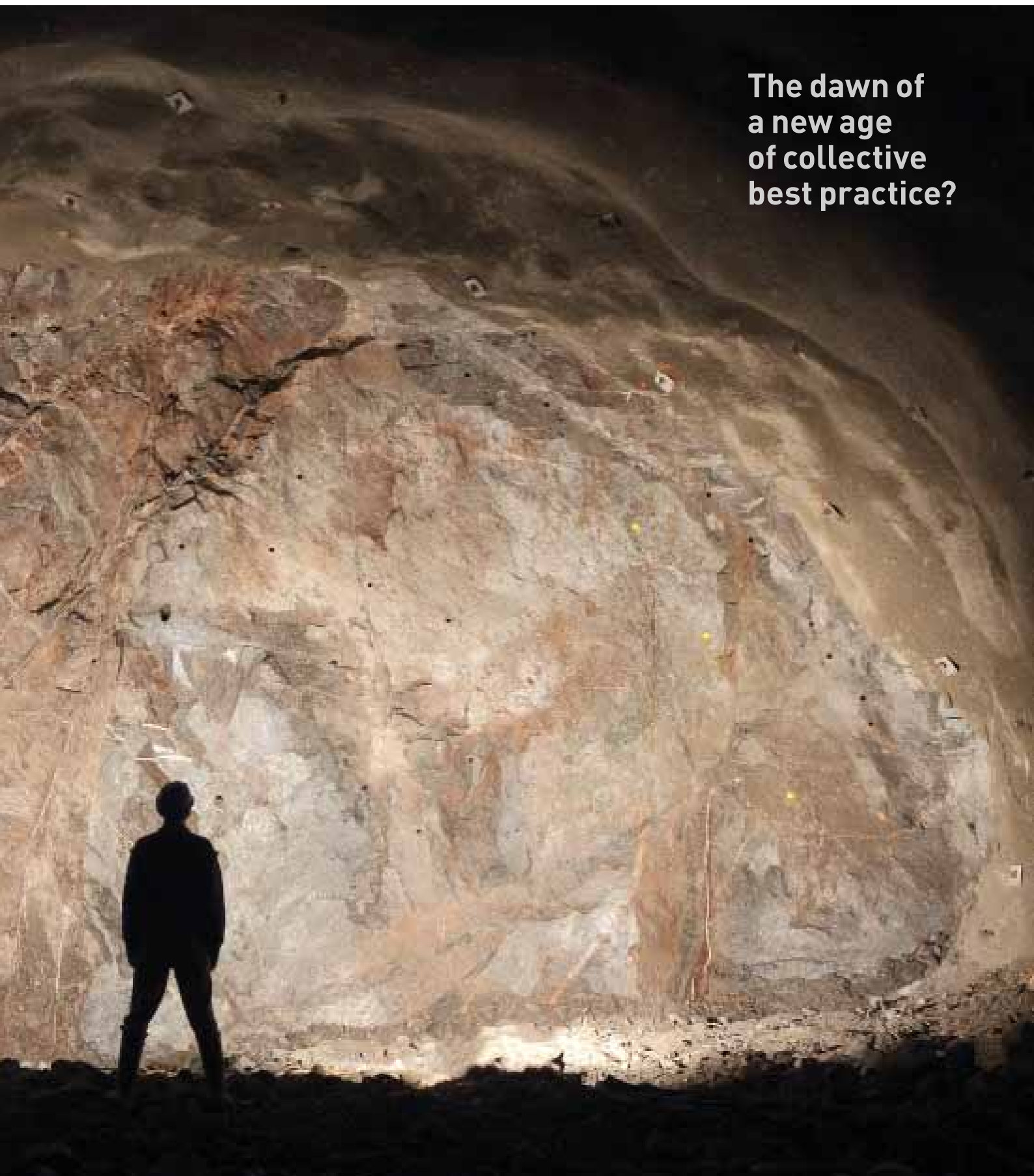


Human rights in the mining industry



Survey, 2012

**The dawn of
a new age
of collective
best practice?**



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Introduction

Until 2011, one of the United Nations' primary roles was to ensure that countries complied with the Universal Declaration of Human Rights. Previously, while it recognised that business could also play a role in the respect of human rights, it spent much of the first decade of the 21st Century working out how best business could comply. Should the United Nations (UN) enact some form of legislation or should it produce a set of rules which would become best practice over time? After much debate, it was decided that, whilst laws may be preferable in ensuring widespread compliance, the main concern was the rather unpalatable prospect of an upsurge in litigation.

