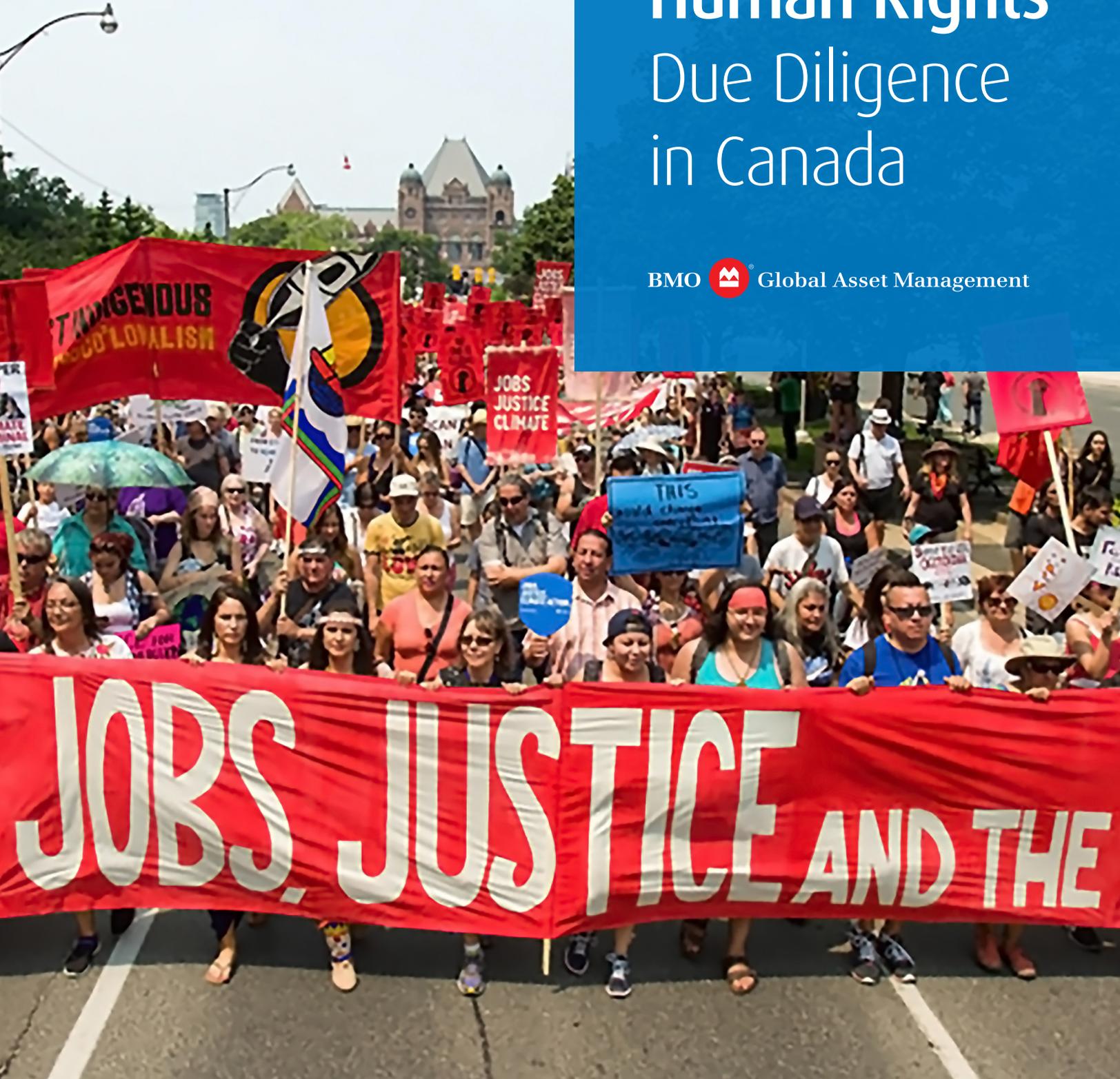


Responsible Investment  
Deep Dive Research

# Respect and Protect: The State of Corporate Human Rights Due Diligence in Canada

BMO  Global Asset Management



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## About the authors

This report was produced by BMO Global Asset Management's Responsible Investment (RI) team. Authors include Sarah Morris Lang, Manager, Social Equality and Rosa van den Beemt, Director of Stewardship. The RI team oversees the firm's ESG initiatives and supports all investment teams in integrating ESG considerations into the investment process. In addition, the team owns and executes on BMO GAM's firm-wide commitments to responsible investment, develops thought leadership on emerging ESG topics and employs a progressive approach to stewardship activities.

# Glossary

**CHRB:** Corporate Human Rights Benchmark – a benchmark assessing companies’ performance against the pillars of the UNGPs.

**GBVH:** Gender-based violence and harassment – a term used to describe physical, psychological, sexual or economic harm inflicted on a person because of their sex or gender, or by disproportionately affecting persons of a particular sex or gender.

**HRDD:** Human Rights Due Diligence – a process for identifying, preventing, mitigating, and accounting for actual and potential human rights impacts

**HRIA:** Human Rights Impact Assessment - a process for identifying, understanding, assessing and addressing the adverse effects of a business project or activities on human rights.

**ILO Standards / ILO Convention:** International Labour Organization – a tripartite UN agency that has developed labour standards to promote decent work for all.

**mHRDD:** Mandatory Human Rights Due Diligence – when human rights due diligence is hard coded into law such that it has become mandatory.

**KTC:** KnowTheChain – benchmark assessing companies on their supply chain practices based on UNGP pillars.

**Rightsholders:** Persons distinct from stakeholders in that they possess internationally recognized human rights, and in some cases legal rights within state law.

**Salient versus material risks:** Risk to people versus risk to business – whilst material risks in the investment context relate to risks that impact a company’s performance, salient risks are those with the most severe impacts on people.

**SASB:** Sustainability Accounting Standards Board

**UDHR:** Universal Declaration of Human Rights – an international document adopted by the United Nations Assembly in 1948 that enshrines the rights and freedoms of all human beings.

**UNHRC:** United Nations Human Rights Council

**UNGPs:** United Nations Guiding Principles for Business and Human Rights – the global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity.

# Executive Summary

Inequality, exacerbated by Covid-19, rising inflation, clean energy transition and the disproportionate impacts of climate change on already vulnerable populations, has increased pressure on companies and investors to respect human rights. In many jurisdictions, demand for accountability to protect and respect human rights is emerging through hard law and mandatory corporate reporting based on the United Nations Guiding Principles on Business and Human Rights (UNGPs).

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To understand how prepared Canadian companies are for these changes, we assessed public disclosures of 29 of the largest Canadian companies across six sectors (Apparel, Consumer Goods, Consumer Staples, Oil and Gas, Mining, and Telecommunications) using third-party human rights due diligence benchmarks. As per the benchmark methodologies, we examined

key performance indicators related to policy and governance, implementation of respect for human rights, and provision of grievance mechanisms (systems for affected stakeholders to report human rights concerns) and remedy for when human rights abuses occur.

Our findings reveal that Canadian companies tend to make decent policy commitments to respect human rights. However, implementation of practices to ensure respect for human rights on the ground is still limited, indicating that in general, Canadian companies are still in early stages of their human rights journey. Little evidence is disclosed of robust systems to confirm human rights are being respected throughout the value chain, including not only within internal operations, but also in company supply chains and in relationships with other business partners. Commitments to, and disclosure of, provision of remedy when human rights violations occur, were also limited.

We found some correlation between market cap and how robust human rights disclosures are, with larger companies generally performing better than smaller companies. To us this indicates that smaller companies might face more resourcing barriers. However, some of the smaller mining companies had some of the best disclosures and evidence of implementation. We believe this is because of already existing robust voluntary standards in the sector, and the fact that mining companies have direct international operations in regions with high human rights risks.

The average benchmark score based on public disclosures for all 29 companies was 30%. While this indicates that there is a lot of room for improvement in Canada, this average is in line with international average scores for the benchmarks we used. It is important to note that at present, disclosures are the key means by which investors can assess human rights due diligence performance of companies. While benchmark scores serve only as a proxy of performance on HRDD, and not actual performance, until such time that regulation and enforcement to uphold human rights is strong in all the regions in which Canadian companies conduct business activities, human rights due diligence benchmarks are one of the means by which investors can methodically seek to understand and compare corporate management of human rights risks.

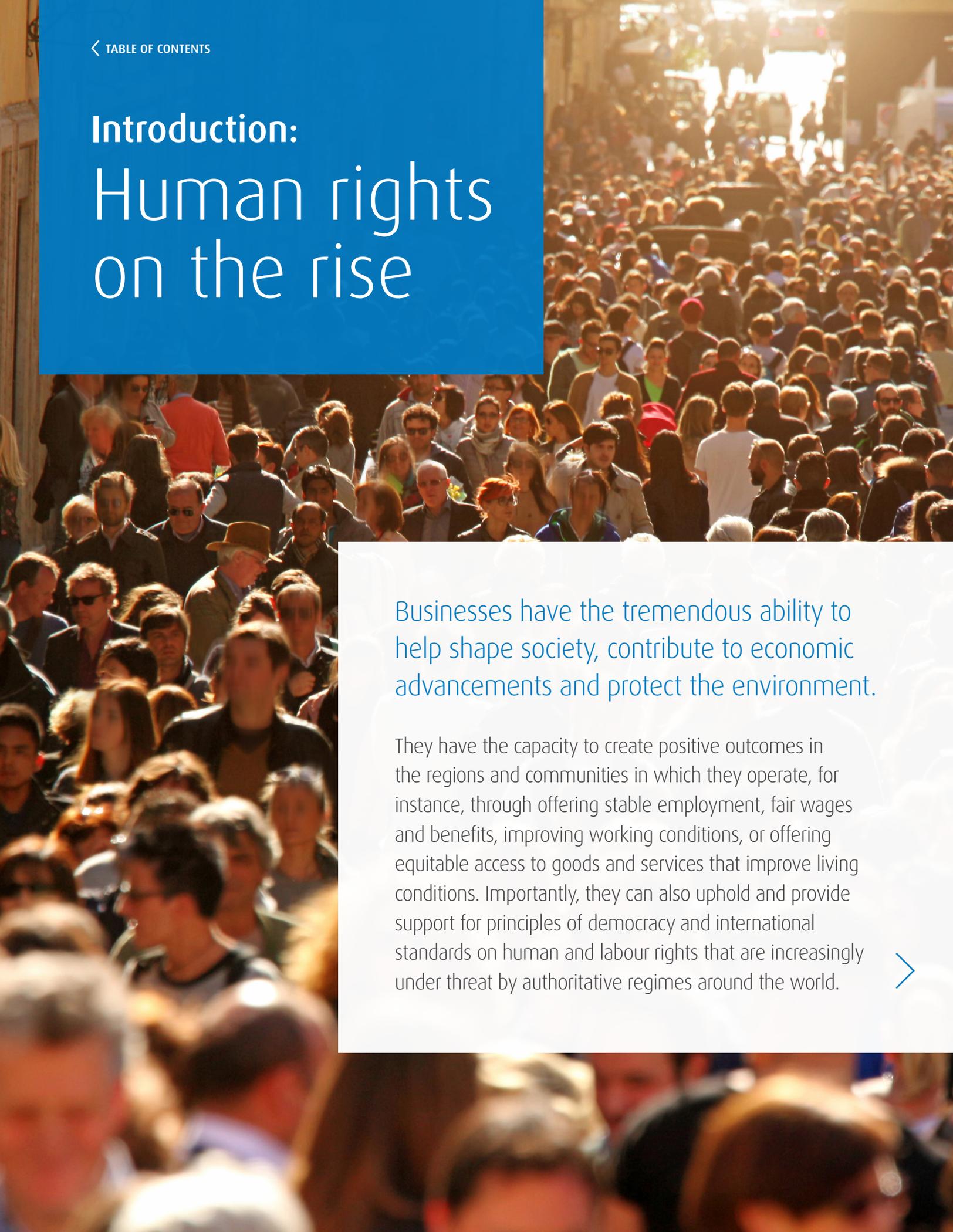
Our call to action is for all Canadian companies and investors to consider human rights due diligence as an essential tool for managing social and environmental risks and impacts to achieve sustainability outcomes. Through education, collaboration and enhanced due diligence, Canadian companies can be prepared for forthcoming human rights regulation and enforcement and contribute to more sustainable business practices and economies.

As part of the investor responsibility to respect human rights we recommend to investors that they engage Canadian companies on the UNGPs to encourage more robust corporate HRDD practices.

## Three key recommendations to Canadian companies:

- 1** Know the UNGPs and implement them. While human rights are complex, the UNGPs provide a simple framework. Reporting against the UNGPs can also create consistency and comparability for investors.
- 2** Map your value chain beyond tier-1 suppliers and conduct a human rights risk assessment on supply and value chains. Prioritize resources to prevent and mitigate the most salient risks.
- 3** Engage with stakeholders, rights-holders and or their representatives. Integration of rights holder and stakeholder perspectives is essential to implementing the UNGPs.

# Introduction: Human rights on the rise



Businesses have the tremendous ability to help shape society, contribute to economic advancements and protect the environment.

They have the capacity to create positive outcomes in the regions and communities in which they operate, for instance, through offering stable employment, fair wages and benefits, improving working conditions, or offering equitable access to goods and services that improve living conditions. Importantly, they can also uphold and provide support for principles of democracy and international standards on human and labour rights that are increasingly under threat by authoritative regimes around the world.



**Businesses, including Canadian businesses, have a key role to play in respecting and protecting human rights, in their operations as well as throughout their value chains, and they can do so through exercising HRDD.**

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While the notion that companies should respect human rights is nothing new, expectations on corporations to actually demonstrate their commitment to and implementation of policies and practices to uphold human rights have been on the rise globally. With just over seven years to meet the 2030 United Nations Sustainable Development Goals (UN SDGs), an acute climate crisis and complicated energy transition ahead that requires the transformation of energy systems, shifting supply chains, changing patterns of consumption and ways of living, there is now widespread acknowledgement that these issues can not be solved without more concerted efforts to address inequality and ensure respect for human rights.

While businesses have the capacity to generate positive outcomes, it is clear from recent examples of forced labour in surgical glove manufacturing supply chains<sup>1</sup> or the role social media platforms played in fueling social unrest and violence<sup>2</sup>, that corporations also have the capacity to adversely and severely impact human rights. Just as businesses must conduct financial, legal and operational due diligence, expectations are growing for companies to also conduct human rights due diligence (HRDD) to prevent and mitigate potential harm to people from business activities.

Regional regulatory requirements for corporate respect for human rights are developing at a rapid speed. In multiple jurisdictions, companies are now required to report on not only risks of forced labour and conflict minerals in the supply chain but are also required to adopt and report on HRDD practices including processes for provision of remedy when adverse human rights impacts occur.

Although Canada has some of the most robust human rights laws in the world, its supply chains are complex and global, and therefore so are Canada's corporate human rights risks. Canadian regulatory expectations of corporate issuers on human rights are also lagging those in other regions, such as the U.S., the UK and Europe, but this is changing.

## How prepared are Canadian companies?

# The UN Guiding Principles on Business and Human Rights

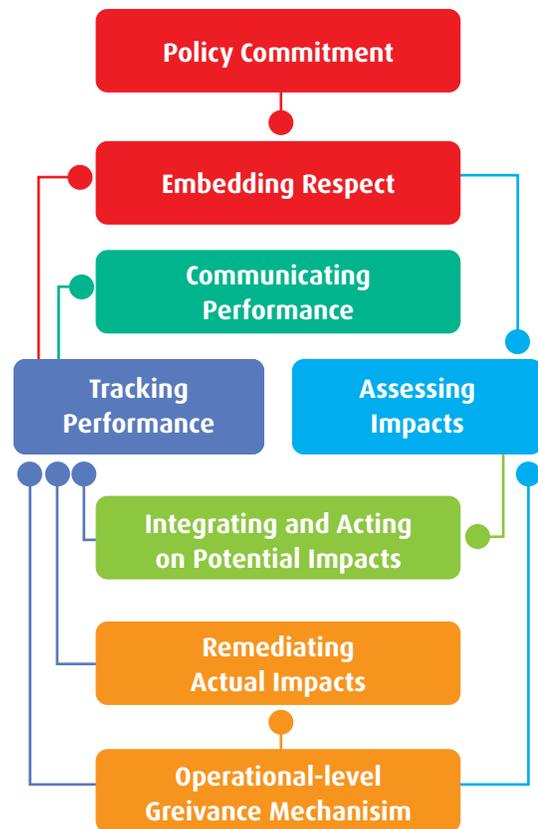
The UN Guiding Principles on Business and Human Rights (UNGPs) provide voluntary guidelines for States and companies on their responsibilities to prevent, address and remedy human rights impacts in business operations.<sup>3</sup>

2021 marked the tenth anniversary of the unanimous endorsement of the UNGPs by the UN Human Rights Council (UNHRC). The principles recognize that, for human rights to be adequately protected in the context of business activity, the following approach must be recognized: 1) States have the duty to protect human rights 2) Businesses have the responsibility to respect human rights and 3) Those adversely impacted by human rights issues should have access to remedy.

The UNGPs provide a clear, albeit high-level, roadmap for how companies should integrate respect for human rights (see *Figure 1*).

1. Governance and policy commitment.
2. Embedding respect: implementation of the commitment through human rights due diligence, which includes the following four components:
  - » Identifying and assessing actual or potential adverse impacts that the business causes, or to which it contributes or is linked. This can be done, for example, through a human rights impact assessment (HRIA);
  - » Integrating and acting on potential impacts;
  - » Tracking the effectiveness of measures to assess if they are working;
  - » Communicating with stakeholders, which can include public reporting, about how impacts are addressed.
3. Grievance and remediation: provide access to remedy to victims of business-related human rights harms.

The OECD Guidelines for Multinational Corporations also sets out a clear framework for corporations’ responsible business conduct (RBC), based on the UNGPs. While the UNGPs are voluntary, they are now being hardcoded into law in several jurisdictions around the world.



**Figure 1:** Key elements of the corporate responsibility to respect human rights as per the UNGPs. Source: [ihrb.org](http://ihrb.org)

# Global regulatory developments

In recent years, many countries including France, Germany, the Netherlands, the U.S., and the UK have passed laws to prevent corporate human rights abuses, requiring public issuers (and in certain cases non-public companies) to report on their actions to address e.g. forced and child labour.

As illustrated by the table overview on [page 11](#) of existing and emerging corporate human rights regulation around the world, this trend is only increasing. The most robust legislation requires companies to implement mandatory human rights due diligence (mHRDD) as per the UNGPs, going beyond policy commitments to mandating the process by which corporations must assess and address their adverse impacts on people and the environment.

The United States in June 2021 also [announced](#) that it is updating its National Action Plan (NAP) on Responsible Business Conduct (RBC) as per the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights (UNGPs). As part of this process, the NAP is enhancing the clarity and consistency of its expectations for U.S. businesses in their global operations.

In December 2021, the Uyghur Forced Labor Prevention Act was signed into law by President Biden and in June 2022 the law was enacted. It prohibits importation of goods from, or manufactured wholly or partially in, the Xinjiang Uyghur Autonomous Region due to concerns about widespread forced labour there. To illustrate the impact, as of November 2022, some 1,000 shipments of solar energy components from the region worth hundreds of millions of dollars were seized by U.S. customs officials and have yet to be released.<sup>4</sup>



### Existing and emerging corporate human rights regulation around the world

Region	Legislation	Obligations	Status	Financial Penalties
Canada	Bill S-211 Modern Slavery Act <sup>5</sup>	Annual reporting on steps taken to prevent and reduce forced labour or child labour risks	● Passed Senate and second reading House of Commons	Y
	Bill C-262 Corporate Responsibility to Protect Human Rights Act <sup>6</sup>	Mandatory human rights due diligence	● Passed first reading House of Commons	unknown
United Kingdom	UK Modern Slavery Act 2015 <sup>7</sup>	Annual reporting on modern slavery risk	●	N (but under review)
United States	California Transparency in Supply Chains Act 2010 <sup>8</sup>	Annual reporting on efforts to eradicate modern slavery in supply chain	●	N
	Uyghur Forced Labor Prevention Act <sup>9</sup>	Prohibits importation of goods from or manufactured wholly or partially in the Xinjiang Uyghur Autonomous Region	●	N (but goods are stopped at border)
Europe	Directive on mandatory corporate sustainability due diligence (CSDDD) <sup>10</sup>	Mandatory human rights and environmental due diligence. Includes duties for board directors.	● February 2022 EC adopted proposal	Y
Australia	Modern Slavery Act 2018 <sup>11</sup>	Annual reporting on the risks of modern slavery in operations and supply chains and actions to address those risks	●	N
France	Duty of Vigilance 2017	Mandatory human rights due diligence	●	Y
Netherlands	Dutch Child Labor Due Diligence Act 2022	Mandatory due diligence on Child labour in supply chain	●	Y (and criminal offence penalties)
	Dutch Proposal on Responsible Business Conduct <sup>12</sup>	Mandatory human rights due diligence	●	Unknown
Germany	Supply Chains Act	Mandatory human rights due diligence	● 2023	Y
Norway	Norway Transparency Act 2021	Mandatory human rights due diligence	●	Y
Belgium	Duty of Vigilance	Mandatory human rights due diligence	●	Unknown
Japan	Respect for Human Rights in Responsible Supply Chains (Draft Guidelines)	Human rights due diligence (soft law)	● 2022	N

● Proposed   ● Adopted/close to adoption   ● In force

## Human and environmental due diligence legislation in Europe

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As outlined in the previous table, some European countries have already introduced mandatory human rights due diligence legislation within their respective regions. To establish more consistency around expectations, implementation and enforcement across the entire EU region, in February 2022, the European Commission adopted a proposal for an EU wide directive on corporate sustainability due diligence which will set a precedent standard for global human rights due diligence expectations. However, in December 2022, EU Ministers negotiated their own pre-emptive agreement to exclude the financial services sector and downstream elements of the value chain (i.e. impacts on customers and the environment from use of products and services) from the mandatory scope of the Corporate Sustainability Due Diligence Directive (CSDDD). While an agreement amongst EU Ministers was sought to limit the range of due diligence liability, including for banks with respect to their lending activities, bonds and equities, the debate is not yet over. Stakeholder proponents of robust CSDDD are advocating for a full scope approach arguing that excluding the financial services sector as well as downstream value chain considerations will significantly reduce the leverage that CSDDD can have to prevent, mitigate, and ensure remediation for adverse impacts on people and the environment from business activities. The final language of the bill is set to be negotiated within the European Parliament starting in early 2023.

