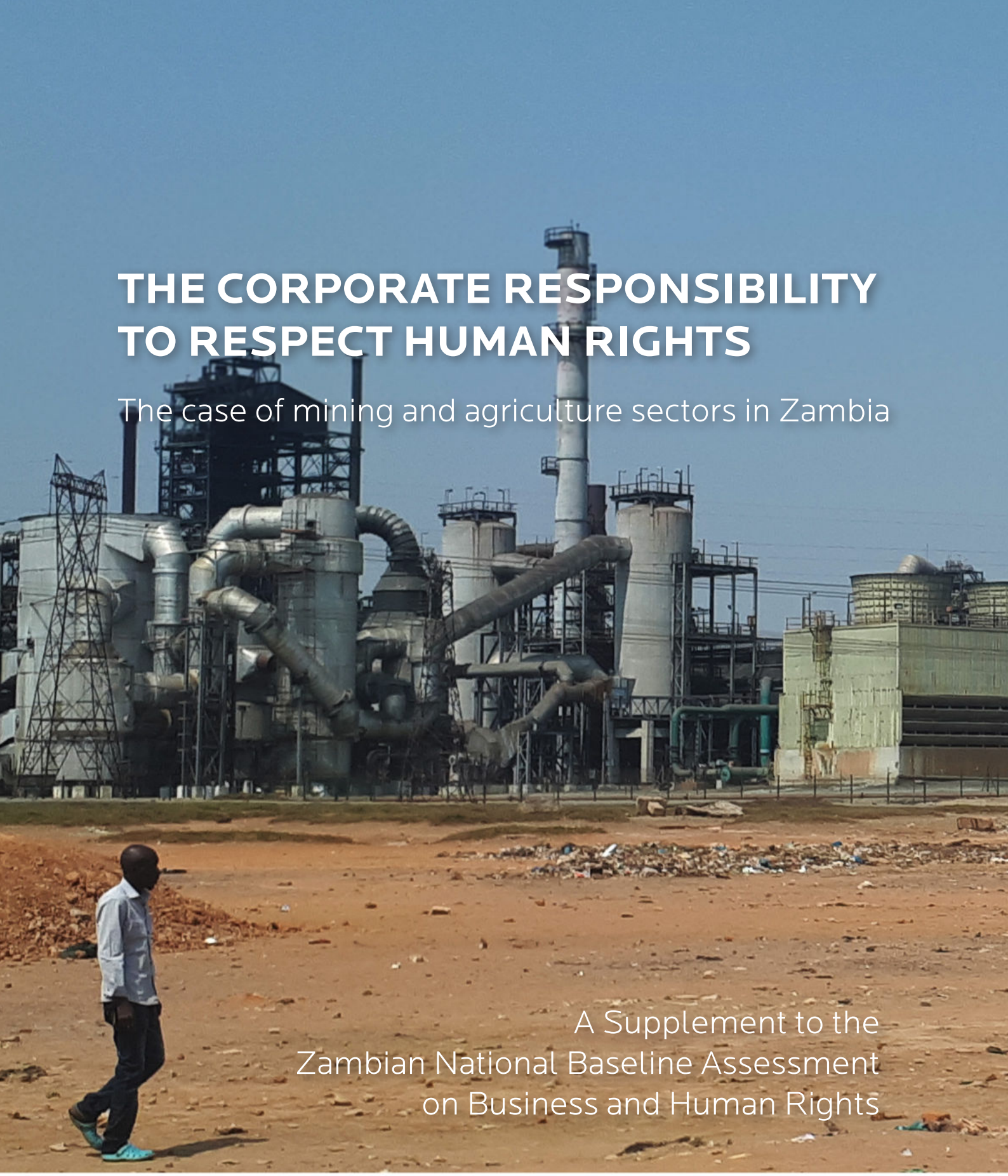

THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

The case of mining and agriculture sectors in Zambia

A Supplement to the
Zambian National Baseline Assessment
on Business and Human Rights

THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS:
THE CASE OF MINING AND AGRICULTURE SECTORS IN ZAMBIA
A Supplement to the Zambian National Baseline Assessment on Business and Human Rights

August 2020

This report was developed by the Human Rights Commission of Zambia, with support from the Danish Institute for Human Rights.