Consequently, in June 2011, the UN endorsed the Protect, Respect and Remedy framework that set out 31 Guiding Principles for business and human rights.

Now that business has a framework to follow, Mazars has recognised that the mining industry is probably ahead of many other industries in its compliance with the Principles. On the whole, the mining industry has understood that, by looking after local communities there is a more sustainable and more consistent profit stream uninterrupted by workforce issues. Accordingly, Mazars has undertaken its first survey of mining companies to understand their views.

The survey has been divided into two key areas:

1. Perception of the impact that the Principles may have on mining companies
2. How the mining industry will approach compliance with the human rights agenda

We anticipate undertaking similar surveys on an annual basis so that we can monitor the inevitable change as companies begin to understand that cutting corners on basic human rights may lead to shorter term profits, but that this profit comes at the cost of abusing someone somewhere in the supply chain, sustaining longer term loss.

We appreciate the thought and effort that respondents have put into completing this survey, and would like to thank them for their time.



Richard Karmel
Head of Human Rights Reporting (UK)

01

Key findings



- 65% of respondents confirmed that they are working towards compliance with the 31 Guiding Principles on Business and Human Rights published by the United Nations in June 2011. Only one respondent confirmed that they were not working towards them and 34% were non-committal - indicating indecision or perhaps a lack of understanding of how to incorporate the Principles into the business.
- 94% of respondents felt that publicised human rights abuses reflect badly on the mining industry as a whole.
- 94% of respondents agreed that organisations should take responsibility for compliance with human rights within not only their own operations but also in those of their subcontractors. This is highly significant as our respondents are indicating their commitment to protecting human rights beyond their own corporate legal structure.
- 84% of respondents agreed that there are positive commercial benefits to complying with the human rights agenda. This is likely to refer to the protection of brands and reputation alongside enhanced profitability from a more stable and sustainable stream of minerals.
- Over half (55%) are looking to implement their own human rights policies and procedures as a priority over the next two years. It is very encouraging that within a year of the Principles being published they are already being endorsed by over half the respondents.
- Significantly, one third (37%) are seeking to commission and publish an independent report evaluating their compliance with the human rights agenda. This is important as such independent verification enhances the front end of formal reports (such as the annual report) which are otherwise viewed in the main as a promotional tool.
- Whilst respondents appeared to be committed to complying with the human rights agenda, only 40% of respondents confirmed that they have documented their compliance in accordance with UN Guidelines.

The dawn of a new age of collective best practice?

Promotion of the respect for human rights is one of the essential purposes of the United Nations. Given the power of global business and the collective responsibility we should all bear for the global financial crisis, it is imperative that businesses play their role both at a social and environmental level. Protection and respect of human rights encapsulates both these areas. However, as there is only one set of internationally recognised guidelines, businesses are in the process of defining what best practice should look like. We are hearing that businesses want to shoulder this responsibility and they are willing to invest. Businesses recognise that through compliance they can act for the greater good, protect their brands and reputation and ultimately enhance their own profitability. The global businesses that will survive and grow are those that embrace their human rights obligations and become part of this new age of collective best practice.

02

Detailed findings

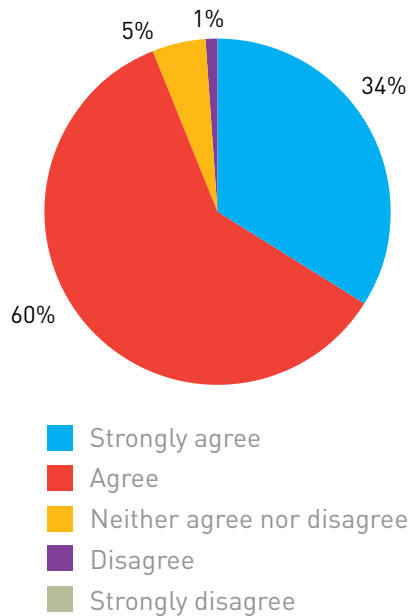
- ■ It should be the duty of all directors (executive and non-executive) to ensure that they not only take care of the legacy of the corporation through protection of the brand and reputation, but that they also enhance the longer term sustainability of the ■ ■ corporation.