“

The EU directive on corporate sustainability due diligence will set a global precedent.

”

## What does this mean for Canada?

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Existing mHRDD legislation in European countries and anticipated EU Corporate Sustainability Due Diligence standards, regardless of the above noted debate over scope, will affect not only companies based in the EU, but also companies based outside the EU with operations in Europe or that provide raw materials or goods and services as part of EU company supply chains. As per UNGP principles, such companies will also be required to conduct human rights due diligence within their operations and cascaded down through their own respective supply chains. These expectations can impact Canadian companies that fall into these categories.

Simultaneously, Canada has its own supply chain act on its way. Bill S-211, which is anticipated for enactment by January 2024, will require annual reporting from corporate issuers on steps taken to prevent and reduce forced or child labour risks, similar to Modern Slavery legislation in the UK. This is welcomed by many, but one critique of the incoming Bill S-211 is that, while forced and child labour are clear human rights violations, they do not encapsulate all salient human rights risks. Given the rise of mHRDD legislation in Europe, there are concerns that Bill S-211 is not comprehensive enough given its limited focus on forced labour and child labour prevention. Civil society advocacy for mHRDD has led to the development of Bill C-262 Corporate Responsibility to Protect Human Rights Act, which has passed its first reading in the House of Commons. This second and more comprehensive human rights Bill, in addition to the more robust implementation of mHRDD abroad, is a likely indication that expectations of Canadian companies' performance in this area will increase beyond that required in Bill S-211.

Corporate support for Canadian supply chain legislation has been documented in the [Straight Goods](#) report, a 2019 collaboration between Schulich School of Business, the Shareholder Association for Research and Education and World Vision Canada. This report documents Canadian companies' experiences with modern slavery in supply chains and found that 76% of companies sampled believed supply chain legislation could benefit their business operations. However, the same report also found that only 29% of companies were actively looking beyond their first tier of suppliers for modern slavery risks. The [State of Social in ESG](#), a 2022 report by ESG Global Advisors and Argyle, surveyed Canadian and US companies and found that less than 50% had a human rights policy, with only half of those extending human rights expectations to their supply chain.

“

Existing and anticipated mHRDD legislation in the EU will also affect non-EU companies with operations, supply-, or value chains in Europe.

”

# Investor action on human rights

Just as all businesses do, investors have a responsibility to respect human rights as per the UNGPs. The OECD released guidelines specifically for institutional investors in 2017<sup>13</sup> on how to implement due diligence in investment policies and activities. Additionally, the EU's Sustainable Finance Disclosure Regulation (SFDR)<sup>14</sup> now imposes comprehensive sustainability disclosure requirements covering a broad range of ESG metrics at both the manager- and fund-level, including requiring reporting on negative impacts from investments in sustainable-branded funds. For investors to be able to conduct robust due diligence on human rights impacts in portfolios and assess whether they are being adequately addressed, they need more robust human rights disclosures from corporate issuers.

Recent years have seen a surge in investor action on human rights. This includes the formation of the [Investor Alliance for Human Rights \(IAHR\)](#), a collective action platform with over 200 institutional investor members and over USD\$12 trillion in combined assets under management. The IAHR educates investors on their responsibilities, enables collaborative engagement on human rights issues and pushes for robust human rights-based standard-setting. Several investor statements organized by the IAHR demonstrate that there is investor support for advancing mHRDD legislation in various jurisdictions.<sup>15</sup>

There has also been a steady year over year increase in shareholder proposals on respecting human rights in line with the UNGPs, with an average support of around 26% and one proposal each year receiving a majority vote.<sup>16</sup>



Investors increasingly understand their responsibility to respect human rights beyond managing material ESG risks. We equip investors to make rights respecting investment decisions informed by civil society and impacted rights holders, coordinate collective investor action to increase leverage, and advocate for regulation to mandate business' accountability for impacts on people from their activities.

**- Anita Dorett,  
Director, Investor Alliance for Human Rights**

In 2022, there were 26 human rights-related proposals in the U.S. – the proposal that passed with over 68% support at Sturm, Ruger and Company requested the company to conduct a human rights impact assessment on its sale of firearms to civilians. Proposals at Walt Disney, Amazon, Apple and Citigroup received over 30% of support and included requests for human rights due diligence, customer due diligence, reporting on forced labour issues in the supply chain and due diligence on Indigenous rights.<sup>17</sup>

Lastly, the UN-supported Principles for Responsible Investment (UN PRI) which has over 3,500 signatories and represents over USD\$120 trillion in assets, has set out a multi-year framework for supporting respect for human rights.<sup>18</sup> On December 1, 2022 the UN PRI launched "Advance", a collaborative investor engagement aimed at increasing companies' integration of respect for human rights as per the UNGPs.

# About the research

To engage Canadian investee companies on their human rights risks, we needed comparative data to understand performance relative to peers within and across industries and sectors.

We used third-party human rights due diligence benchmarks to conduct our analysis, given they assess the world’s largest companies and compare sector peers. Canadian companies are often overlooked in these global assessments because of their relatively lower market capitalization.

While ESG data providers provide useful insights on material ESG risk performance they are somewhat limited on forward-looking guidance on how prepared Canadian companies are for forthcoming HRDD regulation and evolving investor expectations on human rights in the global marketplace. Hence, we sought to gather the data ourselves.

We looked at six of Canada’s most prominent sectors based on revenues. Due to EU Ministers’ agreement to exclude Financial Services from being in the scope of the EU Corporate Sustainability Due Diligence Directive (CSDDD), regulatory expectations on HRDD for the Financial sector are still unclear. As such we decided not to cover Canada’s Financial Services sector despite its revenue size. We will continue to monitor developments as the debate over scope of the CSDDD takes place within the EU Parliament over the next several months.

Within the six sectors represented in our sample, we examined the top five companies based on market capitalization, with the exception of the Apparel sector for which only four companies met market capitalization parameters.

## Benchmarks used

- **Apparel:** KnowTheChain
- **Consumer Discretionary:** KnowTheChain
- **Consumer Staples:** KnowTheChain
- **Oil and gas:** Corporate Human Rights Benchmark – Core methodology
- **Mining:** Corporate Human Rights Benchmark – Core methodology
- **Telecommunications:** Corporate Human Rights Benchmark – Core methodology



**\$814 Billion**

Approximate combined market capitalization of companies at time of assessment

## We used the latest methodologies available at the time of research.

In some cases, the benchmarks we used had published data based on an older methodology, with slightly different indicators than the ones we applied. This presented challenges in comparing Canada's performance with existing published global benchmarks. We also acknowledge that our methodology is somewhat flawed in that we cannot make straight comparisons of performance between different Canadian sectors, as some were assessed using different benchmarks. However, the two benchmark methodologies used in our study are grounded in the UN Guiding Principles for Business and Human Rights' key pillars and therefore follow a consistent pattern of assessment for some comparative analysis based on:

- Governance and policy commitments to human rights
- Embedding respect for human rights through implementing human rights due diligence
- Grievance mechanisms and remedy

Also of note, we chose to assess companies anonymously. Our goal is not to name and shame firms that are early in their journey to adopting human rights practices, nor do we want to take on the role of a benchmark or data provider. As an asset manager with long-term and widespread investments in the Canadian economy, we have vested interest in seeing all Canadian companies and sectors do well.

Lastly, we wholly acknowledge that our research is not scientifically rigorous, but rather is meant to draw high-level insights into the state of corporate HRDD in Canada. We hope other responsible investors, policy makers, companies and consumers find our research useful as a resource for understanding what HRDD entails and what Canadian companies can do to prepare for oncoming HRDD regulation and evolving investor and rights holder expectations.

For more a more detailed walk-through of our methodology, please see [Appendix 1](#).

# General Findings: How does Canada perform?

Our findings show that most Canadian companies are still in early stages of their human rights journey. On the whole, Canadian companies make decent policy commitments to respect human rights. However, they are more challenged in demonstrating implementation of practices to ensure respect for human rights on the ground. We found that generally, Canadian companies disclose little evidence of having robust systems in place to confirm that human rights policies are being upheld throughout the value chain – not only within internal operations, but also in company supply chains and in relationships with other business partners. Commitments to, and disclosure of, provision of remedy when human rights violations occur, were also still in early stages. This is largely in line with global averages as reported by the benchmarks we used.

30%

Average score  
across all  
companies

92%

Highest  
score

0%

Lowest  
score

Canada scores similar to global averages.  
Challenges to improvement include a lack of maturity  
and standardization in the regulatory landscape.



## We found a slight correlation between market capitalization and how robust human rights disclosures are.

An oft-cited reason for barriers to company reporting on sustainability performance is cost. As shown in the scatter plot on [page 19](#), we did find some correlation between market cap and how robust human rights disclosures are, indicating that smaller companies might face more resourcing challenges. Over a certain threshold however, this correlation became less clear both within and between sectors. We theorize that Canadian companies are challenged both by a lack of dedicated resources, as well as the lack maturity and standardization in the regulatory landscape.

Sectors with higher combined market capitalization did not consistently have better sector average scores than sectors with smaller combined market capitalization.

The mining sector stood head and shoulders above other sectors with an average score of 61%. Recent high profile human rights incidents by major global mining firms, such as the collapse of the Brumadinho tailings dam that killed 270 people, and in a separate incident, destruction of a 46,000 year-old sacred rock shelter in Australia, demonstrate how the severe impact on people from mining operations can go hand in hand with material impacts on the businesses involved, such as high financial penalties and executive leadership changes. Mining firms are under increasing scrutiny and pressure to secure social and regulatory license to extract critical minerals and have to adhere to a growing number of mandatory and robust voluntary industry standards and reporting frameworks.

The mining company that received the highest score of 92% had the most robust disclosures of HRDD systems of all Canadian companies assessed. This does not mean the company is without adverse impacts from its business operations, as it is still dealing with human rights risks and stakeholder scrutiny. However, it demonstrated best practice efforts to more clearly align policy and implementation with the UNGPs. It recently published a stand alone human rights report, and also stated executive remuneration is in part based on its externally rated Corporate Human Rights Benchmark score by the World Benchmarking Alliance. Executive remuneration tied

to performance on human rights is an explicit KPI in the KnowTheChain and Corporate Human Rights Benchmarks as a means by which stakeholders can hold company leadership accountable on respect for human rights.

Canada's average score at 30%, is largely in line with international averages for the benchmarks we used, which assess companies across many jurisdictions. For example, the Corporate Human Rights Benchmark reports that 82% of companies still score below 30% in its benchmark. Depending on the sector, Know The Chain's average scoring is also around 30%. For all companies assessed, Governance & Policy Commitments was the area of highest performance at an average score of 46%. Average scores for KPIs measuring Embedding Respect & HRDD and provision of Remedies & Grievance Mechanisms could use the most improvement at 25% and 28%, respectively.

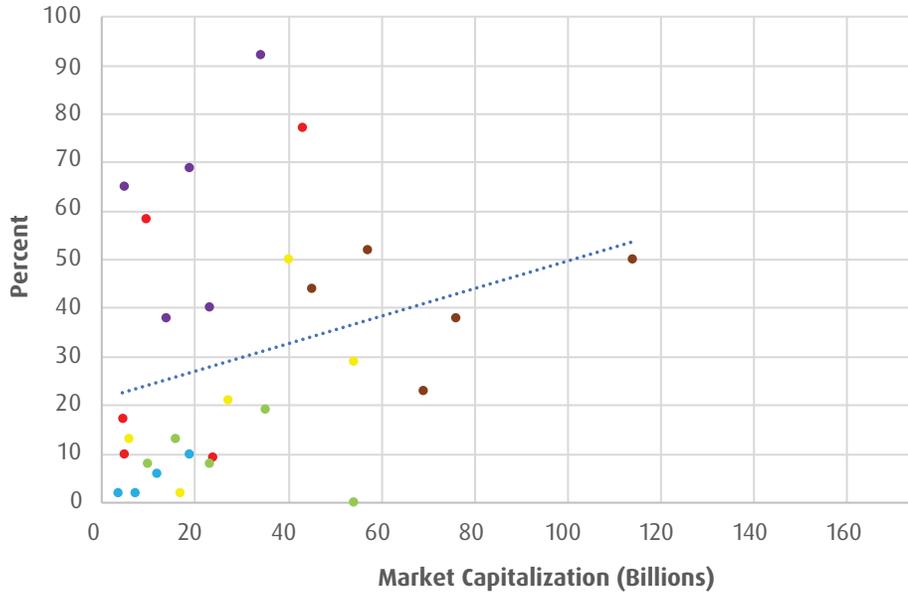
This pattern of higher scores on policy commitments is common. It is relatively easy to provide policy statements about human rights expectations. The real work and accountability lie in implementation and disclosures of due diligence efforts to ensure expectations are being met. In Canada, current USMCA (United States, Mexico, Canada Free Trade Agreement) based legislation for preventing forced labour does not require companies to demonstrate due diligence to ensure supply chains are free of forced labour outside of making policy commitments and setting codes of conduct. There are also reports of limited to no state enforcement in this country.<sup>19</sup> Mandatory due diligence legislation and state enforcement would change this.<sup>20</sup>

In the years ahead, we can predict that HRDD practices by all sectors, will improve as stakeholder expectations increase and the regulatory landscape evolves. Canadian companies collectively have the power to set the bar higher for what good looks like.

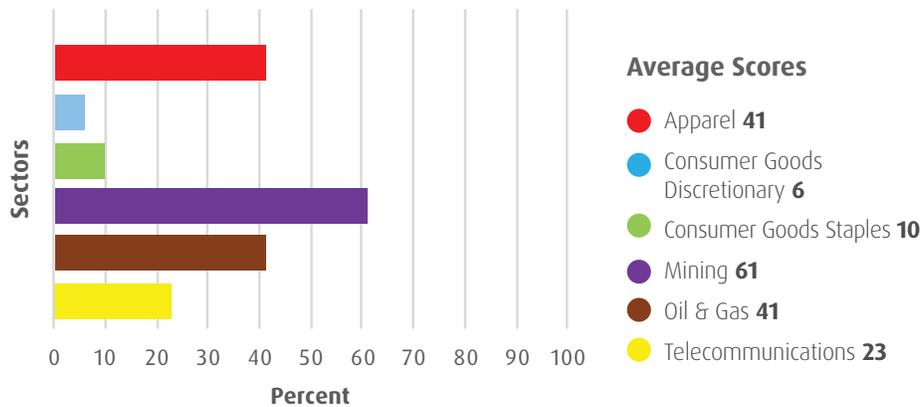
The following chapters provide a deeper dive into each sectors' biggest human rights risks, performance, best practices and recommendations for improvements.

### Canadian Companies' HRDD Scores

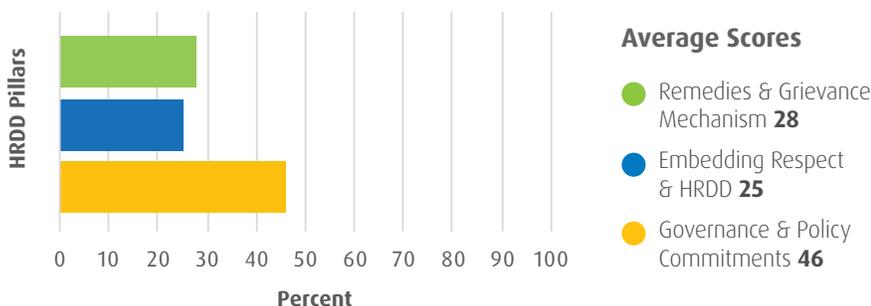
\* Data as at August 2022.



### Canadian Sector HRDD Scores



### Average of All Company Scores on UNGP HRDD Pillars



### Company Scores

#### ● Apparel

- A 58
- B 77
- C 10
- D 17

#### ● Consumer Goods Discretionary

- A 10
- B 7
- C 2
- D 2
- E 8

#### ● Consumer Goods Staples

- A 0
- B 19
- C 9
- D 13
- E 8

#### ● Mining

- A 92
- B 40
- C 69
- D 38
- E 65

#### ● Oil & Gas

- A 44
- B 52
- C 23
- D 38
- E 50

#### ● Telecommunications

- A 13
- B 2
- C 21
- D 50
- E 29

# Sector Findings

# Apparel

1. Salient human rights risks
2. Benchmarking the sector on human rights
3. Our findings
4. Key recommendations



The Apparel sector includes design, manufacturing, wholesale and retail clothing and accessories companies. Canada's apparel market was estimated to be worth approximately CAD \$26.4 billion in 2021 with modest growth anticipated to 2024.<sup>21</sup> 95% of the apparel bought in Canada is manufactured abroad compared to Canadian apparel production capacity of only \$2.4 billion worth of goods.<sup>22</sup>

95% of the apparel bought in Canada is manufactured abroad.

Like other multinationals of similar size and market reach, over the last couple of decades globally popular Canadian apparel brands have developed business models based on complex, multi-tiered supply chains reliant on low-cost labour in emerging markets. In these regions, there is often limited regulation and enforcement of workers' rights. But this is shifting. In more recent years, NGOs and workers' rights groups have brought attention to concerns about the link between the garment industry and human rights abuses in supply chains. Regulation across regions is slowly catching up.



# Apparel

## Salient Human Rights Risks

What are some of the most significant human rights risks for this sector?



- Gender-based violence and harassment
- Fair wage and benefits and freedom of association
- Forced and child labour
- Health and Safety

How do these human rights risks map to SASB Indicators?



- Supply Chain Management

Source: [SASB Materiality Finder](#)

### Gender-based violence and harassment

#### UDHR Articles 1, 2, 5

While the garment manufacturing industry is an important provider of jobs and security for millions around the world, due diligence is required to help ensure equitable benefits accrue to women supply chain workers especially, given they represent about 80% (60 million) of all garment industry supply chain workers. Numerous studies<sup>23</sup> have documented a high prevalence of [gender-based violence and harassment \(GBVH\)](#) against women perpetrated by male supervisors in apparel supply chains. A 2022 report by the [Business & Human Rights Resource Centre](#) based on interviews with 90 women across 31 factories in India's garment manufacturing sector illustrates how GBVH worsened during the Covid-19 pandemic through disclosure of routine physical and verbal abuse, discrimination, unfair dismissal for pregnancy and intensified work rates.<sup>24</sup> See [Apparel Sector Human Rights Spotlight](#).

## Fair wage and benefits and freedom of association

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### **UDHR Articles 20, 23, 25**

The fashion industry business model has grown to rely on producing retail goods in large quantities under tight deadlines for selling at often low prices. Integral to this model are long and complex, multi-tiered supply chains that often lack transparency and accountability. The investor coalition [Platform for Living Wage Financials](#) advocates for provision of fair wages and benefits as a basic human right, necessary for healthy economies, and fundamental for aligning with the UNGPs.

Canadian apparel companies can enhance their HRDD and address potential investor concerns about long-term sustainability through examining and addressing business model strategies reliant on provision of wages that do not meet context-specific living wage standards.

## Forced and child labour

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### **UDHR Articles 4, 5, 23, 25, 26**

The [Global Slavery Index](#) identifies the garment industry as the second largest contributor to modern slavery after electronics, with an estimated USD \$127.7 billion in forced labour linked garment imports to G20 countries in 2018.<sup>25</sup> The lowest tiers of garment industry supply chains (raw materials and textile manufacturing) are often at the highest risk for modern slavery. The U.S. Department of

Labor's (USDOL) TVPRA (Trafficking Victims Protection Reauthorization Act) [2022 List of Goods Produced by Child Labor or Forced Labor](#) provides an updated list of products from countries which the USDOL has reason to believe are produced by forced or indentured child labour. These listed products include materials found in apparel supply chains such as garments, thread, textiles, and cotton sourced from over 20 different countries and is an excellent resource for Canadian apparel companies to consult when conducting a comprehensive human rights risk assessment.

## Health and safety

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### **UDHR Articles 3**

Workplace health and safety is an important human right. The Rana Plaza clothing factory collapse that killed 1,132 garment workers in Dhaka, Bangladesh in 2013 is a tragedy that illustrates the lethal consequences of a lack of due diligence on the [human right to a safe and healthy work environment](#). It served as a catalyst for the development of the [Bangladesh Accord on Fire and Building Safety](#), a legally binding Global Framework Agreement between global brands, retailers and trade unions to mitigate the recurrence of events like the Rana Plaza Collapse through mandatory, independent safety inspections, training programs and complaints mechanisms.

In 2021, a new [International Accord on Health and Safety for the Textile and Garment Industry](#) was established by unions and brands to continue the work of the Bangladesh Accord through expansion of its principles and framework to other countries.



## Apparel: Human Rights Spotlight

### Gender-based violence and harassment at garment factories

Jeyasre Kathiravel was a 20-year-old garment worker saving for her education in Tamil Nadu, India when she was raped and murdered in January 2021 after finishing her shift at a key supplier for a major global fast fashion apparel retailer. Her supervisor at the garment factory later confessed to the crimes.

Making on average CAD \$122 per month, Jeyasre was a victim of sexual harassment and intimidation in the months leading up to her murder. According to news coverage, she had reported concerns to the factory owners, but no action was taken.

In the weeks that followed her death, investigators discovered two other female garment workers from the same major supplier had also been murdered. Dozens more women came forward to report their own experiences of sexual violence at the factory which employs approximately 3000 workers.

Under pressure to conduct greater due diligence on the epidemic of gender based violence within their supply chain, in April 2022, the major fast fashion company signed a precedent setting and legally binding agreement to end shopfloor violence against women with the supplier for whom Jeyasre had worked. The supplier was one of the fast fashion brand's largest. Terms of the agreement include:

- Mandatory gender-based violence training by all factory workers, supervisors and executives.
- Enlisting female "shop-floor monitors" trained by the Tamil Nadu Textile & Common Labour Union.
- Redesign of the supplier's internal complaints and remedy procedures that failed to protect female garment workers from systematic workplace violence and discrimination.