The Human Rights Commission is Zambia's national human rights institution. It is established under Article 230 of the Constitution of Zambia (Amendment) Act No. 2 of 2016. Its broad mandate is to promote and protect human rights in Zambia.

THE DANISH INSTITUTE FOR HUMAN RIGHTS

The Danish Institute for Human Rights is Denmark's national human rights institution. Its mandate is to promote and protect human rights and equal treatment in Denmark and abroad. The Human Rights and Business Department is a specialised unit within the DIHR focusing on the role of the private sector in respecting human rights.

Photos: All photos by The Human Rights Commission

e-ISBN: 978-87-93893-64-1
ISBN: 978-87-93893-63-4

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EXECUTIVE SUMMARY

The present study is a supplement to the Zambia National Baseline Assessment on Business and Human Rights (2016) that assessed the state implementation of its duty to protect against business-related human rights abuses as outlined in Pillars I and III of the UN Guiding Principles on Business and Human Rights (UNGPs).

This supplement focuses on the company responsibility to respect human rights as outlined in Pillar II of the UNGPs and explores the extent to which companies operating in two sectors in Zambia, mining and agriculture, have integrated human rights in their policies and practices. The objective is to generate information necessary for state, business and other non-state actors to formulate actions to improve business respect for human rights in Zambia.

This supplement draws upon interviews with representatives of 24 large-scale mining companies and agriculture companies and their stakeholders, i.e. workers, local communities and contractors.

The key finding is that the companies surveyed still have a long way to go to understand their responsibilities in human rights terms and develop an effective operational framework for human rights due diligence. Some of the research highlights are:

• Subsidiaries of multinational corporations and large-scale companies displayed a stronger uptake of human rights policy commitments than medium and small-scale companies with limited exposure to international markets.

• The majority of company interviewees equated the process of human rights due diligence with environmental and social impact assessments (ESIAs) which companies are legally mandated to carry out before embarking on any large-scale mining or agriculture undertaking. However, the current implementation of ESIAs in Zambia is not geared towards identifying and addressing human rights impacts. Moreover, the regulatory requirement of an ESIA cannot substitute for the process of human rights due diligence which - according to the UNGPs – should be implemented by all businesses, irrespective of size and sector and throughout operations.

• The majority of companies reported to have grievance mechanisms in place. However, these were primarily used by workers, with many communities reporting a lack of awareness and trust as barriers to using these channels.

• Very few companies published reports that provided a granular analysis of company performance in relation to human rights.

• Many companies overstated the extent of their human rights practices; secondary research and stakeholder interviews proved essential to corroborate the data collected through company interviews.

• The majority of companies identified poor enforcement of local laws as a barrier to integration of human rights in their operations.

Informed by these findings, the study identified the following measures and interventions that the Zambian state, businesses, and other actors, should take towards addressing existing gaps in the implementation of the UNGPs:

The Zambian State

♦ The State should enact laws and formulate policies requiring companies to develop and implement human rights policy commitments and set a clear expectation that all businesses operating in the country should respect human rights. These laws and policies should provide adequate guidance for companies to establish and develop frameworks for the implementation of the corporate responsibility to respect under Pillar II of the UNGPs, as relevant to the various sectoral contexts – including, consideration of the

size of enterprise and the engagement of rights-holders, especially groups at risk.

♦ The State should designate and resource a relevant government ministry, department or agency to coordinate and lead the process of implementing the UNGPs. Institutions such as the Human Rights Commission should be engaged to raise awareness and build capacity of state and non-state actors on business and human rights standards and relevant initiatives encouraging responsible business conduct.

♦ The State should make a formal commitment to developing a National Action Plan on Business and Human Rights (NAP) and commence the NAP development process, in line with the government's acceptance of the recommendation by Kenya for Zambia's promulgation of a NAP on Business and Human Rights.

♦ The State should review relevant laws and policies to align business obligations with international human rights standards, including by:

o Enacting provisions requiring human rights due diligence in the Environmental Management Act As per the recommendation made by the Parliamentary Committee on Legal Affairs, Human Rights, Gender Matters and Governance of 2019.

o Reviewing the 2017 Companies Act to include an obligation for Non-Financial Reporting by companies.