Perception of the impact that the principles may have on mining companies

01 Well publicised abuses of human rights in a few mining companies reflect badly on the whole mining industry.

94% of all respondents either strongly agreed or agreed that publicised abuses of human rights reflect badly on the whole mining industry.

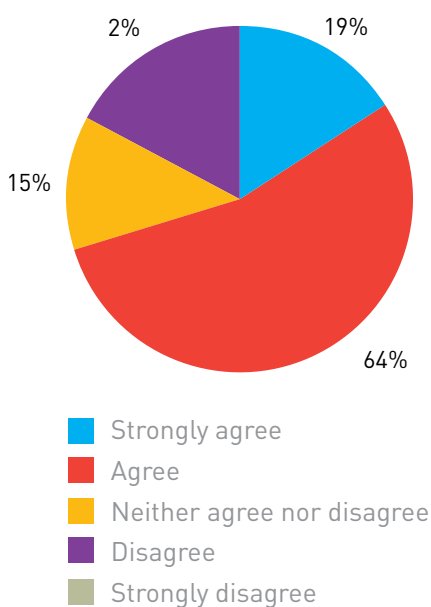
In this age of instant global video communication, human rights abuses can be widely reported in a matter of moments. As testament, YouTube carries a number of such videos. However, the irony is that many producing mines are behaving appropriately in looking after their local communities and leading the business world in respect of human rights and recognition. Giving back to the community in terms of education and healthcare is widely considered within the industry to lead to a more stable and sustainable supply of minerals and a more stakeholder-friendly face for the business.



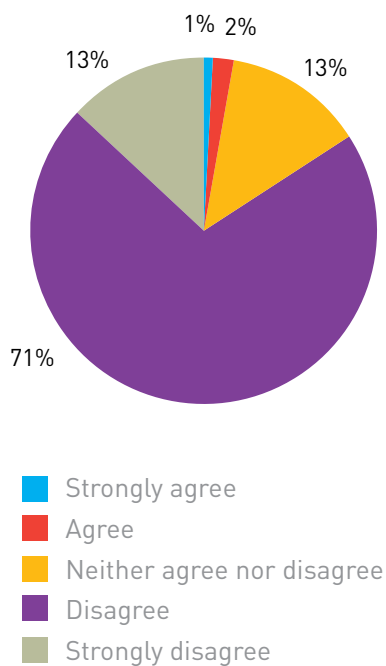
02 If my company complies with the human rights agenda, I believe it will have positive commercial benefits for the business.

83% agreed that there will be positive commercial benefits in complying with the agenda. This reflects our belief that human rights compliance has significant benefits for the company: sustainability of operations and resource; brand protection; investor comfort; and therefore ultimately profit. Interestingly, one respondent actively disagreed with this statement and 12 were 'unsure' about how compliance with the human rights agenda might benefit their business. It appears that despite the fact that human rights are firmly on the agenda across the mining industry, there are still some gaps in understanding in terms of the wider business impacts surrounding this issue.

Mazars' view is that human rights compliance should appear on the corporate governance agenda for all international corporations as a matter of course. It should be the duty of all directors (executive and non-executive) to ensure that they not only take care of the legacy of the corporation through protection of the brand and reputation, but that they also enhance the longer term sustainability of the corporation. Previous studies repeatedly conclude that the happier the work force, the more profitable the corporation. In correctly addressing the human rights agenda, a corporation demonstrates that it is listening to its work force community and is creating a dialogue to enable an understanding of the issues local stakeholders face.