The creation of a legally binding agreement between the fast fashion brand and the supplier is a noteworthy example of the increasing pressure on companies to conduct human rights due diligence to root out gender-based violence and harassment and be legally accountable for human rights abuses within their supply chains.

# Benchmarking the sector on human rights

[KnowTheChain \(KTC\)](#) is a benchmark developed for companies and investors to better understand and address human rights risks in supply chains. It is based on the UNGP core pillars (Governance & Policy Commitments, Embedding Respect & HRDD, and Remedies & Grievance Mechanisms) but has been modified to assess the specific and most salient human rights risks found in complex supply chains. For apparel companies, supply chains are where the greatest due diligence is required.

As such, we applied the KTC benchmark to four of Canada's top apparel companies that met our sample criteria of greater than CAD \$2 billion in market capitalization.

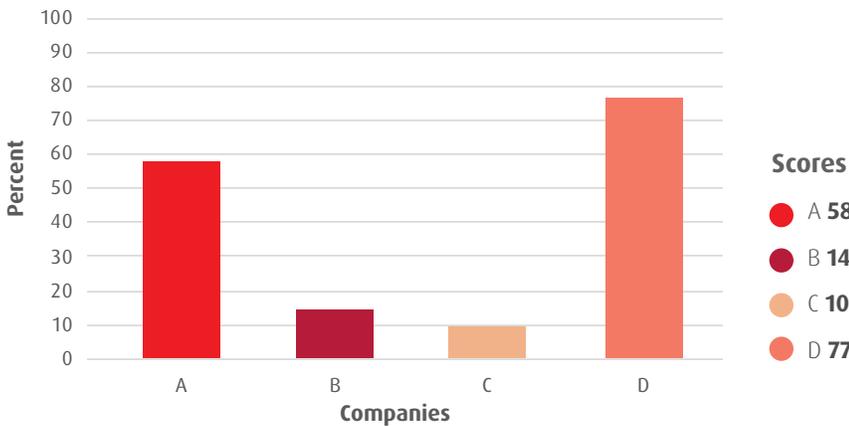
# Our findings (Scores out of 100)



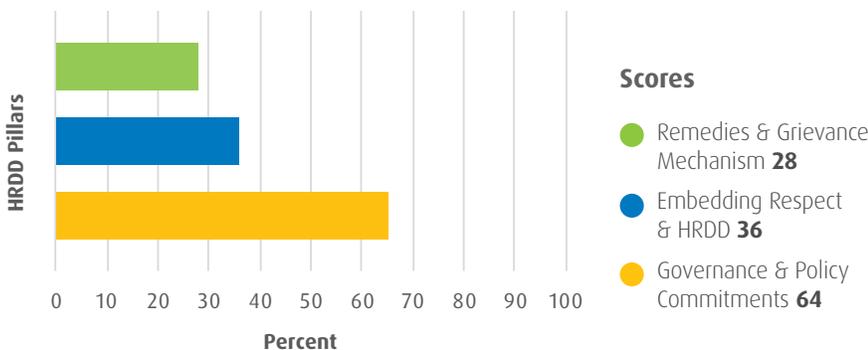
## Summary

There was a wide range in scores across the apparel companies analyzed. Two companies consistently out-perform with one company providing a high level of detail related to e.g. responsible purchasing practices, and mitigation and remediation efforts made in response to discovery of a violation of the Employer Pays Principle which stipulates that employers, not workers, are responsible for paying recruitment fees. Such detail is helpful in enabling investors to understand a company’s implementation of practices to prevent and mitigate forced labour and other human rights violations in its supply chains. All companies can improve disclosure of human rights risk mapping and assessment, strategies for engagement with affected stakeholders (including integration of their perspectives in policy development, program monitoring, and remediation processes) and examples of this due diligence in practice.

### Apparel Companies’ Total Scores

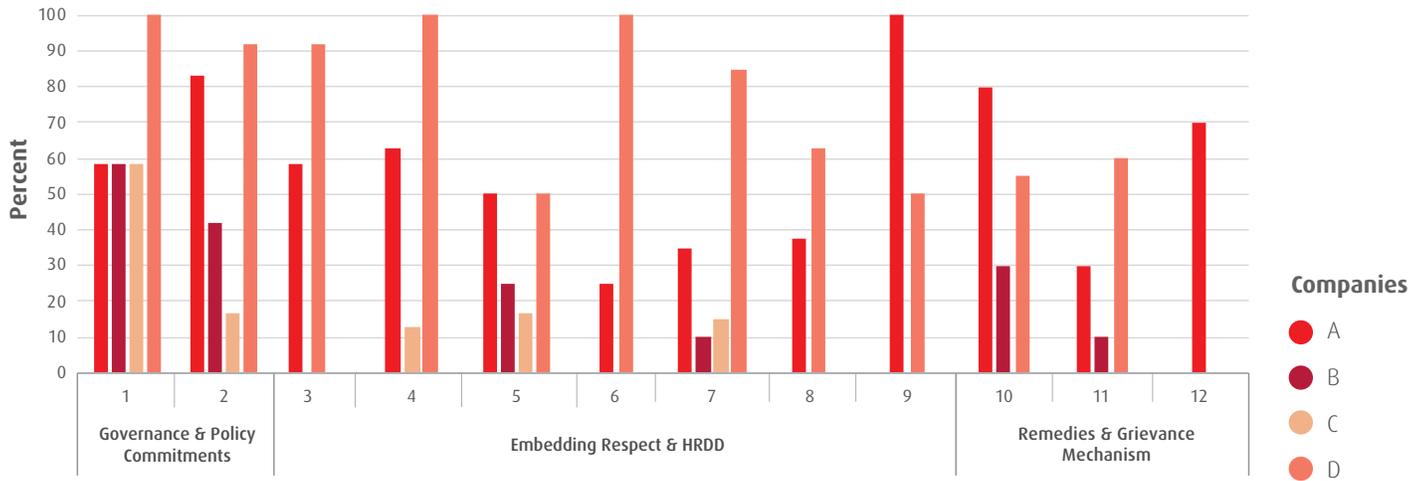


### Apparel Companies’ Scores by UNGP HRDD Pillars



\* Data as at August 2022.

### Apparel Company Scores by KPI



2022-2023 KTC Methodology		
Governance & Policy Commitment	Embedding Respect & HRDD	Remedies & Grievance Mechanism
1. Supplier Code of Conduct and Capacity Building 2. Management & Accountability	3. Traceability & Supply Chain Transparency 4. Risk Assessment 5. Data on Supply Chain Risks 6. Purchasing Practices 7. Recruitment-related Fees 8. Responsible Recruitment 9. Freedom of Association	10. Grievance Mechanism 11. Monitoring 12. Remedy Programs and Response to Allegations

\* Data as at August 2022.

## Governance & Policy Commitment

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### Strengths:

Making policy commitments was the best performing area for all companies assessed. Each one had supplier codes of conduct including stated expectations of adherence to the ILO core conventions and rights at work, namely: no forced or child labour, respect for freedom of association and non-discrimination in the workplace.

All apparel companies received some credit for disclosing capacity building with first-tier suppliers to cascade or train second tier and lower suppliers on forced labour risks and prevention. Only one received full credit for assessing the effectiveness of this capacity building. Three firms disclosed some detail of management level oversight of implementation of supply chain policies that address forced labour.

All provided disclosure of board level oversight of social issues, however there was no specific reference to forced labour (we provided credit given that in other areas of disclosure, human rights are referenced under the umbrella of ESG considerations). Only one firm provided disclosure of how board level decision making on supply chain due diligence is influenced by direct engagement with affected stakeholders or their representatives, a best practice for HRDD in publicly traded companies.

### Areas for improvement:

No companies disclosed actual targets related to remuneration of executive staff to drive accountability for supply chain due diligence and prevention of forced labour. Two companies did not provide any disclosure on how relevant decision makers are trained on policies that address forced labour and other human rights risks in the sector.

# 4 out of 4

have strong supplier codes of conduct expecting adherence to international standards

## Embedding Respect & HRDD

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### Strengths:

One company disclosed hosting a freedom of association and collective bargaining workshop at one of its textile, sewing and hosiery facilities that was facilitated by a third-party independent labour consultant. Another company provided details outlining steps it takes to conduct responsible purchasing practices that can help prevent human rights risks at its suppliers e.g. developing long-term supplier partnerships that include multi-year planning discussions and planning horizons while simultaneously reviewing capacity with suppliers on a quarterly basis. This company acknowledged areas where it continues to try to improve on forecasting to help reduce order volatility that can lead to excessive price pressures on suppliers from overtime costs that can subsequently lead to human rights violations like wage theft and other forms of worker exploitation.

**Areas for improvement:**

For half the companies assessed, traceability and supply chain transparency are areas for considerable growth. Only two companies disclose the names and addresses of first-tier suppliers and names and locations of segments of below first-tier suppliers and only one company discloses the sourcing countries of at least three raw materials at high risk of forced labour. Two companies disclose little to nothing about conducting human rights supply chain risk assessment and forced labour concerns. There is no disclosure by any of the companies of priority areas of focus to prevent and mitigate forced labour risks in the supply chain.

Disclosure on human rights supply chain risk assessment processes, how firms engage with relevant stakeholders such as civil society, unions and workers or their representatives to detect risks, was also lacking for two of the companies examined. Disclosure of data on supply chain risks e.g. percentage of supply chain workers who are women (most at risk for GBVH), migrant workers (most at risk of forced labour) and those being paid a living wage (an indicator of fair working conditions), is also an area for improvement as is disclosure on responsible purchasing practices. Only one company disclosed adequate information to enable an investor to assess the level of responsibility the buyer company is taking to help ensure it is not contributing to conditions that can lead to human rights abuses through irresponsible purchasing practices e.g. protocols to minimize order volatility.

**Leading Practice Example:**

One of the apparel brands assessed has a vertically integrated business model which is unique relative to peers. Vertical integration is a model in which the supply chain of a company is owned and operated by that company enabling more control and oversight of the various stages in the production cycle. For this particular company, after purchasing the raw materials, instead of outsourcing the spinning, textile manufacturing, sewing and distribution, it incorporates these stages under its management. While it still relies on outsourcing to a relatively small extent, most of the first-tier supply chain is under parent company management with all of its tier-two and three suppliers self-owned. The company publishes a detailed list of its Tier 1, Tier 2 and Tier 3 suppliers. Vertical integration is a business model that enables a much higher degree of oversight and accountability for HRDD and can be considered a best practice business model for managing human rights risks in the apparel sector.

**0 out of 4**  
had supply chain due  
diligence targets in executive  
compensation disclosure

## Remedies & Grievance Mechanism

### Strengths:

All companies assessed disclose their expectation for formal operation level grievance mechanisms (OLGM) to be in place at supplier facilities. Two companies received full scores on disclosing quantitative data on the number of grievances filed, addressed and resolved. One company provided concrete detail of its remediation process in practice through a case example. This example included the actions taken in its investigation of the reported concern about recruitment fees workers were required to pay at one of its suppliers. The company reported hiring a third-party to conduct the investigation, conducting confidential interviews with workers, and development of a corrective action plan and further monitoring with the suppliers identified. The company also disclosed working with the supplier at a higher level on their strategy for corporate social responsibility and ensuring understanding of expectations even after sourcing was paused for a period of 12 months.

### Areas for improvement:

There were widely varying degrees of disclosure on the processes in place to ensure that the operation level grievance mechanism is accessible in local languages and is designed and assessed for effectiveness (i.e. developed with affected stakeholder input to ensure trust in the reporting system). Three companies had no disclosure on whether there was input from supply chain workers in the design and / or performance of the operation level grievance mechanism to ensure trust. Two companies

had no disclosure on the number of grievances filed, addressed, and resolved which is an important indicator by which investors and others can determine an operation level grievance mechanism's effectiveness.

Further, monitoring of implementation of supply chain policies was limited for all companies. Only two disclosed the methods by which they monitor implementation including detail regarding violations while two companies disclosed no information in this area. None of the companies assessed disclosed having worker-driven monitoring or monitoring by independent organisations that includes worker participation and which is guided by workers' rights and priorities at the respective facilities. Involving affected stakeholders in the design and implementation of policies, grievance mechanisms and monitoring systems to prevent and mitigate forced labour is best practice.

Two companies provided no disclosure on processes for responding to reported violations of policies that address forced labour or examples of outcomes of remedy processes in practice, including how they engage with those affected in establishing fair remediation.

**4 out of 4**  
disclosed expectations  
for suppliers to have  
grievance mechanisms

# Recommendations

Canadian apparel companies can look to the UNGPs and OECD Guidelines on HRDD to ensure alignment. The basic first step is conducting a comprehensive human rights risk assessment to understand the most significant negative impacts in the value chain from operations, products, and services so that those can be prioritized and addressed accordingly. While there are industry specific risks that can inform strategy, each company must conduct its own individual assessment to understand, prevent, and mitigate impacts unique to its supply chain based on types of materials sourced, and regional contexts. Other practical suggestions for apparel brands to consider include:

## Resources



[Due Diligence in the garment industry: Challenges and opportunities in protecting child rights](#), Government of Canada

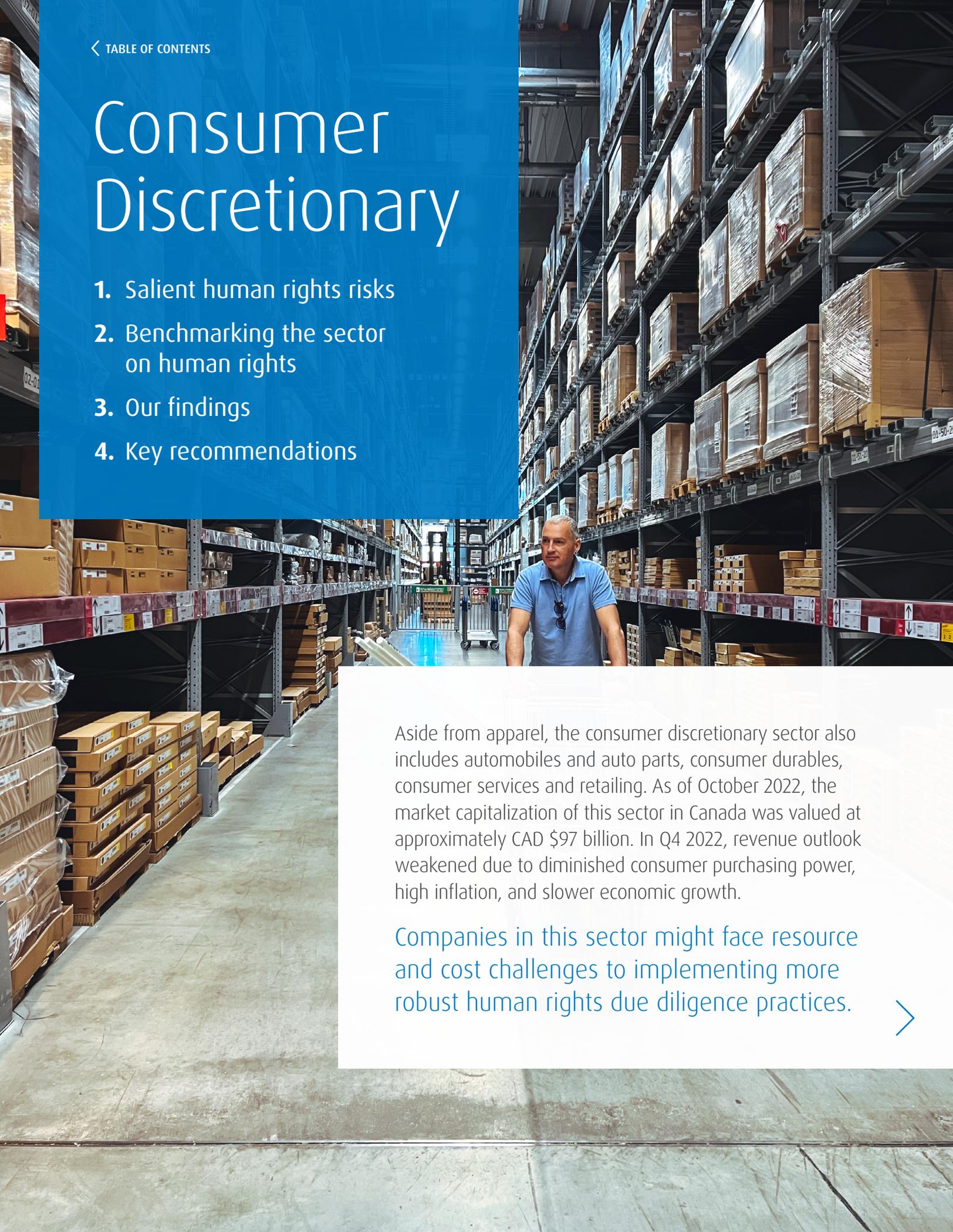
[Closing the gap: Evidence for effective human rights due diligence from five years measuring company efforts to address forced labour](#), KnowTheChain

[American Bar Association's Model Contract Clauses for Human Rights Project](#)

- 1 **Look to benchmarks like KTC for guidelines** on best practices to prevent human rights supply chain abuses, including key performance indicators for reporting.
- 2 **Disclose and reinforce policy commitment to responsible recruitment**, including the [Employer Pays Principle](#).
- 3 **Enhance Worker Voice through engaging with affected stakeholders**. This can be achieved through development of partnerships with local trade unions and workers' rights groups. Support the development of stakeholder informed OLGs in first tier and lower tier suppliers. Disclose concrete examples of engagement processes in practice.
- 4 **Map and disclose the most salient human rights risks** throughout the supply chain and the prioritization of resources for implementation plans in the areas of greatest risk. Disclose concrete examples of implementation in practice.
- 5 **Provide greater supply chain transparency and accountability** through making public the names and locations of suppliers in all tiers of the supply chain.
- 6 **Adopt legally binding responsible purchasing agreements** using the American Bar Association's Model Contract Clauses as a starting framework.
- 7 **Sign the [International Accord on Health and Safety](#)** for the Textile and Garment Industry and work with other industry associations and cross-functionally with civil society groups, local governments and the public to develop more comprehensive solutions to end human rights abuses in apparel supply chains.

# Consumer Discretionary

1. Salient human rights risks
2. Benchmarking the sector on human rights
3. Our findings
4. Key recommendations



Aside from apparel, the consumer discretionary sector also includes automobiles and auto parts, consumer durables, consumer services and retailing. As of October 2022, the market capitalization of this sector in Canada was valued at approximately CAD \$97 billion. In Q4 2022, revenue outlook weakened due to diminished consumer purchasing power, high inflation, and slower economic growth.

Companies in this sector might face resource and cost challenges to implementing more robust human rights due diligence practices.



# Consumer Discretionary

## Salient Human Rights Risks

What are some of the most significant human rights risks for this sector?



- Forced and child labour
- Fair wage and benefits and freedom of association
- Gender-based violence and harassment

How do these human rights risks map to SASB Indicators?



- Supply Chain Management
- Employee Engagement, Diversity & Inclusion
- Labour practices

Source: [SASB Materiality Finder](#)

### Forced and child labour

**UDHR Articles 4, 5, 23, 25, 26**

The [ILO's 2022 report on modern slavery](#) estimates that nearly one-fifth of all adult forced labour (approximately three million people) occurs within the manufacturing sector.<sup>26</sup> Manufacturing involves the transformation of raw materials from forestry, agriculture, mining and quarrying, and other natural resources, as well as the transformation of manufactured parts, into new products. Forced and child labour in manufacturing most often occur in production at the lower tiers of domestic or global supply chains.

For example, the ILO estimated that in 2019 more than one million children (younger than 15 years of age) were engaged in child labour in mines and quarries at artisanal scale mines where they extract raw materials for use in global supply chains for automobiles, construction, electronics, jewelry and other sectors.<sup>27</sup> Artisanal scale mining typically involves unskilled workers using rudimentary tools and techniques that result in significant environmental, health and safety concerns.<sup>28</sup> Artisanal scale mining is massive in scale, and contributes approximately 20% of the global gold supply, 26% of global tantalum production and 25% of global tin production.<sup>29</sup>

With ever increasing demand for minerals to manufacture communications technology, batteries for electric vehicles and other renewable energy infrastructure, risks of forced and child labour are growing and extending upwards into the higher tiers of supply chains (see [Consumer Discretionary: Human Rights Spotlight](#)).

## Fair wage and benefits and freedom of association

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### UDHR Articles 20, 23, 25

Investors, human rights activists, and labour officials are advocating for assurance of a 'just transition' by the auto industry to a net zero emissions economy. For example, United Auto Workers labour union which represents most U.S. hourly workers at U.S. car companies, have expressed concern that with the creation of new production lines for electric vehicles, labour rights gains established within the legacy manufacturing systems will be lost through reductions in workers' pay, benefits and other labour rights.<sup>30</sup>

To avoid financially material risks related to labour disruptions, investors can advocate for effective human capital management practices that respect fair wages and benefits, and workers' rights to organize, including cascading expectations for the same rights respecting labour conditions to lower levels of the supply chain.

## Gender-based violence and harassment

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### UDHR Articles 1, 2, 5

Manufacturing has traditionally been a male dominated industry.<sup>31</sup> Research from Catalyst shows that the Automotive Industry lacks gender diversity among executive teams and throughout the entire supply chain.<sup>32</sup> In Canada, women held only 23% of jobs in assembly and only 25% in parts production in 2019 despite comprising 48% of the Canadian labour force. In Europe, the numbers are only slightly better and in Japan, they were lower.<sup>33</sup>

The root cause for this underrepresentation could be linked to research findings on the manufacturing sector from the UK and the United States in which 53%<sup>34</sup> and 65%<sup>35</sup> of women surveyed in the respective studies reported being sexually harassed in the workplace. Corporate management due diligence on gender-based violence and harassment through more comprehensive policy expectations, implementation of programs to address discrimination informed by affected rights holders, and more rigorous senior level accountability, can help prevent gender and other forms of discrimination in manufacturing while also helping to attract a wider labour pool.