♦ The State should promote through policy and administrative action the adoption by companies of voluntary international and regional initiatives encouraging responsible business conduct, including but not limited to the Voluntary Principles on Security and Human Rights and the Guiding Principles on Large Scale Land Based Investments in Africa.

Companies

♦ Through human rights policy commitments, companies should commit to respecting human rights in accordance with the UNGPs, via consultative and appropriate operational level frameworks integrated across all company functions. Human rights policies should facilitate the conduct of human rights due diligence, establishment and operationalisation of effective operational grievance mechanisms, and regular communication on human rights performance. Companies should communicate and disseminate their policies and sensitise all staff, relevant rights-holders and value

chain stakeholders, on human rights commitments, implementation and monitoring frameworks.

♦ Companies should pay heightened attention to the needs and vulnerabilities of groups-at-risk and ensure that stakeholders are included and consulted in identifying and redressing human rights impacts.

♦ There should be regular and structured communication to staff and external stakeholders on the company´s actual and potential adverse human rights impacts and the measures taken by the company to prevent or mitigate the company's impacts.

♦ Companies should strengthen industry level collaboration on sector-specific human rights risks, including by engaging constructively government representatives on the responsible business conduct and business and human rights agenda.

Employers and Business Associations

♦ Employers and business associations should sensitise and build the capacities of companies on the corporate responsibility to respect human rights as outlined in the UNGPs, including through strategic partnerships, as relevant, with human rights organisations as the Human Rights Commission, trade unions and relevant civil society organisations.

♦ Business associations should require their members to adopt and implement policies and practices that promote respect for human rights, as a condition for membership.

♦ Employers and business associations should prioritise human rights in their strategic engagement with government officials and ensure that lobby and advocacy activities do not undermine the realisation of human rights.

Trade Unions

♦ Trade unions should raise awareness on the corporate responsibility to respect human rights, including by partnering, as relevant, with the International Trade Union Congress and the Human Rights Commission, in building workers´ capacities on business and human rights.

1 INTRODUCTION

This is a supplement to the Zambia National Baseline Assessment (NBA) on Business and Human Rights published in 2016 by the Human Rights Commission of Zambia. It provides an account on the levels of implementation by businesses of the responsibility to respect human rights, including by conducting human rights due diligence and providing remedy, as outlined in Pillar II of the UN Guiding Principles on Business and Human Rights (UNGPs).

THE UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGPS) were unanimously endorsed by the UN Human Rights Council in June 2011 and are the first widely accepted international framework on business and human rights. The three-pillar framework of the UNGPs articulates the respective duties and responsibilities of states and businesses vis-à-vis human rights, reiterating the state duty to protect against business-related human rights abuses (Pillar I), outlining the business responsibility to respect human rights (Pillar II), and articulating the roles of both states and businesses in ensuring access to effective remedy for business-related human rights harms (Pillar III).

The 2016 NBA focused on the state implementation of its duty to protect against human rights abuses as outlined in Pillars I and III of the UNGPs. The document provides a comprehensive account of the status of protection of human rights through laws and policies regulating business conduct in Zambia and highlights gaps and areas for further alignment with international standards. The present study complements those findings and recommendations by illustrating relevant trends in the integration of human rights in the policies and practices of companies operating in two sectors, mining and agriculture. The two sectors were selected because of their significance to the Zambian economy, in terms of revenue and employment generation, but also because of reports of adverse human rights impacts associated with their operations.

This supplement was carried out by the Human Rights Commission (HRC) with technical support from the Danish Institute for Human Rights (DIHR). It relied on and adapted the National Baseline Assessment Pillar II Guidance in the National Action Plans on Business and Human Rights Toolkit (2017 edition) developed jointly by the Danish Institute for Human Rights (DIHR) and International Corporate Accountability Round Table (ICAR).

1.1. BUSINESS AND HUMAN RIGHTS IN ZAMBIA

The findings in the 2016 NBA highlighted important gaps in the regulatory and policy framework regarding the corporate responsibility to respect human rights in Zambia, among which:

- The government provided no guidance to companies on the corporate responsibility to respect human rights, including the expectation that companies should undertake human rights due diligence and remedy adverse human rights impacts.