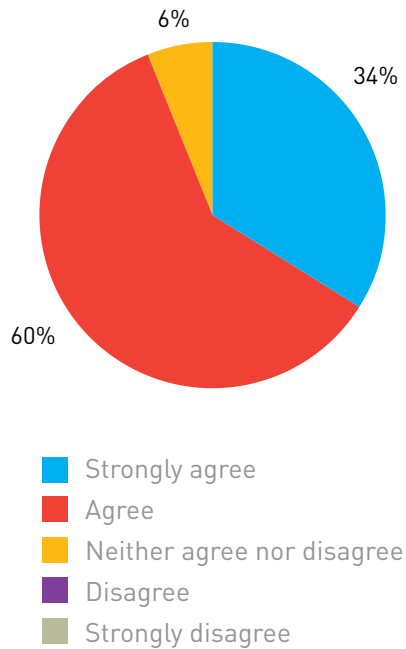
Detailed findings



03 Compliance with the human rights agenda is simply another form of bureaucracy that will require yet further consultancy costs.

This was potentially a risky question for an advisory firm to ask! However, 84% disagreed with this statement and 3% agreed. 13% were unsure. This response can be viewed in two ways: either mining companies don't think that compliance with the human rights agenda is another form of bureaucracy or they don't think that it will require consultancy costs. Either way, it reaffirms the seriousness with which mining companies are viewing the human rights agenda.

We know that the larger mining corporations already employ many human rights specialists. Adherence to a company's human rights obligations is not just a 'tick box' exercise for the Corporate Social Responsibility agenda. The responsibility is to ensure that their workforces and communities are neither exploited nor abused, have proper working conditions and supply chains are also competent. The by-product is a reduction of potential risk to the corporation's brand and reputation, plus their attention ensures compliance with all relevant legislation and best practice. By permeating a human rights agenda throughout their organisations, these mining corporations have realised that they are able to generate greater benefits for everyone touched by the industry.



How the mining industry will approach compliance with the human rights agenda.

04 Mining companies should take responsibility for compliance with human rights throughout their own operations and those of their subcontractors.

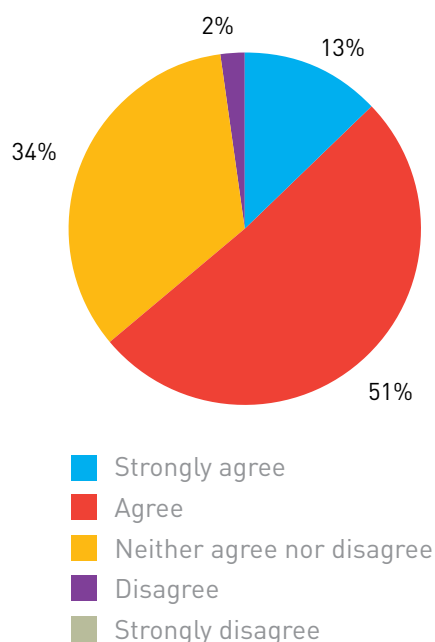
94% of respondents either strongly agreed or agreed that mining companies should take responsibility for compliance with human rights throughout not only their own operations but also those of their subcontractors.

What is pleasing about this response is that the significant majority of mining companies acknowledge that they should be taking responsibility for subcontractors. Whilst this is laudable, it is not readily apparent that many corporations in the mining industry have implemented processes to address the issue. Ideally, interaction between a corporation and subcontractors should incorporate the following key areas:

1. **Communication** – and an understanding from both sides as to why this is so important
2. **Education** – informing subcontractors how they can address the human rights issue
3. **Assessment** – the subcontractor will need to assess its key risk areas for compliance
4. **Monitoring** – the corporation will need to monitor/audit how the subcontractor is performing
5. **Support** – the corporation should support the subcontractor in its compliance and use the benefits of its own experiences

Whilst a corporation may comply within its own workforce, it can still receive brand and reputational damage from that of its subcontractors' abuses. A good example of this is the Apple - Foxconn scandal that was reported globally last year. Human rights issues including a number of deaths and suicide attempts involving Foxconn employees at an Apple product assembly plant in China led to a wealth of bad publicity for Apple. In response, Apple swiftly introduced human rights audits throughout its supply chain and most notably at Foxconn where conditions appear to have improved.