## Consumer Discretionary: Human Rights Spotlight

### Child labour in U.S. auto-manufacturing supply chains

A major multinational automaker came under criminal investigation by Alabama's State Department of Labour and U.S. federal agencies in July 2022 when a Reuters investigative report documented child labour within its supply chain parts manufacturing subsidiary in that state. The metal stamping plant located in rural Alabama was found to be using child labourers as young as 12 years old.

Subsequently, another supplier plant for the automaker, was also investigated and children as young as 13 years old were found to be working at that plant. Reuters reported the children were migrants from Guatemala that had been hired through a recruiting firm.

This South Korea-based automaker has a network of dozens of mainly Korean-owned auto-parts plants in its U.S. supply chain that feed into the company's Montgomery, Alabama vehicle assembly plant. In 2021, this USD \$1.8-billion plant produced approximately 350,000 vehicles that were sold in the United States.

In October 2022 an investor group managing union pension funds sent a letter to the automaker demanding due diligence given the use of child labour violated not only international human rights standards but also the company's own human rights charter and code of conduct for suppliers. As of October 2022, fines of up to USD \$35,000 had been levied against the suppliers but investigations are ongoing as new allegations were reported as recently as December 2022. News outlets report that up to six of the automaker's suppliers in Alabama are now under investigation for child labour violations involving migrants. Regulators have publicly reminded companies that plant operators and owners are responsible for child labour violations regardless of whether or not unauthorized employees are recruited by third-party firms.

# Benchmarking the sector on human rights

We applied the KTC 2022 Benchmark methodology to five Canadian companies operating in the Consumer Discretionary sector given the major role of global supply chains in the respective companies' business models.

**For more information about the KTC methodology, see [Benchmarking the sector on human rights section in the Apparel Chapter](#) and [Appendix 2](#).**

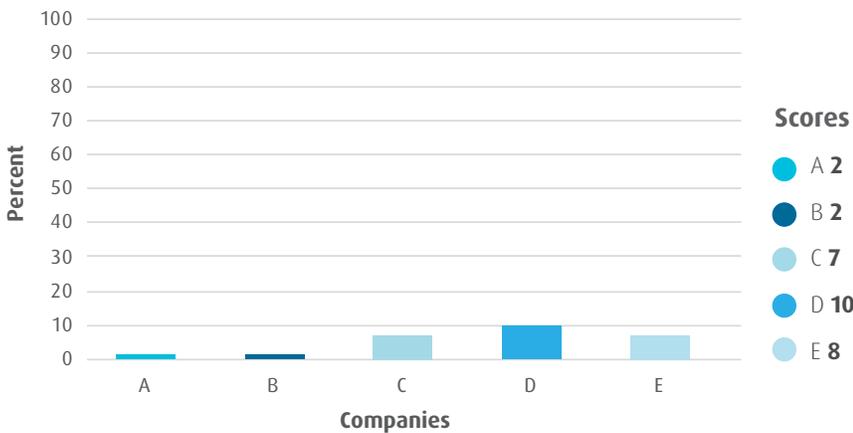
# Our findings (Scores out of 100)



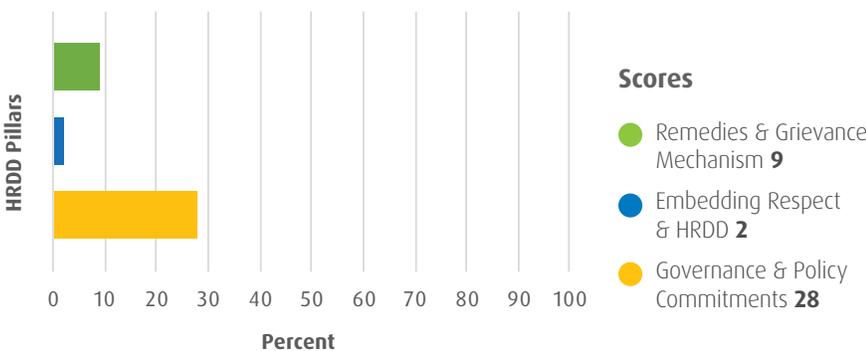
## Summary

This sector, which includes automobile and auto parts manufacturing and general retail companies, had the most areas to improve on out of all sectors assessed. Disclosure on implementation of HRDD by all companies analyzed was limited. Companies can begin by improving disclosure of human rights risk assessment processes, supplier names and addresses, data on percentage of migrant workers and women in the supply chain (indicators of high risk) or of what percentage of supply chain workers are paid a living wage. Companies can share more information about responsible purchasing practices to prevent or mitigate human rights abuses, practices to ensure responsible recruitment of supply chain workers and disclosure of any company support for workers’ right to freedom of association. Companies can also publish information or examples of their process for provision of remedy.

### Consumer Discretionary Companies’ Total Scores

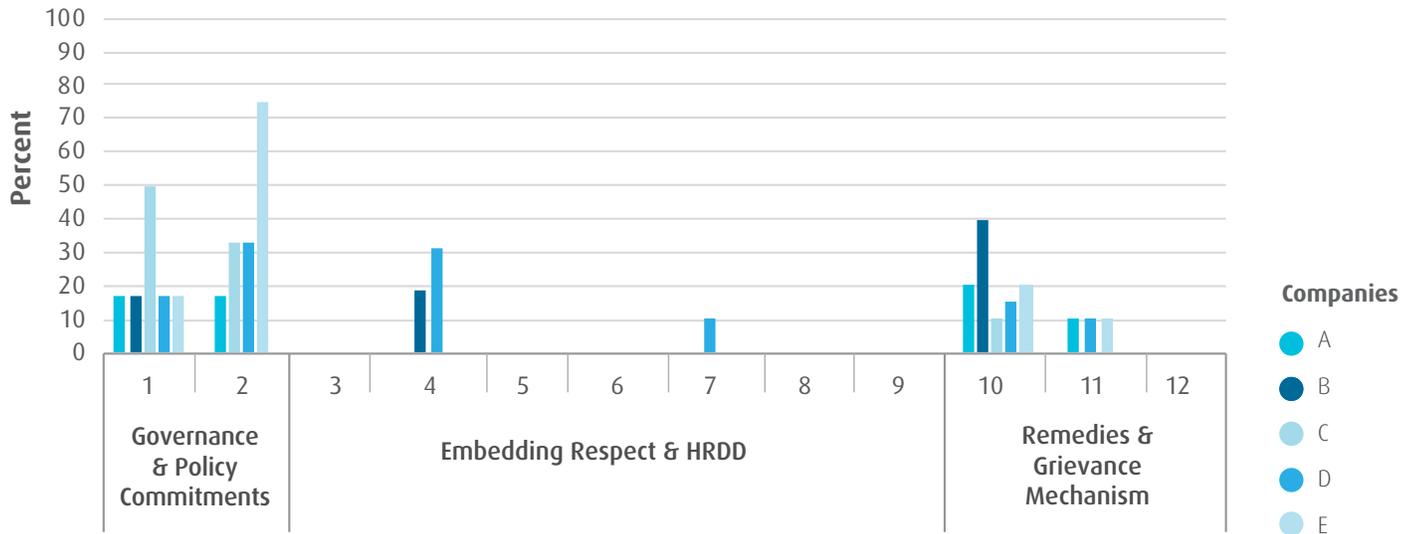


### Consumer Discretionary Companies’ Scores by UNGP HRDD Pillars



\* Data as at August 2022.

### Consumer Discretionary Companies' Scores by KPI



2022-2023 KTC Methodology		
Governance & Policy Commitment	Embedding Respect & HRDD	Remedies & Grievance Mechanism
1. Supplier Code of Conduct and Capacity Building 2. Management & Accountability	3. Traceability & Supply Chain Transparency 4. Risk Assessment 5. Data on Supply Chain Risks 6. Purchasing Practices 7. Recruitment-related Fees 8. Responsible Recruitment 9. Freedom of Association	10. Grievance Mechanism 11. Monitoring 12. Remedy Programs and Response to Allegations

\* Data as at August 2022.

## Governance & Policy Commitment

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### Strengths:

All companies assessed have a supplier code of conduct that states expectations for no forced and child labour in their supply chains.

### Areas for improvement:

While all companies state expectations for no forced or child labour in the supply chain, not all companies state expectations for suppliers to adhere to all four ILO core conventions on the rights of workers (freedom from forced and child labour, freedom from discrimination and the right to freedom of association) nor do any of the companies explicitly state expectations that suppliers will cascade expectations down to their suppliers on implementing policies to prevent forced labour and other human rights abuses, a unique KPI of the KTC benchmark for assessing degree of implementation of policies that support companies' expectations.

Furthermore, no companies disclose any capacity-building with Tier 1 or lower suppliers to support their understanding of human rights risks and prevention strategies.

With regard to governance, all five companies disclose some information about senior management and board level accountability and oversight of human rights supply chain due diligence (although no disclosure was found on related targets tied to remuneration). One company received full credit for disclosing how it trains relevant decision-makers on risks and policies that address forced labour.

# 5 out of 5

have supplier codes of conduct with expectations that there is no forced or child labour

## Embedding Respect & HRDD

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### Areas for improvement:

Disclosure on implementation of supply chain due diligence was the area where most improvements can be made.

Disclosure is a key mechanism for driving accountability with transparency considered a fundamental element of adhering to the UNGPs. All companies scored zero on five of seven KPIs that measure implementation of HRDD. The five KPIs are:

- **Traceability and Supply Chain Transparency.** Companies can start by disclosing the names and addresses of first tier suppliers, locations of below-first-tier suppliers (not including raw materials), or sourcing countries of at least three raw materials at high risk of forced labour.
- **Data on Supply Chain Risks** which includes percentage or number of supply chain workers who are women, percentage and number of supply chain workers who are migrant workers, percentage and number of supply chain workers that are being paid a living wage.

- **Purchasing Practices** which entails disclosure of commitments to responsible buying practices in contracts with suppliers, how companies have adopted responsible purchasing practices with first tier suppliers (including planning and forecasting and ring-fencing of labour costs); and disclosure of two quantitative data points that demonstrate a company has responsible purchasing practices that address the risk of forced labour.
- **Responsible Recruitment Practices**, including disclosing information about recruitment agencies used by suppliers and details of how a company supports responsible recruitment in its supply chains. There was very little disclosure on recruitment fee policies and enforcement. For example, requiring that no worker in a company's supply chain has to pay a recruitment fee to work (as such costs should be borne by the employer), details on the implementation of the 'Employer Pays Principle', and evidence of processes in place to repay fees that workers in supply chains have paid to recruiters in the event that this is discovered.
- **Commitment to respect supply chain workers right to freedom of association.** None of the companies had public statements on working with independent local or global trade unions or other legitimate worker representatives to improve freedom of association in supply chains, or disclosed the percentage of supply chain workers covered by collective bargaining agreements.

### Leading Practice Example:

One general retail company in this category disclosed having offices in Hong Kong, Shanghai and Bangladesh with remote staff in Cambodia in order to maintain close relationships with vendors in these regions and to ensure that the goods procured from them are produced responsibly. While no further details were disclosed about how due diligence is enacted by staff in these locations, latest best practice for HRDD emphasizes the importance of having local procurement officers on-the-ground to conduct supplier site visits.<sup>36</sup> According to Business for Social Responsibility (BSR) this enables more collaborative stakeholder engagement and understanding of context-specific challenges and potential solutions. Proximity and greater cultural awareness can help companies identify risks and co-develop culturally and context-relevant programs with suppliers to address concerns. Moving away from reliance on only social audits and zero-tolerance policies towards building capacity and enhanced understanding and governance of human rights risks by suppliers is an emerging best practice.

# 0 out of 5

disclosed any training or capacity-building to prevent forced labour below first-tier suppliers

## Remedies & Grievance Mechanism

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### Strengths:

All firms assessed disclose having a formal operation level grievance mechanism (OLGM) in place that is managed by a third party and which supply chain workers can use to file a complaint.

### Areas for improvement:

One of five issuers provided disclosure on the practical operation of the mechanism (OLGM) including number of human rights grievances received, addressed and resolved. None of the companies disclosed anything about the involvement of affected supply chain workers or their representatives in the co-design of OLGMs to ensure that workers trust them. There was limited disclosure on methods for monitoring the implementation of supply chain policies to address forced labour and no disclosure at all on the findings of monitoring reports or of any worker-driven monitoring programs. The companies can also improve by providing disclosure on processes for responding to a potential or actual violation of policy that addresses forced or child labour, including how affected stakeholders would be involved in developing an appropriate remedy.

# 0 out of 5

disclosed their process for responding to alleged violations of forced labour policies

# Recommendations

Many companies in the consumer discretionary sector have extremely complex supply chains with numerous different vendors from which they procure a vast range of goods for retail. This makes monitoring and addressing human rights risks a complicated and sometimes resource-intensive endeavor. However, Canadian Consumer Discretionary companies can start to make in-roads by mapping supply chains and and better understanding the UNGPs. Other key considerations to improve practices advocated by Business for Social Responsibility<sup>36</sup> and other experts in this space include:

## Resources



[Beyond Audits: Six Ways to Manage Human Rights Risks in Supply Chains](#)  
[The Shifting Gears Report: An Assessment of Human Rights Risks & Due Diligence in the Automotive Industry](#)  
[American Bar Association's Model Contract Clauses for Human Rights Project](#)

- 1 **Going beyond social audits.** Effective due diligence includes engaging suppliers through training and capacity building, integrating worker voice, strengthening management and governance systems, and driving greater transparency.
- 2 **Ensuring alignment between purchasing practices and company's human rights objectives** as purchasing practices are a key means by which companies can avoid increasing human rights risks in the supply chain e.g. purchaser agreements for order lead times, forecasting to reduce order volatility, ring-fencing labour costs when orders change.
- 3 **Hiring locally based procurement managers** with understanding of the local culture and context in which suppliers are operating to enable more effective collaboration with suppliers to address challenges.
- 4 **Collaborating with suppliers and worker representatives** to co-develop digital feedback mechanisms and platforms that connect buyer companies, suppliers, workers and their representatives, and governments to enable greater supply chain transparency.
- 5 **Re-thinking zero-tolerance policies and working more proactively** to enhance supplier capacity and prevent human rights abuses from occurring through identifying and mitigating barriers to enhanced HRDD.
- 6 **Introducing supplier incentives** for good performance on human rights e.g. longer term contracts, financial rewards, etc.

# Consumer Staples

1. Salient human rights risks
2. Benchmarking the sector on human rights
3. Our findings
4. Key recommendations

Consumer staples companies include food retailers and food distribution companies like grocery chains, convenience stores, and restaurants.

In 2021, retail sales of food and beverage stores in Canada amounted to approximately CAD \$144 billion.<sup>37</sup>

Human rights risks for this sector range from access and affordability for customers to worker pay and benefits in food and food distribution supply chains. Human rights risks for Canadian companies operating in Consumer Staples are complex and multi-faceted in both domestic and international levels of the value chain.



# Consumer Staples

## Salient Human Rights Risks

What are some of the most significant human rights risks for this sector?



- Access and affordability
- Health and safety
- Forced and child labour
- Fair wage and benefits and freedom of association
- Environmental impacts

How do these human rights risks map to SASB Indicators?



- Labour practices
- Supply Chain Management
- Employee health and safety
- Water & wastewater management

Source: [SASB Materiality Finder](#)

### Access and affordability

#### UDHR Article 25

Food security is a fundamental human right. It is enshrined within the Universal Declaration of Human Rights and is more specifically laid out in the International Covenant on Economic, Social and Cultural Rights adopted by Canada in 1976.<sup>38</sup> The basic right to food has been under increased threat. In September 2022, food prices in Canada were calculated to be rising at an inflation rate of 11.4%.<sup>39</sup> Supply chain disruptions due to Covid-19, the War in Ukraine, and increased energy costs have all contributed. But recently, economists and policy makers have noted the role of Canada's grocery chains and their need to address the lack of food affordability for Canadians.<sup>40</sup> Food banks in the Greater Toronto Area have reportedly never seen such demand.<sup>41</sup> To prevent consumer mistrust, public issuers should understand risks their business activities pose to food security rights and conduct due diligence to ensure they are actively working to prevent, mitigate and remediate adverse impacts from their business activities on food security, especially during a time of high inflation when risk to access and affordability is elevated.

## Health and safety

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### UDHR Article 3

At a domestic level, health risks triggered by the pandemic drew attention to the working conditions of grocery store clerks and other workers within the food production and distribution supply chains. Frontline retail workers received temporary pay increases for putting their lives on the line to come to work at the height of the pandemic. Health risks associated with unsafe temporary accommodations and working conditions of vulnerable migrant farm workers whose labour has become an integral component of Canadian food retailers' business models, were also exposed.<sup>42</sup> Advocacy groups, investors<sup>43</sup> and policy makers<sup>44</sup> have all called for change in corporate practices and policies to better protect the rights of temporary foreign workers in Canada's food production supply chains.

## Forced and child labour

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### UDHR Articles 4, 5, 23, 25, 26

Forced labour and child labour are pressing human rights risks within the food, beverage and agriculture sectors. Agriculture is identified by the International Labour Organization as one of five of the sectors at highest risk for forced labour in its [2022 report on Modern Slavery](#). Estimates are that over two million adults are forced to work at the lowest levels of agri-food supply chains, with migrant workers being disproportionately represented within this population, as they are in other sectors where forced labour is a concern. 31% of all forced

labour situations in agriculture involve debt bondage<sup>45</sup> wherein workers' autonomy is limited by employers due to outstanding debts owed (e.g. a recruitment fee).

The agriculture sector accounts for the largest share of child labour worldwide at approximately 70% (112 million children) of all child labour across sectors. It is the entry point to child labour with over three quarters of all child labourers aged 5 to 11 years of age working in agriculture.<sup>46</sup> Without more targeted action, the ILO estimates that the number of child labourers will rise dramatically by the end of 2022. The U.S. Department of Labor maintains a [list of goods](#) and their source countries it believes are produced by child labour or forced labour in violation of international standards to raise public awareness and promote efforts to combat these human rights violations. Canadian-based consumer staples companies can use this resource to understand areas of key concern for consideration in their human rights risk assessments.

## Fair wage and benefits and freedom of association

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### UDHR Article 25

Fair working hours and access to a living wage that enables workers and their families to meet their basic needs for housing, healthcare and food, are all encoded in international labour standards and the Universal Declaration of Human Rights. The essential nature of the work undertaken by labour within food production, manufacturing and distribution supply chains was emphasized during Covid-19 when front line grocery store clerks and food manufacturing workers put their health and safety on the line to come to work. When

grocery chains in Canada uniformly ended 'hero pay' (a \$2 per hour wage increase) for front-line grocery store workers in June 2020, concerns of collusion on wage fixing erupted. This resulted in legislation that will criminalize wage-fixing practices starting in June 2023.<sup>47</sup> This new law will also apply to restaurant franchises operating under the same brand and will increase pressure on businesses in the fast-food industry to pay a fair wage. In California, pressure is growing for fast food chains to provide a living wage. Worker advocacy groups and regulation under the Fast Food Accountability and Standards Recovery Act or FAST Recovery Act<sup>48</sup> have garnered consumer support. Businesses should consider the reputation risks of lobbying efforts to undermine such legislation<sup>49</sup> while simultaneously registering significant profit earnings<sup>50</sup> and high executive remuneration.<sup>51</sup>

## Environmental Impacts

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### UDHR Article 3

Industrial food production is responsible for 70% of water use,<sup>52</sup> 80% of the pollution<sup>53</sup> causing eutrophication or marine dead zones, and 21 to 37% of global greenhouse gas emissions.<sup>54</sup> According to the UN special rapporteur on human rights and the environment, the negative environmental impacts of industrial food systems are increasing fast, leading to adverse impacts on peoples' ability to enjoy a wide range of human rights including the right to life, health, food, water, a healthy environment and others.<sup>55</sup> As demand for food increases on par with human population growth, it will be incumbent on this sector to be proactive in its supply chain management approach to prevent, mitigate and remediate adverse impacts from industrial food production. Directing resources and creating incentives to catalyze greater diversity in production practices (greater variety of crops and growing methods) and consumption habits can help build more resilient food systems and help eliminate the use of water, pesticides, antibiotics, synthetic fertilizers and other inputs that have been associated with negative environmental impacts and subsequently, adverse human rights impacts.

# Consumer Staples: Human Rights Spotlight

## Child labour in cocoa supply chains

In 2021, the NGO International Rights Advocates (IRA) brought a lawsuit against several of the world's top candy-making companies on behalf of eight former child slaves who reported they had been trafficked and forced for years to harvest cocoa within these companies' supply chains. IRA filed the complaint before a United States court on the grounds of the Trafficking Victims Protection Reauthorization Act (TVPRA).

According to their testimony, the child Plaintiffs in the case were trafficked from Mali under the pretense of securing a good job harvesting cocoa. However, upon arrival in Cote D'Ivoire, they were instead enslaved and forced to work without pay and in dangerous conditions.

The companies listed in this case all signed onto the Harkin-Engle Protocol in 2001 promising consumers and regulators to end child labour in their cocoa supply chains by 2005 through self-regulation. The deadline for this protocol has been extended multiple times. Signatories have now committed that by 2025 they will reduce their reliance on child labour by 70%.

In June 2022, the defendants won a dismissal of this case on the grounds that the plaintiffs:

- were unable to show a "traceable connection" between the defendant companies and the specific plantations where they worked; and
- did not adequately explain the role of intermediaries in the cocoa supply chain, noting that the defendant companies did not monitor activity in "free zones" where about 70-80% of the cocoa is produced.

The companies stated that the plaintiffs' legal theory was too broad and could leave too many people liable for forced child labour, including consumers and retailers who benefit from lower prices.

The plaintiffs and their lawyer plan to appeal. This example demonstrates the continued prevalence of child and forced labour within consumer staples supply chains and how voluntary programs to prevent such human rights abuses are insufficient. Canada's oncoming Preventing Forced Labour and Child Labour in Supply Chains Act means that Canadian companies within all sectors will have to report on their due diligence on ensuring the worst forms of human rights abuses are absent from their supply chains.

