme that developed practical tools and methodologies for applying human rights principles and standards across a range of business sectors, issues and geographical locations. It was a collaboration of 16 international companies between 2003 and 2009. The BLIHR in collaboration with the Global Compact and the Office of the High Commissioner for Human Rights produced the online *Guide for Integrating Human Rights into Business Management* (BLIHR 2011).

OTHER FRAMEWORKS

Other relevant frameworks that include human rights provisions, include the following.

General frameworks

- Ethical Trading Initiative (1998)
- Fair Labor Association (1999)
- Social Accountability 8000 (2008)

Manufacturing and retail

- Ethical Clothing Australia (2011) (formerly the Homeworker's Code of Practice)
- Global Network Initiative (2009) (information and communications technology)
- International Cocoa Initiative (2002)
- Electronics Industry Code of Conduct (2005)

Banking and finance

- Equator Principles (2011)
- International Finance Corporation Policy and Performance Standards on Social and Environmental Sustainability (2006)
- UNEP Finance Initiative (UNEPFI) (2011)
- UN Principles for Responsible Investment (2006)

Mining and extractive

- Extractive Industries Transparency Initiative (2011)
- International Council on Mining and Minerals Sustainable Development Framework (2003)
- Kimberley Process Certification Scheme (2001)
- Voluntary Principles on Security and Human Rights (2000)

Appendix C: Research on other areas of human rights risk

These results correlate with findings of related research on other areas of human rights risk exposure, including supply chain, labour rights, bribery and corruption, and indigenous rights, which similarly reveal inadequate transparency and disclosure of policies, practices and performance.

HUMAN RIGHTS IN THE SUPPLY CHAIN

A 2011 report by the Net Balance Foundation, *Disclosures on Supply Chain Sustainability*, (Net Balance 2011) found that overall reporting in the area of supply chain disclosures is weak. While some of the companies assessed may be considering supply chain factors, they are not adequately reporting them and thus conveying their value to external stakeholders. Social impacts within the supply chain were particularly highlighted as a key area where corporations need to improve their activity and reporting. The category which includes human rights and child labour had the lowest score of the study with an average of just 7%.

LABOUR RIGHTS

In 2011, a review of the quality and usefulness of the sustainability reporting of Australian companies in evaluating labour practices management and performance was released by Banarra (Banarra Consulting 2010). The project involved an evaluation of the most recent sustainability reports of 10 listed Australian companies.

With regard to labour rights, the review found that 'current reporting practice of Australian companies only partially meets the information needs of stakeholders in terms of the ILO Fundamental Rights at Work and the completeness of information, particularly with respect to freedom of association and collective bargaining needs to be improved'. Human rights screening of suppliers was also found to be an area of concern.

BRIBERY AND CORRUPTION

Net Balance Foundation's 2008 report found that significant improvement was required in the area of anti-bribery and corruption reporting disclosures in the ASX 50. Although the results have no correlation with the existence of bribery and corruption within these organisations, relating only to the public disclosure practices adopted by them, the results were discouraging.

INDIGENOUS RIGHTS

In 2009 EIRIS and CAER published an updated briefing paper on indigenous rights risks for the resource sectors (EIRIS and CAER 2009). EIRIS and CAER analysed the response of companies in the FTSE All World Developed Index to indigenous rights. The research highlights the indigenous rights challenges facing companies and examines the implications for investors. The research covers companies operating in sectors (mining, oil & gas, agricultural producers and forestry & paper) and countries considered high risk for indigenous rights (including Australia).

The study found a large number of companies are exposed to indigenous rights risks, but generally the quality of reporting is poor. While most companies provided a response to allegations of breaches of indigenous rights few reported voluntarily on areas of non-compliance. Only 19% of companies had a corporate-wide indigenous rights policy, and only 15% of companies had a corporate-wide policy supporting free prior informed consultation.

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NET BALANCE FOUNDATION

Net Balance Foundation Limited is a not-for-profit think-tank set up specifically to work with small to medium-sized enterprises, research groups, industry groups, professional associations and other not-for-profit organisations in the pursuit of sustainable business. The Net Balance Foundation also undertakes research and consultancy projects on a not-for-profit basis, with the caveat the research is made available for the public good. At Net Balance Foundation we believe the fundamental purpose of business is to increase shareholder value by providing goods and services that reflect market and community needs at affordable prices, as well as reflecting actual value that incorporates environmental and social costs and benefits. We believe this approach contributes to stakeholder value creation in business, thereby reducing reputational risk and preserving the licence to operate. More importantly, we believe externalising such costs will contribute to losing competitive advantage over the longer term. Net Balance Foundation draws its resources from Net Balance Management Group.

www.netbalance.com

ACCA

ACCA (the Association of Chartered Certified Accountants) is the global body for professional accountants, and has for many years been considered a leader in sustainability related issues, including reporting, assurance, research and corporate governance. For over two decades ACCA has championed the business case for greater corporate accountability and transparency, and has been closely involved with GRI, A4S and IIRC since each were initiated. ACCA has focused programmes of work on carbon accounting and environmental accountability, and has worked in partnership with many organisations including FTSE4Good, WWF, CERES, AccountAbility, Transparency International and KPMG.

www.accaglobal.com

CAER

CAER (Corporate Analysis Enhanced Responsibility) is an independent, not-for-profit research organisation that assists investors in Australia and around the world. CAER was established in 2000 to provide independent environmental, social and governance (ESG) data on companies operating in Australia and the Asia-Pacific region. CAER analyses approximately 300 ESG issues for the S&P/ASX 300 and the NZX 50. With its UK partners, EIRIS, CAER provides consistent sustainability analysis on over 3,000 of the world's leading companies. The data are based on publicly available information gathered from company, government and NGO sources, as well as via direct communication with companies.

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