Detailed findings

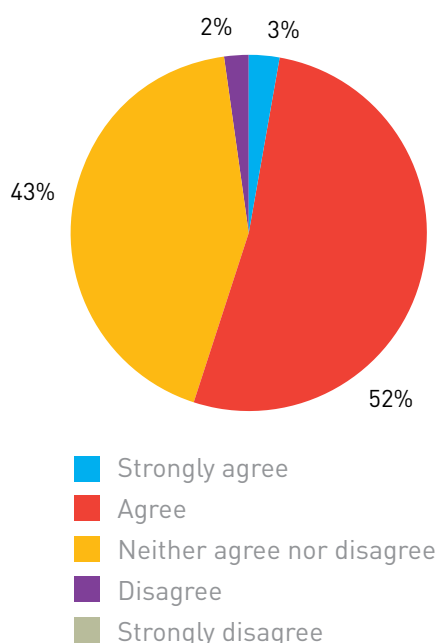


05 My mining company is working towards adopting the 31 Guiding Principles on Business and Human Rights published by the United Nations in June 2011.

Over half the respondents (64%) confirmed that their mining company is working towards adopting the 31 Guiding Principles. 34% were non-committal whilst one respondent actively disagreed that their company was working towards the guidelines.

The results indicate that compliance with human rights obligations is firmly on the agenda of mining companies. One of the key issues currently faced by mining companies is 'maintaining a social licence to operate' which is right up there with 'resource nationalism', 'skills shortages' and 'infrastructure access'. It is self-evident that without having won the hearts and minds of the workforce and the local communities, everything else is worthless.

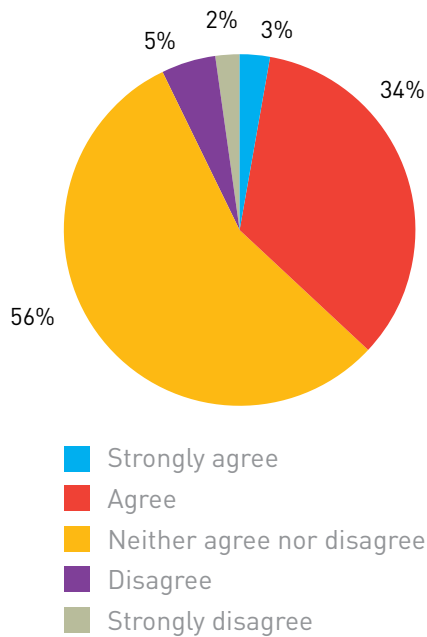
Other key issues impacting upon the mining industry and its local communities are the supply of water and readily available energy. The supply of both these elements to mining operations has the potential to negatively impact local communities and therefore the supply process must be addressed upfront. Mining companies that take proactive steps in addressing these issues are those that will achieve longer term stability and sustainability. Ultimately, this will result in greater benefits for all stakeholders from the local communities at the origin of mineral extraction to the investors who finance the operations.



06 Our company sees the implementation of a specific human rights policy and procedures as a priority within the next one to two years.

55% of respondents will be looking to implement specific human rights policies and procedures in the next two years. A significant number (43%) were unsure about this, with only one respondent actively disagreeing. This suggests that the industry is somewhat split on this issue.

One of the key issues facing international corporations worldwide is that best practice is continually evolving in this area. There is no one 'right answer'. Every policy needs to be bespoke to each individual corporation as no two issues are ever precisely the same. Many companies will already feature some controls in their business processes which strongly reflect compliance against human rights abuses. However, they are often yet to formally document these and communicate them more widely.



07 Are you seeking to commission and publish an independent report evaluating your compliance with the human rights agenda within the next one to two years?