# Benchmarking the sector on human rights

Using KnowTheChain's 2022 methodology, we assessed Canada's top five consumer staples sector companies on their HRDD across three UNGP pillars:

- Governance and Policy Commitments
- Embedding Respect and Human Rights Due Diligence
- Remedy and Grievance Mechanisms

**For more information about the KTC methodology, see [Benchmarking the sector on human rights section in the Apparel Chapter](#) and [Appendix 2](#).**

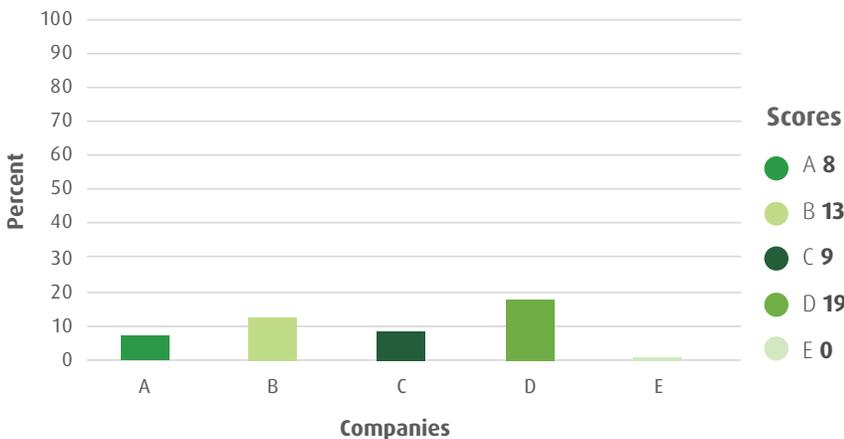
# Our findings (Scores out of 100)



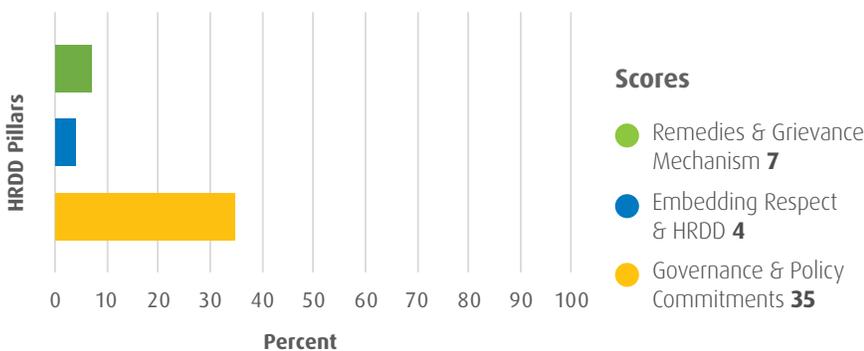
## Summary

Consumer Staples seems to be in early stages of implementing human rights best practices. One company did not receive any scores because of limited disclosures. The other four companies performed moderately well with regards to policy commitments, but can improve by enhancing board and executive level oversight. Implementation of HRDD as measured by 7 different KPIs in the KTC benchmark was limited across all five companies. Disclosure of processes for human rights risk assessment and engagement of affected stakeholders in this process is limited, as is supply chain transparency and disclosure of data on supply chains risks (e.g. number of migrant workers, women and workers receiving a living wage). All companies' disclosure of responsible purchasing practices and processes for tracking the effectiveness of grievance mechanisms and provision of remedy can be improved.

### Consumer Staples' Total Scores

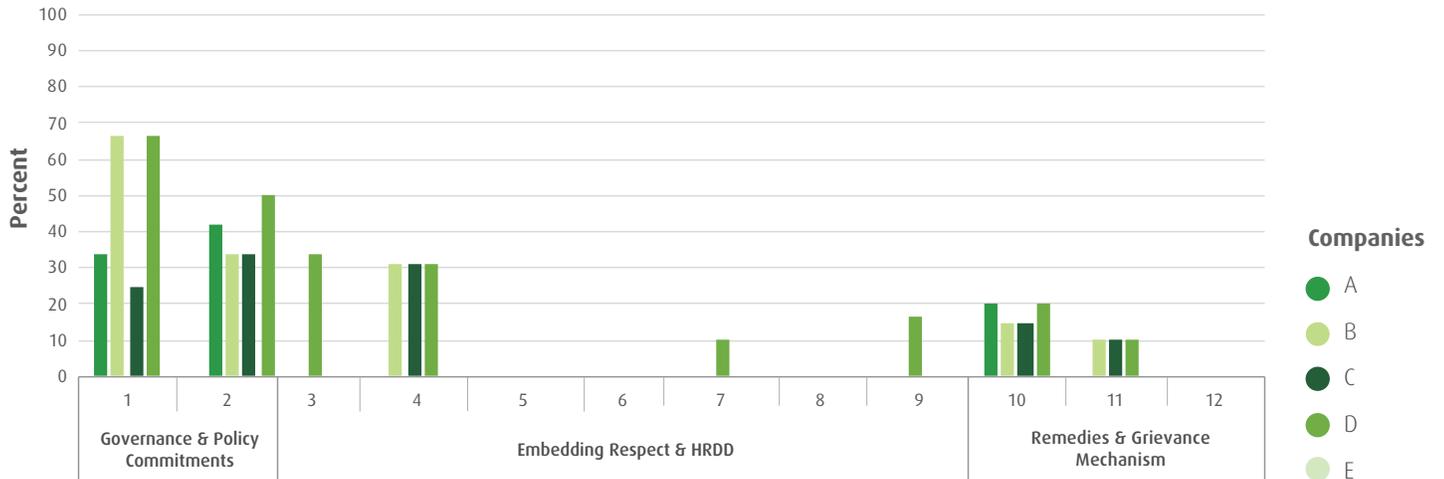


### Consumer Staples' Scores by UNGP HRDD Pillars



\* Data as at August 2022.

### Consumer Staple Company Scores by KPI



### 2022-2023 KTC Methodology

Governance & Policy Commitment	Embedding Respect & HRDD	Remedies & Grievance Mechanism
1. Supplier Code of Conduct and Capacity Building 2. Management & Accountability	3. Traceability & Supply Chain Transparency 4. Risk Assessment 5. Data on Supply Chain Risks 6. Purchasing Practices 7. Recruitment-related Fees 8. Responsible Recruitment 9. Freedom of Association	10. Grievance Mechanism 11. Monitoring 12. Remedy Programs and Response to Allegations

\* Data as at August 2022.

## Governance & Policy Commitment

### Strengths:

Three companies have made adequate policy commitments to respect human rights, including stating expectations for suppliers to also respect the ILO core labour standards and cascade these expectations down to their suppliers.

### Areas for improvement:

One company had no statement at all of expectations for suppliers to respect human rights. Two companies disclose engaging in capacity building with first tier suppliers to enable them to cascade policies to prevent forced labour down to their suppliers.

Disclosure on management and board level accountability for HRDD, and forced labour in particular, was very weak. The highest score of the five companies on this KPI was 50%.

# 2 out of 5

disclose capacity-building with first-tier suppliers to enable them to cascade policies to prevent forced and child labour in their supply chain

## Embedding Respect & HRDD

### Areas for improvement:

Disclosure on implementation of supply chain due diligence was the area where most improvements can be made. Disclosure is a key mechanism for driving accountability with transparency considered a fundamental element of adhering to the UNGPs.

### Leading Practice Example:

Formalizing responsible purchasing practices by buyers can prevent and mitigate human rights abuses in lower tiers of the supply chain by reducing pressure on labour and wages in supply chains. Canada’s major grocery retailers have been in talks with food producers and a government-appointed mediator, to come up with voluntary rules of conduct aimed at balancing power between Canada’s five major grocery chains and suppliers. Initiative to develop a ‘Grocery Code of Conduct’ began after the federal government warned Canada’s biggest grocers to improve their practices otherwise government regulation would be imposed. That the sector has come together to try to develop a ‘Grocery Code of Conduct’ in the first place is a step in the right direction. Formalizing responsible purchasing practices through binding contracts is an area under increasing scrutiny and attention in other sectors, like Apparel, as well.

# 4 out of 5

scored 0 on disclosure of information about responsible purchasing practices

## Remedies & Grievance Mechanism

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### Strengths:

Four of five companies in this category take steps to ensure provision of an impartial operation level grievance mechanism.

### Areas for improvement:

Companies start by disclosing data on the practical operation of the grievance mechanism e.g. the number of grievances filed, addressed and resolved or disclose steps taken to ensure grievance mechanisms in place at their suppliers are co-designed with affected stakeholders or their representatives to ensure that it is trusted and effective in achieving its purpose. There is room for improvement here: all companies scored low on implementation of practices to monitor the effectiveness of strategies to mitigate human rights violations within the supply chain.

# 4 out of 5

scored 0 or close to 0 for  
implementation of practices  
to monitor the effectiveness  
of human rights violations  
mitigation strategies

# Recommendations

Consumer staples supply chains are extremely complex and challenging to map and assess for human rights risks due to the scope and variety of goods sold. Through industry collaborations, such as the one exemplified by the 'Grocery Code of Conduct' working group which develops voluntary standards for more responsible purchasing practices, companies in this sector can ensure they are ready for the enactment of Bill S-211 and increasing global pressure to improve HRDD. Additional recommendations to overcome human rights challenges in the sector include:

- 1 **Map out the value chain** and understand where the most salient human rights risks are. Prioritize resources for the highest risk areas with consideration for geopolitical context and other social and economic factors.
- 2 **Work with NGOs, unions and other affected stakeholder representatives** to more effectively detect and understand human rights risks in the supply chain which can enable more effective collaboration with suppliers on preventing and managing these risks.
- 3 **Develop robust pre-screening criteria for suppliers** to understand and prevent potential human rights risks and maintain ongoing communication and collaboration with these suppliers to prevent and mitigate human rights risks.
- 4 **Do not rely solely on conventional due diligence practices** such as Supplier Codes of Conduct, third-party audits, and punitive action when infractions are discovered. Instead, find ways to work more collaboratively to understand contextual barriers to respecting human rights and collaborating on the implementation of practices to prevent, mitigate and remediate.
- 5 **Support the rights of workers** within internal operations and supply chains to freedom of association and collective bargaining.
- 6 **Introduce supplier incentives** for good performance on human rights such as longer term contracts, financial rewards, etc.

## Resources



[10 Human Rights Priorities for the Food, Beverage and Agriculture Sector](#)

[Temporary foreign workers: Your rights are protected](#)

[Balancing Buyer and Supplier Responsibilities: Model Contract Clauses to Protect Workers in International Supply Chains](#), Version 2.0, American Bar Association

# Mining

1. Salient human rights risks
2. Benchmarking the sector on human rights
3. Our findings
4. Key recommendations

Mining is a major contributor to Canada's economy and its influence is anticipated to increase in the years and decades ahead. According to data published by Natural Resources Canada (NRCAN) in November 2022, the metals and mineral sector directly contributed CAD \$97 billion to, or 4% of, Canada's total GDP in 2021<sup>56</sup> and directly employed 402,000 and indirectly employed 262,000 people for a total of 664,000 in 2021. 16,500 of those individuals identify as Indigenous.<sup>57</sup>

Canada is a mineral-rich country with the potential to develop robust critical mineral supply chains, both for domestic use and to help meet global needs.

A looming global shortage of critical minerals required to build renewable energy infrastructure and electric vehicle battery supply chains to reach net zero emissions goals has many eyes looking to Canada. The federal government frames the situation as a [once in a generation economic opportunity](#). But, if not managed effectively, the social and environmental externalities of extensive mineral extraction could have human rights impacts that can undermine Canada's energy transition ambitions.



# Mining

## Salient Human Rights Risks

### What are some of the most significant human rights risks for this sector?



- Indigenous rights and local community impacts
- Environmental impacts
- Health and Safety
- Gender-based violence and harassment
- Resettlement
- Security
- Forced and child labour

### How do these human rights risks map to SASB Indicators?



- Human Rights & Community Relations
- Employee Health & Safety
- Labour practices
- Critical Incident Risk Management
- Business Ethics
- Air Quality
- Ecological Impacts
- Water & Wastewater Management

Source: [SASB Materiality Finder](#)

### Indigenous rights and local community impacts

#### UDHR Article 2

Many mineral assets are located on or near the traditional lands of Indigenous peoples. Today, with the Universal Declaration on the Rights of Indigenous People now broadly endorsed by countries around the world, development of projects that have the potential to impact the livelihoods or cultural practices of Indigenous peoples increasingly require project proponents to obtain and maintain free prior and informed consent (FPIC) before moving forward. This is a major shift from the past when systematic economic marginalization and inadequate regard for Indigenous land rights were common practice.

But what constitutes FPIC in many jurisdictions remains up for debate given the slow pace of codifying this concept into regional laws and regulation. It is not uncommon for there to be disagreement between Indigenous communities, governments, and companies on the process and timelines for establishing FPIC, including the degree and scope of consensus required.

Best practices for mining firms include adhering to the highest international standards, even in jurisdictions where national or state law are weak on protecting Indigenous rights. Foundational to these processes is the establishment of respectful relationships with local communities from the earliest stages of project development. Valuing different kinds of capital that Indigenous partners bring to the table and gaining a fulsome understanding of unique community aspirations and or worries about development, is key. Co-designing projects from the earliest stages and ensuring optimal communication and organizational infrastructure is in place to facilitate a high degree of collaboration, can help secure consent for projects.

## Environmental & cumulative impacts

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### UDHR Articles 3, 25

Mining operations impact the environment and can subsequently profoundly impact human health and wellbeing including access to safe drinking water, a basic human right.

Mining operations use large amounts of water to process minerals. Without due diligence, the amount and quality of water available to local communities for safe consumption, agriculture, and sanitation could be negatively impacted. Mining impacts on water can also have negative impacts on local ecosystems with ripple effects on the livelihoods and cultural practices of local communities. Other impacts include air and noise pollution, increased road traffic and the use of hazardous materials.

Working collaboratively with local communities to develop and assess whether measures adequately address concerns is best practice to minimize and mitigate the environmental impacts associated with mining operations.

Furthermore, mining companies should consider human rights risks related to the cumulative impact of their operations in tandem with other industrial activities taking place within the same region. The impact of one company on the local environment on its own may not seem that significant, however, when considered in the aggregate, cumulative impacts can be devastating and lead to project delays and or failure.<sup>58</sup> Each mining company should work in close collaboration with other companies, suppliers, communities and governments to better understand its role in actual or potential cumulative impacts on the region in which it is operating so that these can be effectively managed and minimized.

## Health and safety

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### UDHR Articles 2, 3, 20, 23, 24

The human right to a healthy and safe environment applies at both mine site operations as well as to affected local communities. At the mine site, exposure to physical safety risks linked to shifting landscapes, heavy vehicles and equipment, potentially hazardous chemicals used to extract minerals from ore and other health risks associated with remote work camps, including sexually transmitted diseases such as HIV, all contribute to the characterization of mining and refining operations as dangerous work environments.

Long working hours and increased risk of accidents associated with fatigue have also historically been a health and safety concern. While mining companies generally have increased commitment to respect workers' rights to freedom of association and collective bargaining to prevent overwork and associated risks, it remains an area for continued attention and advocacy.

Finally, the need to conduct due diligence related to protecting the health and safety of local communities is illustrated by the devastating collapse of a mine waste tailings dam in Brumadinho, Brazil in 2019. Negligence on behalf of the mining company responsible in managing the safety risks of this physical infrastructure resulted in the death of 270 people, homicide charges and an initial compensation payment of USD \$7 billion by the mining firm to locally affected stakeholders.

All of these examples underscore the importance of effective engagement with stakeholders and rights holders to develop processes for collaboration on identifying, assessing and managing health and safety and other human rights risks at both operational and community levels.

## Gender-based violence & harassment

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### UDHR Article 26

Mining is a traditionally male dominated industry where sexual harassment and gender-based violence and discrimination is an established risk. A [2022 probe](#)<sup>59</sup> into sexual assaults and harassment of women in Fly In-Fly Out mining operations in Western Australia concluded the issue is a systemic problem that requires strategic management versus one-off investigations when incidents occur. The National Inquiry into [Missing and Murdered Indigenous Women and Girls](#) report in Canada supports this assessment. It adds another dimension around impact on local communities through intersectional considerations of racism and colonialism in its analysis of the human rights impacts on Indigenous women and girls and LGBTQ2S+ people from resource extraction.

Addressing this problem can not be done by companies alone, but requires a multi-pronged approach that includes cross-sector collaboration with public services and skilled engagement with affected stakeholders and advocates to co-develop prevention strategies. If done well, this can prevent harm and boost representation of women in the industry simultaneously helping to solve for the material labour shortage in mining.<sup>60</sup>

## Resettlement

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### UDHR Articles 17, 25

Expanding already established mine sites or developing new ones sometimes involves acquisition of lands by mining companies that result in communities having to relocate. Without sufficient planning and collaboration, these activities can have significant impacts on those affected, including disruption of the right to use land for economic livelihoods, the right to food production, the right to culture and other rights for those affected stakeholders. If mining companies do not negotiate fairly in regions where there is weak regulation and rule of law, and resettlement occurs anyway, this can lead to significant conflict which impacts mining companies' social licence to operate.

Mining companies should strive for project designs that do not require resettlement. When it is unavoidable, mining issuers must ensure that engagements with affected stakeholders are culturally sensitive and are aligned with the highest international standards e.g. UN Declaration on the Rights of Indigenous Peoples and or the International Finance Corporation's Performance Standard on Land Acquisition and Involuntary Resettlement.

## Security

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### **UDHR Articles 3, 5, 19, 20**

Mines sites hire security to ensure the safety of staff and mining assets. If a project is controversial or located in a region where there is conflict or forced relocation of locals, there are elevated risks for violence to occur resulting in potentially grave human consequences and significant reputational damage. Managing security in these contexts requires a thoughtful, strategic, and skilled approach that should include innovative solutions for security responses outside of local police services, especially in regions with weak rule of law where law enforcement services may be compromised by corruption, lack of training and/or lack of resources.

The [Voluntary Principles on Security and Human Rights \(VPS\)](#) was developed twenty years ago through a global multi-stakeholder initiative. It is a best practice framework for resource extraction security which can help resource extraction sites anticipate and mitigate human rights risks related to security. Implementation of security-related management systems aligned with the VPs, alongside information sharing with a mining operation's community relations department and close monitoring and collaborative remediation of community grievances, can help prevent and mitigate risks of violent conflict from escalating.

Ultimately, however, high-level company strategy and execution of HRDD into the business model from the outset i.e. considering geopolitical and country-risk factors at the exploration, permitting and mine site development stages, and approaching projects from the outset with a commitment to respect the land rights of local stakeholders, can significantly eliminate security concerns that may arise down the road and compromise a mining company's social licence to operate.

## Forced & child labour

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### **UDHR Article 4**

For large scale mines (LSMs), human rights risks related to forced and child labour are associated mainly with supply chains and to a lesser extent, interactions with artisanal scale mines (informal, small-scale mines where there are often high rates of child labour and some forced labour) and which are often established adjacent to LSMs or even on the same concession as LSMs. In regions where there are higher risks of forced and child labour in local supply chains, it is incumbent on the mining company to conduct rigorous due diligence at the pre-contracting stage and on an ongoing basis to prevent and mitigate forced and child labour, and to commit to working with suppliers to provide remedy when these abuses are uncovered. Mining companies should also expressly state their expectation that suppliers cascade expectations to their suppliers to adhere to human rights policies that restrict forced and child labour and provide training to suppliers if necessary to be able to cascade these expectations and implement preventative programs to ensure compliance. With regard to artisanal scale mines operating near or on the same concessions as LSMs, to reduce risk of conflict over mineral rights, LSMs should explore opportunities to formalize relationships with artisanal scale miners who are often driven to the gruelling work due to poverty and lack of other economic opportunities. Artisanal scale miners, on the whole, contribute significantly to global mineral supply. Through more formalized relationships, LSMs could help support enhanced safety and the elimination of child labour in artisanal scale mining operations. Suggestions for ways to do this are laid out in this 2017 report on [Global Trends in Artisanal and Small Mining](#).<sup>61</sup>

## Mining: Human Rights Spotlight

### **Mining Executives forced to resign over destruction of sacred Indigenous cave site**

In May 2020, a major Australian mining firm permanently destroyed a cave in Juuken Gorge, an area in the Pilbara region of Western Australia considered to be sacred by the Puutu Kunti Kurrama and Pinikura (PKKP) Indigenous people. The rare ancient rock shelter embodied evidence of human occupancy dating back 46,000 years as well as artefacts and evidence of a 4,000-year-old genetic link to the PKKP peoples.

The mining company had obtained a government permit to expand its mine site from the Western Australian government in 2013. Following permit issuance, the company had the Juuken Gorge area assessed by archaeologists at which point the site's tremendous historical and cultural significance was further illuminated.

According to reports, the PKKP had been in discussion with the mining firm for years regarding development of an alternative plan to preserve the site. Because Western Australia's outdated mining regulation provided no legal grounds through which the permit could be revoked based on the new information uncovered by the archeological assessment, the company was under no legal obligation to change course.

Public outcry and investor disapproval over the company's actions were immediate. By September 2020, investors were calling for the CEO, and two other senior executives, to step down. Continued pressure led to the Board Chair and another board director stepping down in March 2021.

The company has subsequently reported that it has undergone a systemic review and as a result has implemented several programs to enhance due diligence on respect for the rights of Indigenous peoples. The company has stated its commitment to rebuild trust through ensuring equitable partnerships with the PKKP people and other rightsholders and stakeholders affected by their projects.

# Benchmarking the sector on human rights

In 2018 the [World Benchmarking Alliance \(WBA\)](#) was created with a mandate to drive sustainable corporate behaviour towards the transformational change required to achieve the [2030 Sustainable Development Goals](#). The WBA creates sector and issue specific benchmarks for assessing and comparing the performance of major corporations across multiple sectors.