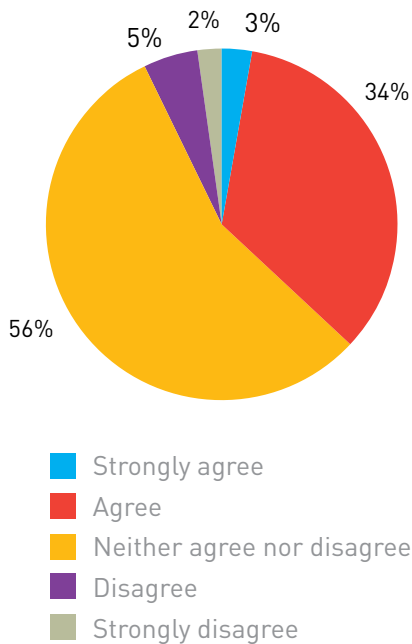
37% of respondents are looking to commission and publish an independent report which evaluates their compliance with the human rights agenda within the next two years. 7% actively stated that they would not be evaluating their position in this area, the remainder were unsure. As in the previous question, this highlights the varying levels of commitment to the human rights agenda Principles.

The evaluation of existing compliance with the human rights agenda is the first step that all corporations should undertake towards full compliance. This is specifically referred to in Principle 17 of the United Nations 31 Guiding Principles where it states that all corporations need to undertake due diligence procedures to assess their compliance.

In practice, due diligence takes the form of a risk assessment leading to a risk map which will seek to highlight the key risks and jurisdictions that need to be addressed as a matter of priority. It is from this risk assessment that the corporation should establish policies and procedures that will help ensure that risk points are mitigated and that compliance with applicable laws and regulations are maintained.

Whilst the majority of all respondents appear undecided on the merits of commissioning and publishing an independent report evaluating their compliance, those respondents listed in Australia appear to be the most undecided. 52% of those respondents listed in Australia have not yet decided whether to publish an independent Human Rights report, compared with 42% listed in Canada and 25% listed in London. It would be wrong to conclude too quickly on the significance of this comparison. Human rights are clearly an important consideration for Australian mining companies but the results may reflect wider economic and fiscal challenges facing them at present. Subsequent surveys over the coming years should indicate how views will change.

Detailed findings

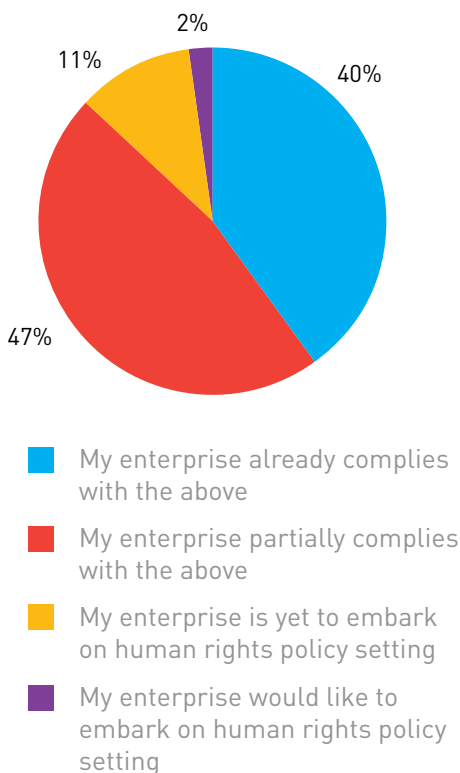


08 All listed companies should have formalised human rights policies and procedures as part of their normal code of conduct.

Whilst 47% of respondents agreed with this statement, 56% were unsure and 7% disagreed. In essence, over half the respondents are not in support of the need for a formalised human rights policy. This is an interesting statistic given the levels of compliance that were noted in the earlier questions. Prior to the recent financial crisis, the key financial centres could be said to have been all about short-term profit forsaking longer term stability and sustainability – as such, had we performed this survey five years ago, we may have expected far less support for and compliance with formalised human rights policies.

What we hope we are seeing here is a trend toward a fundamental pillar of respect between listed companies and their stakeholders. The UN’s guidelines are looking to eradicate a situation of unbalanced advantages between large corporates and associated parties – and it should be incumbent on all listed companies to play their part.

When analysing the data across exchanges, it was again Australian listed respondents who were the most unsure of the need to have formalised human rights policies as part of their normal code of conduct although, in this case, Canadian companies were almost equally as sceptical.



09 Guideline 16 of the United Nation guidelines on Business and Human Rights states that “as the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that:

- i. is approved at the most senior level,
- ii. is informed by relevant internal and/or external expertise,
- iii. stipulates the enterprise’s human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services,
- iv. is publicly available and committed internally and externally,
- v. is reflected in operational policies and procedures.”

The results indicate that only 40% of respondents feel that their companies already comply with Guideline 16, although a further 47% believe their companies partially comply with the Guideline. Tellingly, 12% of respondents do not feel their companies materially comply with the Guideline. In terms of international comparisons, Australia had the smallest percentage of respondents (29%) who felt their companies already fully complied with the requirements of the Guidelines (although 57% felt that their companies partially complied).



03

Methodology

In February 2012, Mazars surveyed the opinions of listed mining companies in the UK, Australia, Canada and South Africa about their attitudes and business approach towards compliance with the human rights agenda, in particular the United Nation's Provide, Respect and Remedy framework of 31 Guiding Principles. Over 500 listed mining corporations were contacted either by email and/or at the INDABA conference in Cape Town during February 2012.

The 62 responses came from businesses listed on the London, Australian, Toronto and Johannesburg stock exchanges:

- ten respondents are listed on the London Stock Exchange (FTSE)
- 24 respondents are listed on the Australian Stock Exchange (ASX)
- 28 on the Toronto Stock Exchange (TSX) of which six were dual listed
- eight are listed on the Johannesburg Stock Exchange (JSE) of which six were dual listed.



04

Mazars' Human Rights Practice



Mazars' award-winning Human Rights Audit

At Mazars, our mining team has joined forces with our human rights specialists to offer a solution to the human rights agenda in the mining industry. We have won the 2012 IAB "Audit Innovation of the Year" award for our Human Rights Audit. This solution is based upon the United Nations 31 guiding principles and is separated into three distinct stages:

Initial assessment

This will incorporate a review of the company's approach to human rights and it will scope out the impact the corporation is having on human rights in the communities in which it operates.

The implementation phase

This will require the design of human rights procedures and policies that are specific to each corporation. These procedures will both maximise the corporation's respect for human rights whilst minimising the threat to the corporation's interest by inadvertently becoming involved with entities abusing human rights.

The evaluation phase

Once policies, procedures and, in all likelihood, a charter have been implemented and operational for a period it will be necessary to review them on an ongoing basis and make adjustments as necessary. Ultimately, the corporation will engage with an independent assurance provider whose report can be, and should be, used for PR purposes so that the corporation can make all of its stakeholders aware of its compliance with the human rights principles for the good of all.

Together, Mazars' mining and human rights teams can deliver all of these services, either as part of one all-encompassing engagement or in discrete parts.

Key contacts



James Kallman
Head of Human Rights, Global

James is a 30-year veteran of emerging markets with business experience in the accounting, consulting and banking professions covering business in South America, Asia, Emerging Europe and Africa. In recent years James has been passionately involved in the field of human rights audit and is Mazars' Global Head of Human Rights.

Together with Marzuki Darusman, a Senior Adviser of Mazars, James conceptualised and oversaw the development of a proprietary human rights audit methodology based upon the UN Guiding Principles and international agreements and conventions. Mazars' human rights audit methodology was recently awarded the 'Audit Innovation of the Year' by the international accountancy magazine, International Accounting Bulletin.