For our research, we applied the WBA's [Corporate Human Rights Benchmark Core UNGP Indicators \(CHRB\)](#) framework to our analyses of top Canadian companies in the Mining, Oil and Gas, and Telecommunications sectors. Like the KnowTheChain, the KPIs in the CHRB methodology are based on the UNGPs' three pillars for conducting effective human rights due diligence (Governance & Policy Commitments, Embedding Respect and Human Rights Due Diligence, and Remedies and Grievance Mechanisms). This framework is a high-level assessment that can be applied to businesses of all sizes, in any sector or jurisdiction.

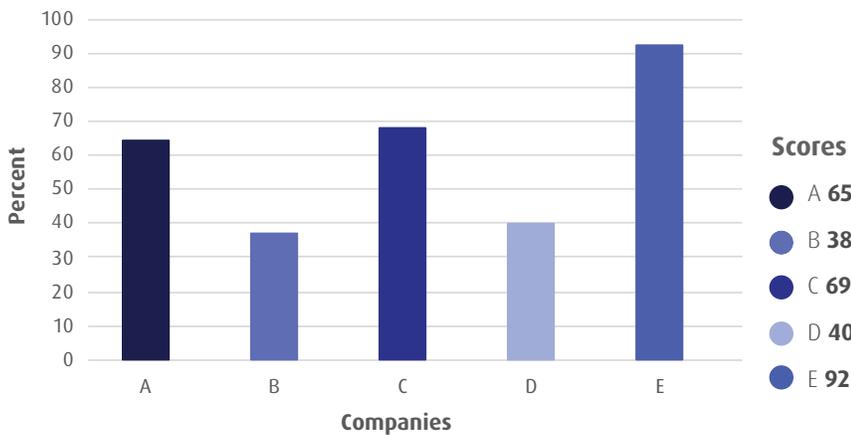
In 2020, the CHRB was applied to 230 global companies across sectors to assess their human rights disclosures. Key findings were that many companies have made policy commitments to respect human rights but actual implementation and due diligence were still very lacking. Of the extractive sector companies analyzed (both Oil and Gas and Mining companies) 88% of companies assessed had made basic commitments to respect human rights but only 40% referenced adherence to best practices as outlined in the UNGPs or the OECD Guidelines for Multinationals. Only 42% had commitments to the ILO core labour standards (freedom of forced and child labour, non-discrimination, and freedom of association) as well as expectations for suppliers to respect these rights. Another finding was the generally limited integration by extractive companies of the perspectives of affected stakeholders in the development or monitoring of a company's human rights approach. The average score for extractives companies on the 2020 CHRB benchmark assessment was 7.9/26 or 30%.

Another excellent benchmark for assessing mining company performance by mine site is the [Responsible Mining Index](#). We chose not to apply this benchmark because its in-depth approach to assessing individual mine sites was outside of scope of our resources for this research. We recommend this index for understanding mining companies' performance by mine site at a more granular site-specific level.

# Our findings (Scores out of 100)



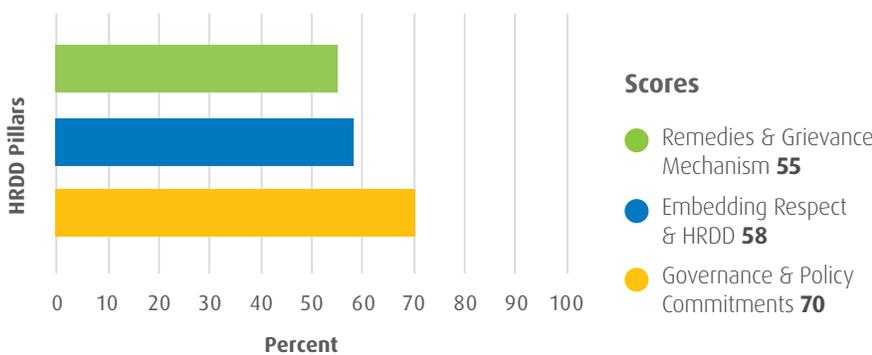
## Mining Companies' Total Scores



## Summary

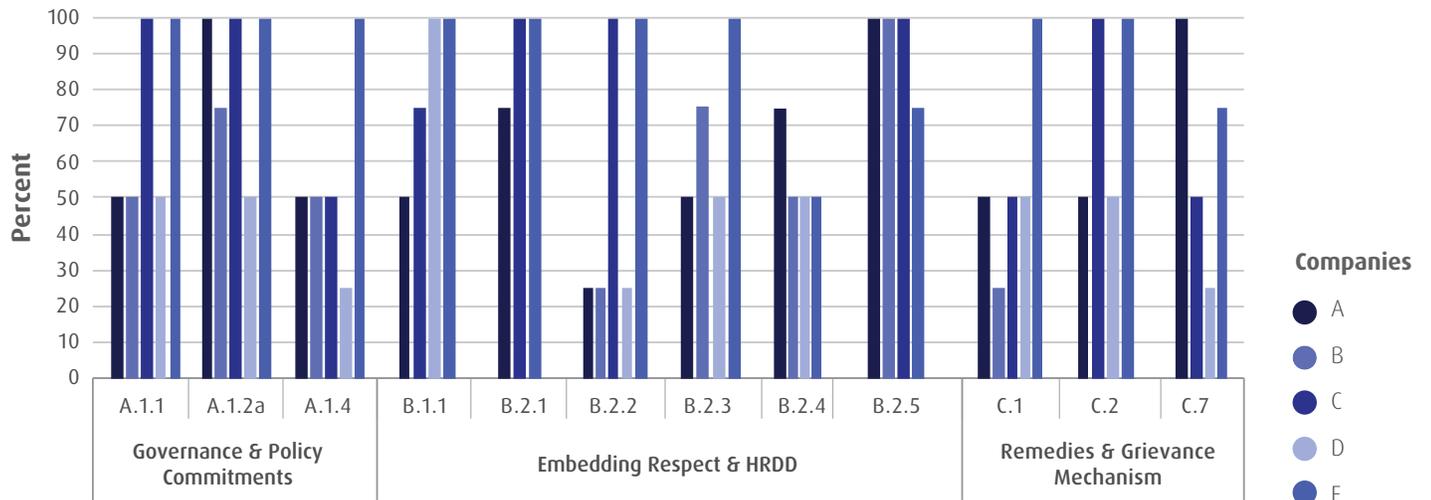
Mining was the highest performing sector in our HRDD benchmark assessment. Like all other sectors, performance on policy commitments was the strongest area of performance. Companies performed least well on tracking and reporting on the effectiveness of actions taken to prevent and mitigate human rights risks. While some companies provided some limited disclosure on programs designed to prevent and mitigate human rights abuses, none of the companies assessed provided disclosure on how affected stakeholders or rightsholders are involved in the evaluation of whether actions taken have been effective.

## Mining Companies' Scores by UNGP HRDD Pillars



\* Data as at August 2022.

### Mining Company Scores by KPI instead of Oil and Gas Scores by KPI



2021 CHRB CORE UNGPs Methodology		
Governance & Policy Commitment	Embedding Respect & HRDD	Remedies & Grievance Mechanism
A.1.1 Commitment to respect human rights A.1.2a ILO Declaration on Fundamental Principles and Rights at Work A.1.4 Commitment to remedy	B.1.1 Responsibility and resources for day-to-day human rights functions B.2.1 Identifying human rights risks and impacts B.2.2 Assessing human rights risks and impacts B.2.3 Integrating and acting on human rights risks and impact assessments B.2.4 Tracking the effectiveness of actions to respond to human rights risks and impacts B.2.5 Communicating on human rights impacts	C.1 Grievance mechanism(s) for workers C.2 Grievance mechanism(s) for external individuals and communities C.7 Remedying adverse impacts

\* Data as at August 2022.

## Governance & Policy Commitment

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### Strengths:

All mining companies assessed make a clear policy commitment to respect human rights and to also respect the ILO's core conventions on the rights of workers (freedom of association, freedom from forced and child labour, freedom from discrimination). Three companies make clear statements of expectation for suppliers to uphold the ILO's core conventions on the rights of workers.

All companies disclose senior manager roles accountable for implementation and decision making on human rights (sometimes referred to as oversight of social issues).

### Areas for improvement:

Two of five companies commit to respecting the UNGPs or the OECD Guidelines for Multinationals. One of five mining issuers makes a clear policy statement on commitment to remedy the adverse impacts on individuals and communities that it has caused or to which it has contributed, and includes in this commitment:

- A statement of expectation for suppliers to commit to provision of remedy;
- A statement of commitment to collaborate with judicial and non-judicial mechanisms to provide access to remedy; and
- A statement of commitment to work with extractive business partners and suppliers to remedy adverse impacts from their business activities associated with the company's value chain.

Two of five companies adequately describe how human rights policy commitments are operationalized and resourced across departments and for managing risks associated with supply chains and the business activities of extractive business partners.

# 5 out of 5

disclose senior manager roles accountable for implementation and decision making on human rights

## Embedding Respect & HRDD

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### Strengths:

Four of five companies performed well on measures of how they communicate their human rights impacts. These companies provided concrete case examples wherein they described how they communicated with affected stakeholders and/or their representatives regarding specific human rights impacts. These companies also provided disclosure on challenges to effective communication with these groups and efforts made to overcome them.

### Areas for improvement:

Two of five companies received full credit for the identification of human rights risks and impacts. Key performance indicators of effective practice include whether companies have processes in place to identify human rights risks and impacts for specific locations or activities related to internal operations as well as activities of suppliers and extractive business partners. The benchmark also looks at whether companies have a global system in place to identify human rights risks and impacts across activities and in consultation with both internal and external stakeholders who may be affected.

Companies are also assessed on disclosure of processes for assessing human rights risks once they have been identified. How do they determine which ones are most salient and therefore a priority? Two companies scored full credit here for describing with sufficient detail how relevant factors are taken into account including geographical, economic, social and other factors and how these considerations are also applied to assessment of risks and impacts related to supply chains and the activities of extractive business partners. Three of the companies did not seem to have disclosure on how they involve affected stakeholders in the assessment process for determining the salience of risks.

Tracking and reporting on the effectiveness of actions taken to prevent and mitigate human rights risks is the area where most improvements can be made. While some companies provided some limited disclosure on programs designed to prevent and mitigate human rights abuses, none of the companies disclose on how affected stakeholders or rightsholders are involved in the evaluation of whether actions taken have been effective.

#### **Leading Practice Examples:**

The highest scoring mining issuer published a standalone human rights report for the first time in 2021 signalling the importance of human rights due diligence to its business operations and overall success.

Within this standalone document, the company describes its processes for identifying and assessing human rights risks, including practices for effective engagement with stakeholders in these processes. It clearly lists its most salient human rights risks and lays out its strategy for preventing and mitigating them.

While some companies analyze human rights risks as part of a materiality review, this company demonstrates a comprehensive understanding that human rights due diligence is first and foremost about examining external impacts from business activities to detect, prevent and mitigate harmful impacts to people and the environment (versus primary motivation being to mitigate impact on enterprise value from outside-in ESG issues).

The company has announced that it will undertake a thorough human rights risk assessment across every operation of the business every two to three years with a note that high and medium-risk sites will receive more regular risk assessment. This human rights report increases company accountability at the most senior level of the business as it provides investors and other stakeholders with information required to better understand and manage risk.

## 4 out of 5

communicate human rights impacts by providing case examples

## Remedies & Grievance Mechanism

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### Strengths:

All mining firms have an operation level grievance mechanism available for workers and external stakeholders available through their website.

### Areas for improvement:

Four of five mining issuers do not adequately disclose processes for ensuring that workers and community members are aware of the grievance mechanism. These firms also do not disclose information about how they ensure that workers in their supply chains, or external stakeholders affected by supply chain activity, have access to either their company grievance mechanism, or to a trusted grievance mechanism provided by the supplier, to raise complaints or concerns about human rights issues.

One of five companies received full credit for disclosure of practices to remedy adverse impacts. Four companies had insufficient disclosure on adverse impacts the company has caused or to which it has contributed and the approach it has taken to provide or enable a timely remedy for victims. Companies can improve disclosure in this area by providing more information about the adverse impacts they have caused as well as information about changes to systems, processes, and practices to prevent similar adverse impacts in the future. Disclosure of methods for monitoring implementation and effectiveness of agreed remedies is also a key performance indicator for measuring firms' practices on provision of remedy.

# 1 out of 5

adequately discloses its approach to providing remedy for adverse impacts caused

# Recommendations

While there is a range of depth in understanding and application of effective human rights due diligence across Canada's top mining companies, overall, Canadian mining issuers are on the right path and have the potential to be global leaders. There is, however, still room for improvement.

At the highest level, and if they have not already, we recommend Canadian mining firms consider HRDD as an essential practice that is just as fundamental to business success as traditional risk management processes. Specifically, we recommend companies:

## Resources



[Corporate Human Rights Benchmark for the Extractives Sector](#), World Benchmarking Alliance  
[Responsible Mining Index Leading Practices](#)  
[Enough is Enough: Sexual harassment against women in the FIFO mining industry](#)  
[Western Australian Government response to the Community Development and Justice Standing Committee Report 2: 'Enough is Enough' - Sexual harassment against women in the FIFO mining industry](#)

- 1 **If in the early stages of exploration or development**, seek to understand the unique interests and rights (with particular attention to Indigenous interests and rights, if applicable) of local community members who may be impacted by mining development. Integrate these perspectives into mine design through collaborative partnerships.
- 2 **Ensure effective communication** with local communities i.e. that is culturally appropriate and equitable.
- 3 **Conduct separate, site-specific human and Indigenous rights risk assessments** to identify, assess and prioritize the most salient human rights impacts from direct business activities and business activities to which they are linked through relationships with suppliers and extractive business partners.
- 4 **Disclose how specific factors like geo-political risk**, conflict, and local social and economic factors are considered in the identification and assessment of human rights risks.
- 5 **Disclose formal processes by which the perspectives of affected stakeholders are integrated** into the identification and assessment of human rights risks, including how the voices of some of the most marginalized stakeholders and rights holders are integrated into decision making.
- 6 **Disclose processes by which affected stakeholders are engaged** to manage and track the effectiveness of strategies to prevent, mitigate and remedy adverse impacts.
- 7 **State clear policy commitments to provision of remedy and cooperation** with judicial and non-judicial processes to determine appropriate remedy, and state expectations for suppliers and extractive business partners to provision of remedy, with a commitment to work with these business relations to ensure remedy for adverse impacts from business activities.
- 8 **Look to UNGP based human rights benchmarks for best practice key performance indicators** and provide disclosure on these metrics that provide the information about implementation that helps investors understand how companies are performing on their due diligence (versus mere statements of expectations).

# Oil and Gas

1. Salient human rights risks
2. Benchmarking the sector on human rights
3. Our findings
4. Key recommendations

A photograph of several red and blue oil pumpjacks in an open field at sunset. The sky is a mix of orange, pink, and blue. The pumpjacks are in the foreground and middle ground, with some pipes and infrastructure visible in the lower part of the frame.

Canada's oil and gas sector contributes significantly to the Canadian economy. Canada is the world's 4th largest oil producer and 5th largest gas producer with the sector contributing a combined 16% of total exports in 2020<sup>62</sup> and up to an estimated CAD\$152 billion towards national GDP<sup>63</sup> in 2022. The industry also provides significant employment opportunities. In 2020, 178,500 people were directly employed and 415,000 people worked at jobs indirectly related to Canadian oil and gas production.

Over the next decades, it is expected that the industry will undergo a significant and challenging transition in line with global and national goals to reach Net Zero emissions by 2050.

Human rights risks associated with the oil and gas sector are complex and evolving at a rapid pace.

In July 2022, the United Nations General Assembly adopted a resolution on the human right to a clean, healthy and sustainable environment that it hopes will add momentum to actions for mitigating climate change and biodiversity loss through empowering governments and people to act.<sup>64</sup> Given the prominent role of the Oil and Gas sector in Canada, and predictions for growing energy demand globally, we will need all hands on deck to tackle this challenge together.



# Oil and Gas

## Salient Human Rights Risks

### What are some of the most significant human rights risks for this sector?



- Environmental impacts
- Indigenous rights and impact on local communities
- Health and Safety
- Gender-based violence and harassment

### How do these human rights risks map to SASB Indicators?



- Human Rights & Community Relations
- Employee Health & Safety
- Business Model Resilience
- Critical Incident Risk Management
- Management of Legal & Regulatory Environment
- Business Ethics
- GHG Emissions
- Air Quality
- Ecological Impacts
- Water & Wastewater Management

Source: [SASB Materiality Finder](#)

### Environmental impacts

#### UDHR Articles 3, 25

Human beings are dependent on the environment in which they live. Negative environmental impacts from oil and gas extraction, processing and end-use are salient human rights risks for both local communities and people around the world. Fossil-fuel emissions contribute to the green house gas effect that is warming the planet at an accelerated pace contributing to more catastrophic weather events with devastating impacts on natural ecosystems and the built world upon which humans rely for their survival and wellbeing. Oil spills also disrupt wildlife ecosystems that can subsequently impact communities and livelihoods.

Pressure on oil and gas companies to be accountable for these negative impacts is mounting, including a growing number of lawsuits filed against oil majors for failure to disclose the known contribution of carbon emissions on anthropogenic (human caused) climate change.<sup>65</sup>

Despite anticipated growing demand for fossil fuels to meet energy needs around the world,<sup>65</sup> Canadian oil and gas producers are under pressure to set and meet concrete targets for reducing emissions. This will require extensive collaboration with affected stakeholders and rights holders, sector peers, government policy makers, civil society groups, innovators and consumers to develop holistic and coordinated strategies.

## Indigenous rights and impact on local communities

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### **UDHR Articles 2, 17, 25**

The oil and gas sector employs approximately 10,400 Indigenous peoples across the country.<sup>67</sup> It is also a leader on developing equity partnerships with First Nations and Métis peoples on fossil fuel infrastructure which participating First Nations and Métis peoples view as an important means by which to improve socio-economic outcomes for their communities after decades of systematic economic marginalization. At the same time, however, Indigenous peoples are some of the most at risk from adverse impacts from the fossil fuel industry.

For example, colonial imposition of forced relocation across North America has resulted in Indigenous nations being displaced to areas that, on average, make them more exposed to climate change hazards today, like decreased precipitation and drought, as well as flooding.<sup>68</sup> Indigenous peoples are also disproportionately impacted directly by the environmental and social impacts of fossil fuel extraction due to proximity of oil and gas reserves near to their communities and traditional lands.

This sector is encouraged to continue to actively forge partnerships with Indigenous peoples to find solutions to these collective challenges. Some examples of enhanced practices already demonstrated by the Oil and Gas sector include:

- Integrating Indigenous traditional knowledge into due diligence to prevent, mitigate and remedy environmental impacts from fossil fuel extraction.<sup>69</sup>
- Collaboration to develop optimal energy transition pathways, such as equity partnerships with First Nations and Métis groups for the development of natural gas (considered by some as a transition fuel) pipeline infrastructure.<sup>70</sup>
- Culturally appropriate retraining programs and social supports for Indigenous workers in the sector.<sup>71</sup>
- Collaboration with Indigenous partners on clean energy innovation.<sup>72</sup>
- Collaboration to prevent and mitigate negative social impacts on local communities through fair negotiation, strategic planning<sup>73</sup> and employee education on Indigenous history and culture.

## Health and safety

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### UDHR Article 3

The right to safety and security of person is covered under Article 3 of the Universal Declaration on Human Rights. Health and safety is commonly reported by extraction companies as one of the most significant human rights issues of focus, with most oil and gas majors reporting on the number of fatal and non-fatal incidents per annum and strategies implemented to mitigate health and safety risks. Lack of proper procedures, inadequate risk assessment, and poor risk management and equipment failures are just some of the root causes that companies must address.

Oil and gas companies can prevent and mitigate health and safety risks through providing employees with relevant training, information and education in appropriate languages, fostering a culture of psychological safety through which employees feel empowered to speak up about health and safety issues and concerns, investing in appropriate protective clothing and equipment and having policies in place to prevent excessively long working hours that can lead to fatigue and human errors that can result in accidents and injuries.

## Gender-based violence and harassment

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### UDHR Articles 1, 2, 5

Women are underrepresented in the energy sector.<sup>74</sup> A review by the Pembina Institute documented widespread wage gaps and an industry culture that promotes gender bias. Other barriers noted include lack of access to opportunities afforded through networking, lack of jobs with flexible hours and child-care support, and limited or no opportunities for advancement.<sup>75</sup>

A possible corollary of the underrepresentation of women in the oil and gas and other extraction industries, is an increased rate of sexual violence linked to resource extraction. 'Rigger Culture' is a term used to describe place-based culture of hyper-masculinity, sexism, homophobia, apathy towards self care, and disconnection from the local community that is often associated with remote industrial work camps.<sup>76</sup> Findings from the final report of the [Missing and Murdered Indigenous Women and Girls](#) inquiry make this same connection as did research conducted by the Firelight Group in 2017 that found an increase in the rate of sexual assault and resource extraction in British Columbia of 26% per year.<sup>77</sup>

Gender-based discrimination, violence and harassment is a human rights abuse that exacerbates the oil and gas sector's already challenged ability to obtain and maintain a social licence to operate.<sup>78</sup> Given extreme challenges the industry is facing and will continue to face as it navigates the energy transition over the years ahead, implementing effective HRDD in the area of gender discrimination, violence and harassment may help address these concerns while also attracting a more diverse workforce to enable better problem solving.<sup>79</sup>

# Oil and Gas: Human Rights Spotlight

## Gas flaring in Iraq impacts the human right to a clean, healthy, and sustainable environment

In September 2022, BBC News reported that multinational oil companies with operations in Iraq failed to account for almost 20 million tonnes of CO<sub>2</sub> equivalent in emissions from gas flaring (burning of excess gas released during oil production) in 2021 at oil fields in Iraq where reinforcement of international standards are lax. The news service equated this estimate to the greenhouse gas emissions produced by 4.4 million cars in one year. Chemicals from flaring contribute to global warming and air pollution and have also been linked to elevated risks for cancer in local populations, especially in children.

The oil and gas companies identified in the report claim their reporting methods are standard industry practice. They have contracted with other companies to manage their Iraq operations and state it is the responsibility of these firms to declare emissions from flaring. BBC News' investigation revealed, however, that many of these contracted operators do not declare emissions from flaring either.