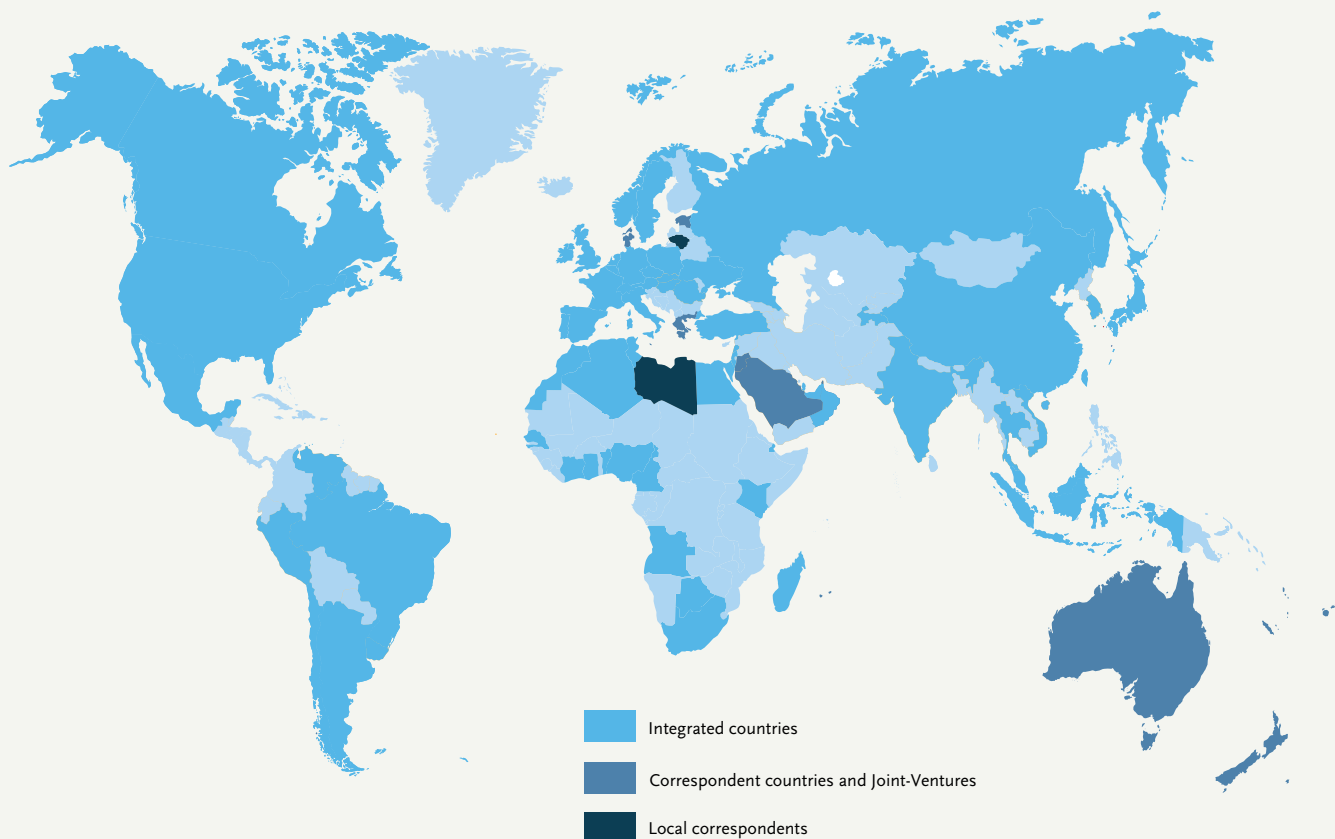
Richard Karmel
Head of Human Rights, UK

Richard is responsible for the UK firm's award-winning human rights reporting service. He and his team of human rights specialists have devised a solution in response to the intensifying issue of human rights within global business - an innovative human rights audit and service to help companies protect their risks against brand and reputation damage through abuse, unintentional or otherwise, of human rights.

Richard is also the lead partner responsible for the assurance and audit services to the public interest entity market. Richard has particular expertise of companies in the mining and oil and gas sectors and has clients with operations throughout Africa, Asia and America. Within Mazars, Richard is also the UK Chairman of Praxity, a worldwide alliance of independent accounting firms of which Mazars is a member, and sits on its European executive.

Mazars worldwide

Mazars worldwide



One firm

Mazars is an integrated worldwide organisation providing high-calibre audit, accountancy, tax and advisory services to clients in 69 countries and draws on the expertise of 13,000 professionals to assist businesses, major international groups, SMEs, entrepreneurs and public bodies at every stage in their development. In Europe, we are the 5th largest firm in six countries, the 6th largest in five countries and the 7th largest in three countries. We provide services to more than 15% of the FTSE Eurofirst 100 and to more than 300 other listed clients in Europe.



For more information on our Human Rights and Mining practices in the UK, please contact:

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