In October 2022, the Iraqi Environmental Minister Jassem al-Falahi publicly acknowledged the link between flaring and increased risk of cancer, something locals had long suspected. According to an Iraq Health Ministry report leaked to BBC News, cancer rates in communities near to the oil fields rose by 20% between 2015 and 2018. Air tests conducted in 2021 also revealed levels of benzene, linked to leukemia, had reached or surpassed Iraq's national limit in multiple places and urine samples collected from 52 children living in the vicinity of flaring, showed elevated levels of another chemical, naphthalene, suspected of causing cancer.

Families in the region who have experienced serious and fatal cancer diagnoses, have asked for remedy from the parent oil and gas companies and contractors. Tight regulation applied in other countries to curb flaring and its associated emissions have proven it is possible, but expensive, to do.

This example reinforces the need for regulation to help ensure that corporate actors are held accountable for conducting human rights due diligence regardless of where they operate.

# Benchmarking the sector on human rights

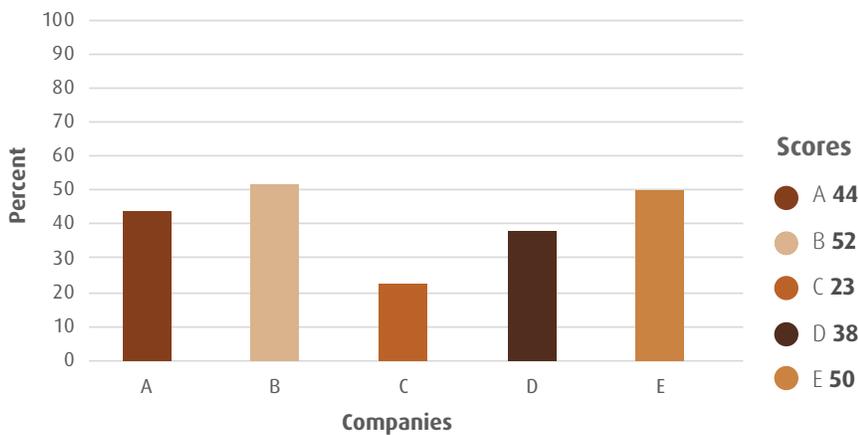
We applied the WBA's CHRB Core UNGP Indicators methodology to assess the top Canadian oil and gas companies.

**To learn more about the CHRB framework, see the [Benchmarking the Sector section in the Mining Sector Chapter](#) or [Appendix 2](#).**

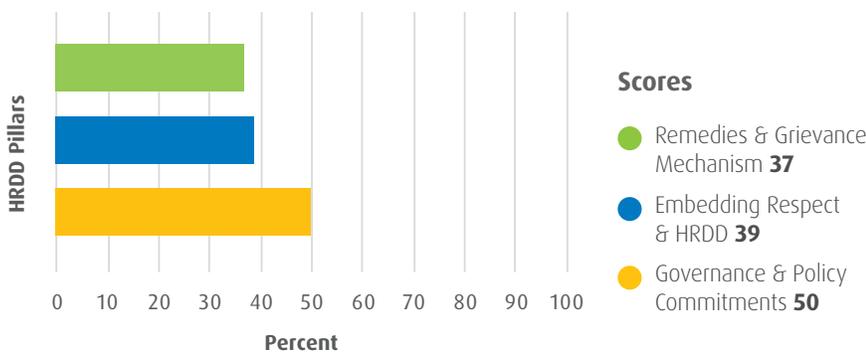
# Our findings (Scores out of 100)



## Oil & Gas Companies' Total Scores



## Oil & Gas Companies' Scores by UNGP HRDD Pillars

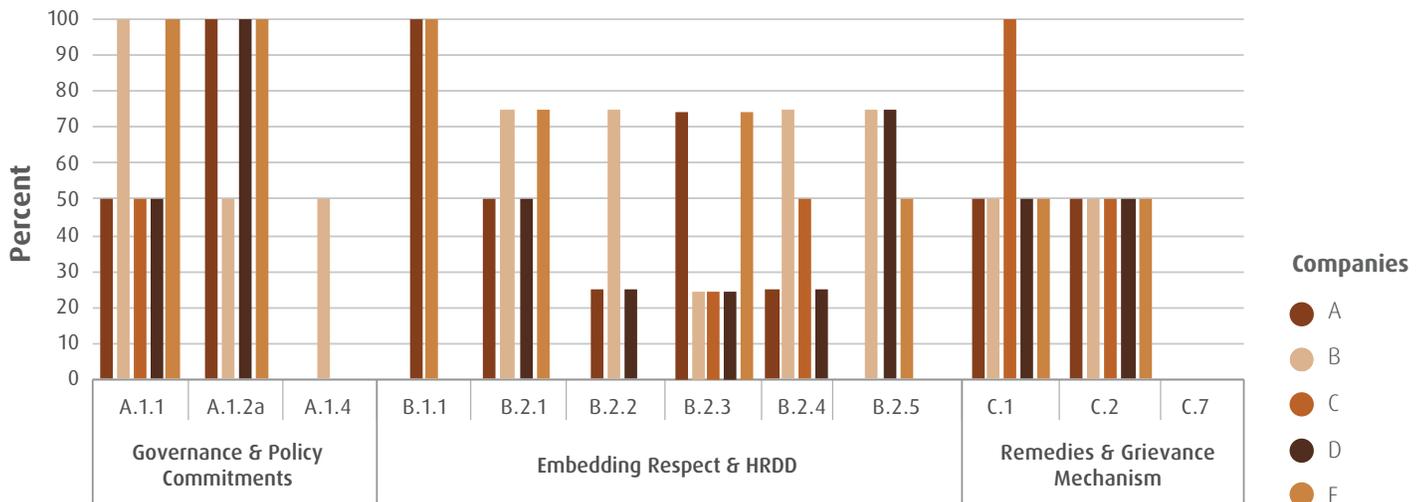


## Summary

Oil and gas companies perform best overall on their policy commitments to human rights. There is room for improvement in commitments to respect the UNGPs, the ILO core conventions on the rights of workers, and provision of remedy. Some companies were further advanced than others on implementation of HRDD, especially related to disclosing processes for materiality assessments and engaging with stakeholders. As a next step, conducting a full human rights risk assessment can help oil and gas companies better understand the adverse impacts on human rights from their business activities. Consistent with our findings in other sectors, most improvements can be made on disclosures related to providing remedy.

\* Data as at August 2022.

### Oil & Gas Compan Scores by KPI



### 2021 CHRB CORE UNGPs Methodology

Governance & Policy Commitment	Embedding Respect & HRDD	Remedies & Grievance Mechanism
A.1.1 Commitment to respect human rights A.1.2a ILO Declaration on Fundamental Principles and Rights at Work A.1.4 Commitment to remedy	B.1.1 Responsibility and resources for day-to-day human rights functions B.2.1 Identifying human rights risks and impacts B.2.2 Assessing human rights risks and impacts B.2.3 Integrating and acting on human rights risks and impact assessments B.2.4 Tracking the effectiveness of actions to respond to human rights risks and impacts B.2.5 Communicating on human rights impacts	C.1 Grievance mechanism(s) for workers C.2 Grievance mechanism(s) for external individuals and communities C.7 Remedying adverse impacts

\* Data as at August 2022.

## Governance & Policy Commitment

### Strengths:

All five oil and gas companies make a policy commitment to respect human rights while all but one also provide a public statement on commitment to respecting the human rights of workers as outlined in the ILO's core conventions (i.e. commitment to ensure no forced or child labour, no discrimination, and respect for freedom of association).

### Areas for improvement:

Two of five companies state a commitment to respect the UNGPs or the OECD Guidelines for Multinational Enterprises. The CHRB benchmark provides guidance on distinguishing between language that expresses true commitment versus that which can be manipulated for loopholes. One of five of the companies met the benchmark's best practice standard for a stated commitment to collaborate with judicial and non-judicial mechanisms as well as an expectation that extractive business partners and/or suppliers will provide remedy and ensure remedy is provided in the event of human rights violation.

# 5 out of 5

companies have a policy commitment to respect human rights

## Embedding Respect & HRDD

**Strengths:** See areas for improvement.

### Areas for improvement:

Companies in this sector can improve disclosure on how they are embedding respect for human rights in company culture and management systems. For example, companies can start disclosing information about senior manager roles accountable for the implementation and decision making on human rights issues and how responsibility for implementing human rights policy commitment(s) for day-to-day management across relevant departments is managed. For this KPI the benchmark looks for disclosure of information about how resources are allocated and what expertise is applied in day-to-day management of human rights issues within company operations and in assessing risks related to the business activities of extractive business partners and/or suppliers.

Other areas for improvement include identifying, assessing, and integrating and acting on human rights risks and impact assessments. The CHRB benchmark looks for disclosure on the processes and criteria for identifying and assessing the most salient human rights risks and how relevant factors such as geographical, economic, and social factors are taken into consideration and how these processes are applied to understand human rights risks related to the business activities of extractive business partners and/or suppliers. Disclosure of processes for engaging stakeholders in the assessment of, and development of strategies for managing and assessing effectiveness of efforts to mitigate human rights risks was another area that can use attention.

**Leading Practice Example:**

Three of the five oil and gas companies assessed have established equity partnerships with Indigenous communities on pipeline and other fossil fuel infrastructure. Ownership stakes for Indigenous peoples represent a fundamental shift in power dynamics between corporations and rightsholders towards one of equality.

Through ownership, Indigenous communities are better assured of influence over executive level decision making and can simultaneously exercise greater oversight and management of the social and environmental impacts of business activities. Indigenous equity ownership also establishes greater certainty of equitable access to the economic benefits of resource extraction on their traditional lands.

The oil and gas industry is demonstrating leadership with respect to forging equitable partnerships with Indigenous peoples. While the enabling conditions have been driven by an extremely fraught context over development of new fossil fuel infrastructure (because Indigenous equity stakes can help companies secure social licence for projects) nevertheless, equity partnerships set a precedent that should be transferred to other sectors as an effective means for respecting Indigenous rights and economic reconciliation. And while we recognize equity partnerships as a leading practice, we acknowledge simultaneously that it is not a panacea for meeting expectations to respect Indigenous rights. There are many Indigenous rights holders that, regardless of ownership opportunities, do not support oil and gas extraction on or near their lands.

**0 out of 5**  
disclose explicit human  
rights risk assessments  
that consider geographical,  
economic and social factors

## Remedies & Grievance Mechanism

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### Strengths:

All companies disclose having third party managed grievance mechanisms available through their websites with toll-free telephone numbers which are accessible by both workers and community members.

### Areas for improvement:

All companies can take steps to improve disclosures on operation level grievance mechanisms both for workers as well as external stakeholders. For example, they can provide disclosure on how workers are made aware of operation level grievance mechanisms e.g. through special communications or training, or make the grievance mechanism available in local languages (e.g. posters in local languages). They can also disclose expectations that extractive business partners and/or suppliers have operation level grievance mechanisms through which external individuals and/or community members can report concerns. Ensuring the presence of effective operation level grievance mechanisms is an important means by which companies can become aware of human rights infractions which in turn helps prevent human rights risks from occurring in the first place.

Disclosure on provision of remedy for human rights impacts is an area for improvement for all companies. This includes disclosure of the length of time a person could expect for provision of remedy, what changes a company has made in response to past human rights abuses to prevent reoccurrence and if no human rights abuses have occurred, the approach it takes to review and change systems, processes or practices to prevent them from occurring in the first place.

# 5 out of 5

companies disclose having third party managed grievance mechanisms in place

# Recommendations

Oil and gas production contributes immensely to Canada's prosperity. Tax revenues from the sector pay for fundamental social goods like healthcare, education, roads and other major infrastructure. As such, recommendations for enhancing HRDD in this context must focus on strategies to engage with all affected stakeholders and rights holders to ensure buy-in, an enabling regulatory landscape and that no one, including entire communities and regions, is left behind on the road to Net Zero. As a start, we recommend companies:

- 1 **Conduct comprehensive human rights risks assessments** with affected stakeholders and rightsholders related not only to current or near term operations but also longer term transition plans and potential disruption.
- 2 **Assess and prioritize identified risks** and engage stakeholders and rightsholders in this process. Be able to articulate how geographic, social and economic factors, as well as supply chains and the activities of extractive business partners are considered and the rationale for prioritizing certain risks over others.
- 3 **Provide disclosure on strategies to prevent, mitigate and remedy risks** and track the effectiveness of these approaches. Include affected stakeholders and rightsholders in the co-development of strategies and processes for monitoring and tracking effectiveness.
- 4 **Publish all of the above** in a stand alone human rights report.

Other more specific recommendations to the sector include:

- 5 **Engage with all levels of government** to understand regional and national economic dependencies on oil and gas production and policies required to remove barriers to transition e.g. public-private investments in innovation to develop other business opportunities and social supports such as enhanced retraining and upskilling programs.
- 6 **Collect and share oil and gas workforce data to support more tailored education**, retraining and social support programs to enable and/or expedite pathways to future post-carbon economies.
- 7 **Ensure equity partnerships with Indigenous partners on oil or natural gas infrastructure** have built in safeguards so that Indigenous groups are not unduly burdened by stranded assets in the future.
- 8 **Invest profits** into transition strategy.

## Resources



[Respecting Human Rights](#), IPIECA

[Five Ways to Responsibly Transition the Oil and Gas Sector](#), Canadian Climate Institute  
[Human Rights and the Oil & Gas Sector](#)

# Telecommunications

1. Salient human rights risks
2. Benchmarking the sector on human rights
3. Our findings
4. Key recommendations



In 2019, the total economic output from the industry was CAD \$46.9 billion dollars.

Telecom operators provide mobile and Internet services to consumers, delivering critical communications infrastructure. In Canada, the Telecommunications industry is relatively concentrated, and its companies primarily operate within Canada – although through certain subsidiaries offering IT and data services, there is a growing international presence. Beyond offering wireless, mobile and internet services, the Canadian Telecoms are also involved in the following: Media; Telehealth; Sports; Entertainment; Data management; and Technology retail, such as physical and online stores selling technology hardware and accessories. In 2019, the total economic output from the industry was CAD \$46.9 billion dollars.<sup>81</sup>



# Telecommunications

## Salient Human Rights Risks

What are some of the most significant human rights risks for this sector?



- Data Privacy
- Freedom of expression
- Government relations, law enforcement and customer due diligence
- Forced labour
- (Equitable) Access to communication
- Discrimination

How do these human rights risks map to SASB Indicators?



- Data Privacy
- Data Security
- Managing Systemic Risks from Technology Disruptions

Source: [SASB Materiality Finder](#)

### Data Privacy

#### UDHR Article 12

Privacy is a human right, and as such so is the right to data privacy. Telecommunications companies use and have access to customer data including personal records, phone records, internet records and location data. This creates the need to establish privacy protocols for who has access to data, who controls data, and how data is used. Negative impacts on the right to privacy can include failing to protect confidential data, requesting user data without providing clear information, or providing misleading information on how it will be used, using personal data without consent, tracking an individual's movement and physical location without their knowledge and consent (see this chapter's Spotlight), or selling equipment to governments with poor human rights records for surveillance of people's communications and movements.<sup>82</sup> In Canada, the Office of the Privacy Commissioner (OPC) enforces laws, investigates complaints and oversees compliance with the Personal Information Protection and Electronic Documents Act (PIPEDA). In 2022, for example, the OPC found that a Canadian Telecommunications firm failed to obtain appropriate customer consent for enrollment in a voice-based biometric authentication program.<sup>83</sup>

## Freedom of expression

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### **UDHR Article 19**

Telecommunication companies that provide internet services have the responsibility to ensure that their practices do not negatively impact the human right to freedom of expression. This is particularly relevant in countries ruled by repressive regimes and where governments may increase restrictions on internet use through blocking content, monitoring activists and critics, or criminalizing free speech online.<sup>84</sup> Companies should disclose policies and practices for how they handle third-party requests (by authorities or any other parties) to share user data, restrict content, restrict access, or shut down service. The Global Network Initiative (GNI) is a platform of telecommunications and internet platform companies, academics, investors and civil society organizations which developed a set of global [Principles on Freedom of Expression and Privacy](#). See also the section on “Government Relations” below.

## Forced and child labour

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### **UDHR Articles 4, 5, 23, 25, 26**

Whilst Telecom companies do not directly manufacture technology for mobile phones or modems produced by semi-conductors, the technology in their value and supply chain can still be linked to forced or bonded labour. At the manufacturing level this could include, for example, fees charged to workers during recruitment or the withholding of passports by recruitment agencies. At the raw materials sourcing

level, technology hardware relies on minerals, that could be linked to “conflict minerals” sourced from the Democratic Republic of Congo and surrounding areas, or other countries with high risk of child and forced labour. Telecommunications companies should have processes in place to prevent, identify, assess, address and remedy forced labour risks in their supply chains, including expecting suppliers to uphold ILO principles and conducting due diligence to ensure forced labour concerns are addressed and properly remedied.

## Government relations, law enforcement and customer due diligence

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### **UDHR Articles 3, 12, 19**

Telecommunication companies have relationships with governments and their law enforcement agencies. For example, they may need to respond to demands for user data and content restrictions, or sell products, services, and technologies to governments. However, this can infringe on human rights when the government or law enforcement agency itself violates human rights through misusing surveillance powers, requests data or content restrictions or network shutdowns in times of protest. As such, careful due diligence is required to ensure business relationships are reviewed for potential human rights risks. Amazon, for example, temporarily banned U.S. police use of its facial recognition technology software Rekognition over concerns that racial bias could exacerbate police violence against minorities. The need to conduct customer due diligence also relates to media and cable packages; in 2022 various Canadian Telco and cable providers came under scrutiny for carrying Russian propaganda TV channels, which were subsequently pulled from their line-ups.

## (Equitable) Access to information and communication

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### **UDHR Articles 19, 26**

Telecommunications companies can significantly increase access to resources, including information, health care, education and financial services, which are all essential to the realization of human rights. In Canada, this is specifically relevant considering access to communications for Northern territories, remote communities, and Indigenous communities. The Canadian Radio-television and Telecommunications Commission declared broadband internet a basic (essential) service in 2016. Equitable access to products and services also includes having non-discriminatory and accessibility-based pricing strategies, and fostering digital inclusion. The World Benchmarking Alliance ranks the world's largest ICT companies, including 2 Canadian telecoms, on their approach to digital inclusion,<sup>85</sup> where the Canadian telecoms ranked in the bottom third out of 150 companies.

## Discrimination

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### **UDHR Articles 1, 7**

Combatting discrimination in hiring, promotion, pay, workplace cultural practices and customer treatment is important for any employer. An audit by the Canadian Human Rights Commission revealed in 2022 that people with disabilities still do not have fair and equal access to employment in the Telecommunications sector, and that barriers included continuing stigma and stereotyping and a lack of awareness training. In the U.S., shareholder proposals calling for racial equity audits (across sectors) have been steadily gaining support. Actions companies can take to dismantle discrimination and create more equal representation in the workforce include putting in place robust grievance mechanisms, equal pay assessments, unconscious bias training, investing in diversifying the workforce pipeline, performance transparency, and creating a culture of inclusion.

# Telecommunications: Human Rights Spotlight

## U.S. Telecoms selling customer location data to bounty hunters

Mobile phones are in constant communication with nearby cell towers so that telecom providers can route calls and texts. This means that telecom providers have continuous access to, and process, real-time location data of their customers based on their proximity to cell towers. Law enforcement agencies can request this data from telecom providers if they have a warrant. However, telecom companies in the United States have also been selling access to this data to other companies.

In 2019 an investigation by Motherboard found that U.S. telecom companies [sold real-time customer location data to third parties](#) for years, and that this data ended up in the hands of 250 bail bond firms and bounty hunters. These bounty hunters used location data to track down citizens that owed money: a significant breach of privacy rights.

While the U.S. telecom providers had privacy policies in place that include expectations of what the buyers of customer location data should and should not do, the incident indicated a lack of monitoring from the telecom carriers on adherence to those privacy policies. The carriers argued initially that the bounty hunter example was an isolated incident, however after more investigation it became apparent that the practice had been going on for years and was widespread, with customer location data widely available on the black market.

The controversy prompted criticism from U.S. lawmakers and resulted in a public commitment from the implicated U.S. telecom providers that they would stop selling customer location data. Some of the companies involved were subsequently sued by the Electronic Frontier Foundation for breaching their duties to protect customer privacy: a lawsuit that is still on-going.

# Benchmarking the sector on human rights

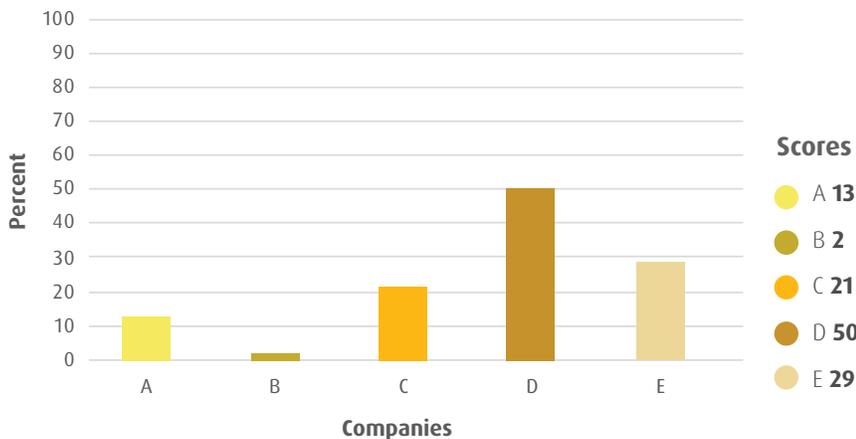
All Canadian Telecoms must adhere to the Canadian Human Rights Act, and Canadian privacy laws. Although privacy is a critical salient human rights risk for the sector, we did not assess the Canadian Telecoms on their privacy and digital rights practices specifically and instead, given pending Canadian Modern Slavery legislation, focused more generally on their approach to human rights and their implementation of key UN Guiding Principles for Business and Human Rights (UNGPs) pillars in their operations and supply chains. As such we applied the Corporate Human Rights Benchmark's (CHRB) Core Methodology<sup>83</sup> which is applicable to companies in all sectors. We do note that the [Ranking Digital Rights Corporate Accountability benchmark](#),<sup>87</sup> which ranks the world's largest IT and Telecommunications companies on their approach to digital human rights as per the UNGPs, would also have been an appropriate methodology to apply.

However, as the methodology of that benchmark focuses solely on indicators related to data privacy and freedom of association, this would have made comparisons on HRDD performance with other Canadian sectors more difficult. We do note that the Ranking Digital Rights team is also coming out with a new "Telco Giants Scorecard" at the end of 2022 which was not yet available at the time of writing.

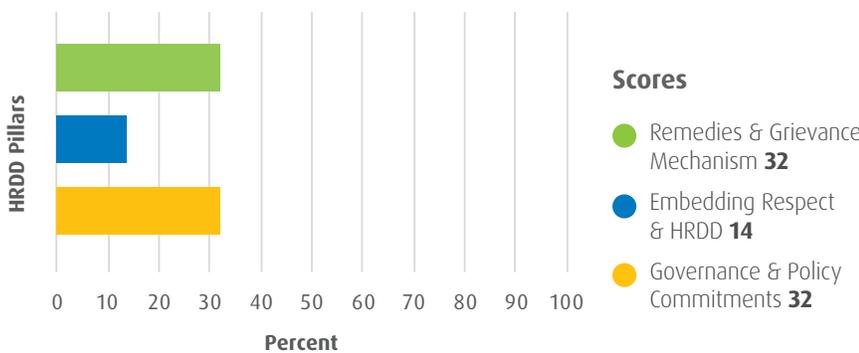
# Our findings (Scores out of 100)



## Telecom Companies' Total Scores



## Telecom Companies' Scores by UNGP HRDD Pillars

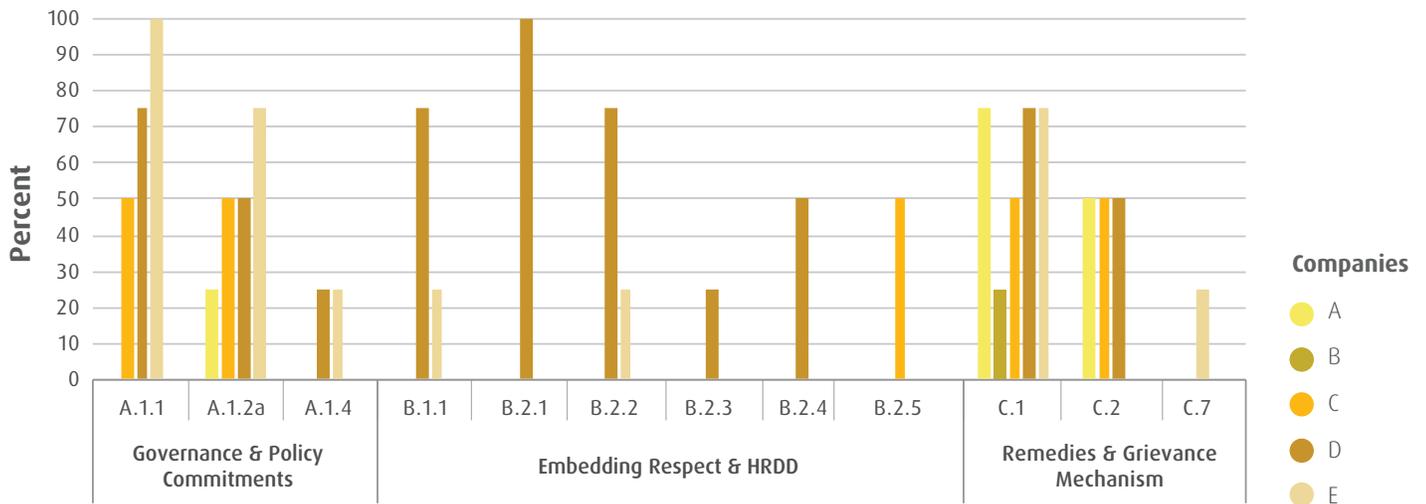


## Summary

Canadian Telecommunications companies (Telecoms) scored an average of 23 out of 100. The Telecoms scored best on policy commitments and grievance mechanisms; all companies assessed had mechanisms in place to receive and process complaints and some even included numbers in their reporting: a best practice. Consistent with our findings in other sectors however, most improvements can be made on actual implementation of embedding respect and human rights due diligence into their processes.

\* Data as at August 2022.

### Telecom Company Scores by KPI



### 2021 CHRB CORE UNGPs Methodology

Governance & Policy Commitment	Embedding Respect & HRDD	Remedies & Grievance Mechanism
A.1.1 Commitment to respect human rights A.1.2a ILO Declaration on Fundamental Principles and Rights at Work A.1.4 Commitment to remedy	B.1.1 Responsibility and resources for day-to-day human rights functions B.2.1 Identifying human rights risks and impacts B.2.2 Assessing human rights risks and impacts B.2.3 Integrating and acting on human rights risks and impact assessments B.2.4 Tracking the effectiveness of actions to respond to human rights risks and impacts B.2.5 Communicating on human rights impacts	C.1 Grievance mechanism(s) for workers C.2 Grievance mechanism(s) for external individuals and communities C.7 Remedying adverse impacts

\* Data as at August 2022.

## Governance & Policy Commitment

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### Strengths:

Consistent with the other sectors analyzed, the Telecoms perform most strongly in the area of Human Rights Policies and commitments. The majority of companies have commitments to upholding human rights as set out by international standards including the International Bill of Human Rights, the UN Guiding Principles for Business and Human Rights and the International Labour Organization (ILO). Companies also specifically referenced the Canadian Human Rights Act. We did not find stand-alone human rights policies, but information could generally be found in Business Code of Conducts, Supplier Code of Conducts, briefing documents on human rights and Sustainability reporting. In this sector analysis, companies with the largest market cap had the more robust policy approach. Certain smaller cap companies lacked policy commitments and supplier expectations altogether which suggest that smaller companies might face more resourcing challenges.

### Areas for improvement:

Areas of improvement across all companies assessed include:

- A public commitment on the willingness to provide remedy to affected stakeholders
- Providing codes and policies in various languages and ensuring an explicit expectation from suppliers to uphold ILO principles.

# 3 out of 5

companies disclosed robust human rights policies and commitments

## Embedding Respect & HRDD

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### Strengths:

Whilst none of the companies assessed disclosed having HRDD mechanisms in place and as such did not score points, we do note that the largest Telecoms do provide reporting specifically on the number of privacy-related complaints received either directly or through the Office of the Privacy Commissioner of Canada and how many of these have been resolved. Some companies also provided information about the number of supply chain issues found through audits and how many of these were resolved. We note that the largest Canadian Telecommunications firms annually report on how many and what types of requests for private customer data are received from the government and law-enforcement agencies, how many of those requests were granted and why, but the details of such disclosures varies significantly. By comparison, U.S. Telecoms produce much more in-depth and standalone Transparency Reporting.

### Areas for improvement:

Again, consistent with findings from other sectors, the Canadian Telecoms can improve the most on human rights due diligence practices. There is little evidence found in company disclosures that any of the companies assessed have a human rights due diligence mechanism in place to monitor, assess, track, mitigate and prevent adverse human rights impact along their value chain. Whilst some companies disclosed that they conduct supply chain audits for compliance with the supplier code of conduct and that they took actions based on those auditor findings, supplier audits alone do not suffice as an instrument of HRDD.

Particular areas for improvement across all companies assessed include:

- Putting in place human rights due diligence mechanisms. This should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.
- Providing codes and policies in various different languages and ensuring an explicit expectation from suppliers to uphold ILO principles.

#### Leading Practices:

One company did report on the most salient human rights issues its business faces, which departments were responsible for addressing each issue and what their general principled approach is to these issues. This indicated to us that the company is aware of its most salient human rights risks and that there is oversight and responsibility allocated at the management or executive level.

**0 out of 5**  
companies disclosed  
robust human rights due  
diligence practices

## Remedies & Grievance Mechanism

#### Strengths:

While varying in levels of sophistication, all companies assessed had a grievance mechanism in place in the form of hotlines, internally or managed by a third-party organization, and accessible to unionized and non-unionized employees as well as external stakeholders. We note that in Canada human rights complaints related to banks, airlines and telecommunication companies can be directly filed with the Canadian Human Rights Commission. If a human rights complaint is related to privacy or accessibility, these can be filed with the Office of the Privacy Commissioner of Canada and the Canadian Radio-Television and Telecommunications Commission, respectively. Some Telecoms as such provided a reference or link to these external resources on their websites.

#### Areas for improvement:

Two of the companies assessed provided details around ensuring that supply chain workers have access to either the company's own mechanism(s) to raise complaints or concerns about human rights issues at the company's suppliers, or included an expectation of its suppliers to establish a mechanism(s) for their workers to raise such complaints.

A subset of companies, as identified above, disclose the number of grievances or privacy-related complaints received and resolved, but do not provide further details or insights into the process. One company explained that complaints and their resolution status are reported quarterly to a particular Board committee, and that human rights complaints can be dismissed, withdrawn or referred to the appropriate Canadian Human Rights Tribunal.

All companies can improve by providing case examples or further information about how they provide remedy. Providing case examples of remediation is considered a best practice in HRDD disclosure.

## 5 out of 5

companies disclosed having a grievance mechanism

# Recommendations

While we identified leading practices related to policy commitments to human rights in the Telecommunications sector, there is room for improvement on all areas assessed. Given that the sector's main operational focus and customer-base is in Canada, it is also not surprising that human rights approaches and related disclosures are less developed than those of international peers with a more global presence, as those tend to be more exposed to human rights issues in higher-risk countries and have to navigate different regulatory expectations.

At the highest level, and if they have not already, we recommend Canadian Telecommunications companies to consider more formally implementing the UNGPs and conduct human rights due diligence on their operations and supply chains. Specifically, we recommend:

#### Resources



[Global Network Initiative \(GNI\) Principles](#)

[Ranking Digital Rights](#)

[WBA Digital Inclusion Benchmark](#)

**1 Look to UNGP-based human rights benchmarks for best practice key performance indicators** and provide disclosure on these metrics that provide the information about implementation that is essential for investors to understand how companies are performing on their due diligence.

**2 Conduct dedicated human rights due diligence to identify, assess and prioritize** the most salient human rights impact from direct business activities as well as linked business activities through relationships with suppliers. In particular;

- a Provide a clearer link between activities undertaken to protect customer privacy and the overall human rights approach. Continue to enhance transparency and reporting on government-related requests of information, including what types of requests were granted versus denied, and why.
- b Telecommunications companies contribute positively to access to information and communication, but can be more transparent about how pricing strategies positively and negatively impact rightsholders in Canada.

**3 Enhance supplier code of conducts** by explicitly expecting suppliers to uphold ILO principles and make such codes available in different languages. Ensure a commitment to remedy and supplier expectations to provide remedy, is included in policies and code of conducts.

**4 Make a clearer commitment** to remedy.

# Final thoughts and recommendations

**Canadian companies face both universal as well as country- and sector-specific challenges to implementing HRDD.**

Facilitated by globalization and in keeping with global peers, over the last few decades many Canadian firms, have developed business models with complex, multi-tiered supply chains that are reliant on lower-cost labour and materials in developing and emerging nations. Such supply chains tend to have inherently higher exposure to human rights risks and impacts. Canadian Oil & Gas and Mining firms have likewise undergone transformative growth over decades based on resource extraction practices that carry high risks of adverse social and environmental impacts, especially for traditionally marginalized populations.

Canadian companies can address human rights challenges by looking to international best practice and standards.

## Canada's upcoming regulation on Modern Slavery will call for greater transparency and accountability from all companies and their business partners to actively prevent forced and child labour.

In the United States, the California Transparency in Supply Chains Act 2010<sup>88</sup> and the more recent Uyghur Forced Labour Prevention Act<sup>89</sup> are having significant repercussions for importers whose goods suspected of being manufactured in the Xinjiang region and elsewhere through forced labour, are being confiscated at the United States border by enforcement officers. Europe is reportedly following suit with similarly rigorous action on forced labour prevention.<sup>90</sup> Europe's forthcoming enhanced corporate sustainability reporting standards and mandatory HRDD will further codify corporations' responsibility to disclose not only financially material information, but also the most salient impacts of business activity on the environment, people and the economy regardless of financial materiality. All the above will impact Canadian companies who either import or manufacture goods abroad or export their products to Europe, the United States, Japan or any other nations adopting HRDD policies, given due diligence implies ensuring your suppliers also respect and protect human rights.

As responsible investors, we encourage Canadian companies to pay heed to the changing regulatory landscape and familiarize themselves with the UNGPs and best practices on implementation of human rights policies and processes. Getting ahead of such regulatory developments before they become a requirement can give Canadian companies more time to conduct thorough supply chain mapping, collect data and put in place robust processes, so that mandatory public reporting can be supported by data and backed up by existing HRDD mechanisms. This will also ensure that Canadian companies keep pace with international peers already required to disclose. We also point to potential opportunities a robust HRDD approach can bring, such as:

- More robust social licence to operate
- Enhanced reputation and brand management
- Eligibility for inclusion in sustainable investment funds
- Improved risk management through the development of closer relationships with stakeholders
- More resilient supply chains

## Key Recommendations for Canadian Issuers

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1. Know the UNGPs and implement them.
2. Map your value chain beyond tier-1 suppliers and conduct a human rights risk assessment for your entire value chain.
3. Prioritize resources to prevent and mitigate the most salient risks.
4. Engage with stakeholders, rightsholders and or their representatives, in the activities outlined in 1 and 2 above. Integration of rights holder and stakeholder perspectives is essential to implementing the UNGPs.
5. Collaborate with policy makers, educators, civil society groups and industry associations to innovate and support the enabling landscape required for business model and economic transformation that fully respects and protects human rights.
6. Do not engage in lobbying efforts to undermine human rights regulation.

## Key Recommendations for investors

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1. Know the UNGPs and what it means for investors to respect human rights.
2. Take practical steps to start implementing a human rights due diligence approach into the investment process. Consult guidance documents from the [Investor Alliance for Human Rights](#), the [UN PRI](#) and the [OECD Guidelines for Institutional Investors](#).
3. Engage with investee companies on implementation of the UNGPs to understand where they are at, and what they can do to close gaps, as part of starting the investor HRDD journey. Questions investors can ask:
  - Does the company disclose a human rights risk assessment? If so, what are the most salient human rights risks and what factors determine prioritization?
  - How are stakeholder perspectives integrated into processes for detecting, and developing strategies for preventing and managing adverse impacts? Can the company share examples of these processes in practice?
  - What is the degree of board and executive level oversight of HRDD? Is board and senior level remuneration tied to HRDD? How is HRDD operationalized across the company?
  - Does the company make a clear commitment to remediation? Can it share an example of its remediation process in practice?

# Appendix 1: Methodology

## Company selection

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We chose companies for our research sample by starting with the largest publicly listed Canadian companies on the Toronto Stock Exchange (TSX) as represented by the S&P®/TSX® Capped Composite Index ETF. We narrowed sectors down based on the largest industries by revenue, then looked at the market capitalization of firms by sector to pull out the top five (four for apparel) in each for benchmarking.

## Benchmark selection

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**For the Apparel, Consumer Discretionary (automobiles, auto parts, and general retailing) and Consumer Staples (food and food distribution, other staples and restaurants) sectors, we used the KnowTheChain benchmark.** All of the companies within these sectors have complex, multi-tiered supply chains wherein forced labour is likely the most salient human rights risk. While the KnowTheChain benchmark assesses beyond forced labour risks, its KPIs are especially tailored to drive progress on preventing, mitigating and providing remedy for forced labour. We reached out to KnowTheChain for assistance in applying their updated methodology to ensure we were interpreting the guidance they provide for its application, correctly. KnowTheChain was very generous in their support of our research.

**We applied the CHRB Core UNGP Indicators benchmark for the Oil and Gas, Mining and Telecommunications sectors.** This benchmark is non-sector specific and uses a subset of core KPIs to provide a snapshot of companies' HRDD performance based on adherence to the UNGPs. The full sector-specific benchmarks are very comprehensive with about 80 KPIs that drill down with questions related to known unique salient human rights risks for respective sectors. Due to our research time limits, we opted to use the UNGPs based generic benchmark, which also made comparisons between sectors easier.

## Assessment process

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A team of analysts conducted the benchmark assessments. One analyst reviewed all assessments to look for consistency in applying the respective benchmarks within as well as across sectors.

Disclosures used for these assessments included Sustainability and ESG reports of no greater than two years old, public policy statements on e.g. Human Rights, Indigenous Relations, Supplier Codes of Conduct as well as media press releases and Proxy Circulars.

## Converting scores to percentages and calculating averages

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Scores were calculated for each company according to the benchmark scoring method. KnowTheChain is out of 100 while CHRB is out of 24.

To have a consistent score to compare all companies' performance we converted respective company scores to percentages, then calculated a sector average. To compare performance on KPIs and UNGP HRDD Pillars across benchmarks, we again converted scores to percentages and then took averages of these percentage scores on KPIs and then for the grouping of these KPIs by UNGP HRDD Pillars.

## Mapping scores to the UNGP HRDD Pillars

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We mapped the KPIs of each respective benchmark to the corresponding UNGP HRDD Pillars as outlined below in further details about each benchmark used.

# Appendix 2:

## Benchmarks Used & Alignment with UNGP HRDD Pillars

# Know the Chain

KTC has produced nine separate benchmarks on companies across apparel, footwear, food and beverage, and information, communications, and technology since 2016. The next global benchmark is scheduled for publication in early 2023. Developed through a public-private partnership between Humanity United, the Business & Human Rights Resource Centre, Sustainalytics, and Verite, KTC aims to harness the power of competitive markets through benchmarking to encourage a ‘race to the top’ in corporate supply chain due diligence. It is a useful tool to support investor engagement with companies for which the supply chain presents the most salient human rights risks.

In January, 2022, KTC released a report Closing the Gap that concludes mandatory HRDD is required given the ‘glacial pace’ of voluntary-led supply chain due diligence initiatives.

KTC’s latest 2022/2023 methodology has been revised to look more closely at and drive better implementation of HRDD practices. Changes include:

- Increased emphasis on implementation and outcomes
- Adjusted weighting to reflect the changed emphasis
- Stakeholder engagement
- Action beyond the first tier

## How the KnowTheChain Methodology Maps to the UNGP HRDD Pillars

UNGP HRDD Pillar	2022-2023 KTC Methodology
<b>Governance &amp; Policy Commitment</b>	<b>Commitment and Governance (16.36%)</b> 1. Supplier Code of Conduct and Capacity Building 2. Management & Accountability
<b>Embedding Respect &amp; HRDD</b>	<b>Traceability &amp; Risk Assessment (57.26%)</b> 3. Traceability & Supply Chain Transparency 4. Risk Assessment 5. Data on Supply Chain Risks 6. Purchasing Practices 7. Recruitment-related Fees 8. Responsible Recruitment 9. Freedom of Association
<b>Remedies &amp; Grievance Mechanism</b>	<b>Grievance Mechanism and Monitoring (26.36%)</b> 10. Grievance Mechanism 11. Monitoring 12. Remedy Programs and Response to Allegations
<b>Total Maximum Score: 100</b>	

# Corporate Human Rights Benchmark

The [last global CHRb benchmark](#) was published in 2020. The methodology was updated in 2021 and will be used to assess global companies across five sectors in 2022 – 2023 (apparel, automotive manufacturing, extractives, food and agricultural products, and information communications technology manufacturing). The WBA produces fulsome sector specific CHRb benchmarks for the apparel, automotive manufacturing, extractives, food and agricultural products, and ICT manufacturing sectors. These sector specific benchmarks are much more comprehensive and drill down with 80 KPIs related to known, industry specific salient human rights risks.

The Core UNGP CHRb methodology used in our assessment is a subset of the full CHRb sector specific methodologies. This subset are non-sector specific and enable stakeholders to make a relatively quick assessment of a company’s approach to managing human rights risks and whether they are implementing fundamental expectations of the UNGPs.

Changes from the 2020 methodology to the 2021 version we applied were made based on what the WBA describes as a “two-phase” consultation process that included a literature review, feedback from regional and multi-stakeholder consultations, and a public questionnaire. Modifications are similar to updates to the KTC and BankTrack benchmarks in that the CHRb changes reflect increased focus on actual performance of companies including the types of stakeholder engagement undertaken by companies to manage human rights risks at various stages of operations.

## How the Corporate Human Rights Benchmark Methodology Maps to the UNGP HRDD Pillars

UNGP HRDD Pillar	2021 CHRb CORE UNGPs Methodology
<b>Governance &amp; Policy Commitment</b>	<p><b>Governance and Policy Commitments (25%)</b></p> <ul style="list-style-type: none"> <li>A.1.1 Commitment to respect human rights</li> <li>A.1.2a ILO Declaration on Fundamental Principles and Rights at Work</li> <li>A1.4 Commitment to remedy</li> </ul>
<b>Embedding Respect &amp; HRDD</b>	<p><b>Embedding respect and human rights due diligence (50%)</b></p> <ul style="list-style-type: none"> <li>B.1.1 Responsibility and resources for day-to-day human rights functions</li> <li>B.2.1. Identifying human rights risks and impacts</li> <li>B.2.2 Assessing human rights risks and impacts</li> <li>B.2.3 Integrating and acting on human rights risks and impact assessments</li> <li>B.2.4 Tracking the effectiveness of actions to respond to human rights risks and impacts</li> <li>B.2.5 Communicating on human rights impacts</li> </ul>
<b>Remedies &amp; Grievance Mechanism</b>	<p><b>Remedies and Grievance Mechanisms (25%)</b></p> <ul style="list-style-type: none"> <li>C.1 Grievance mechanism(s) for workers</li> <li>C.2 Grievance mechanism(s) for external individuals and communities</li> <li>C.7 Remedying adverse impacts</li> </ul>
<b>Total Maximum Score: 24</b>	

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