- Where laws, policies and regulations existed with the aim of ensuring companies respected human rights, they were generally weak and not aligned with relevant international human rights standards (see Table 1 for a selection of gaps in laws relevant to the mining and agriculture sectors).

- There were no laws or policies requiring companies to publicly report on non-financial performance, including on the measures taken to identify, avoid and address their adverse human rights impacts.[1]

Table 1. Business and human rights gaps in select policy areas

Policy area	Highlighted gaps
Environmental protection	The Environmental Management Act (2011) does not define which "social issues" should be included and considered as part of an environmental impact assessment. The provisions requiring public consultations are underspecified and not informed by international standards on access to environmental information and public participation. The Act does not require environmental impact assessment practitioners to have specific professional skills or certifications.
Land governance	The processes and procedures for land acquisition, lease and use by companies are not clear, e.g. the roles of Ministry of Mines, Ministry of Lands, local councils are ill-defined. There are no detailed guidelines in law on the process to be followed in the event of resettlement and for the calculation of compensation for land purchases and resettlement.

Policy area	Highlighted gaps
Labour rights	The Land Act does not provide guidance on computing the quantum for compensation in cases where residents are displaced because of the purchase, lease or use of land by companies. It also does not make clear provisions for consultation with affected communities where land is earmarked for investors. The Act does not require the consent of the members of the affected communities, a legal loophole which has been exploited by companies to dispossess communities of customary land holdings.
Labour rights	Union members are not protected under the law from reprisals by employers for their activities. In addition, the procedures for conducting a legal strike are prohibitively long and cumbersome, with the effect that strike action is increasingly burdensome to trade unions.

Source: Zambia Human Rights Commission, National Baseline Assessment on Business and Human Rights, 2016.

NATIONAL ACTION PLANS are policy documents in which a government articulates priorities and actions that it will adopt to support the implementation of international, regional or national obligations and commitments with regard to a given policy area or topic. The UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises, mandated by the UN Human Rights Council to promote the effective and comprehensive implementation of the UNGPs, noted in its 2014 Guidance on Business and Human Rights NAPs that they can be an important means to promote the implementation of the UNGPs. As of June 2020, 24 states published National Action Plans on Business and Human Rights, with a few states in the Eastern Africa region in the process of adopting or developing NAPs.

In 2017 the Zambian government accepted a recommendation made by Kenya during the Universal Periodic Review (UPR) to develop a National Action Plan (NAP) on Business and Human Rights. However, very few steps have been taken to actualise those commitments.[2]

Since the publication of the 2016 NBA, two positive developments can be noted. In 2019, as result of a recommendation made by the parliamentary Committee on Legal Affairs, Human Rights, Gender Matters and Governance, the Zambian Environmental Management Agency committed to including provisions for human rights due diligence in the Environmental Management Act.[3] If implemented, such a measure could

strengthen the human rights component in environmental impact assessments, holding the promise of early identification and prevention of adverse human rights impacts.

A second development relates to company reporting on environmental and social impacts. While there is no requirement for non-financial reporting in Zambian corporate law, the administrative measures taken by the Lusaka Stock Exchange (LSE) through the adoption of a Corporate Governance Code has created a strong incentive for publicly listed companies to disclose their environmental and social impacts. Under the LSE Environmental, Social and Governance disclosure requirements, companies could report on human rights under the broad rubric of human capital and community engagement. [4] Building on such emerging practice to inform a public conversation about mandatory non-financial reporting, including on human rights, could go a long way to advancing domestic standards of corporate transparency and accountability. For example, much of the recent legislation on the topic of business and human rights has concerned reporting. Company reporting on human rights is currently mandatory in the European Union, in the United Kingdom, France and Australia.

1.2. OBJECTIVE

Against this backdrop, the present study aims to contribute to the generation of information necessary for state, business and other non-state actors to formulate actions to improve business respect for human rights. Notably, it aims to:

(i) Contribute to documentation of the status of the corporate responsibility to respect human rights in the mining and agriculture sectors in Zambia in order to encourage businesses to put human rights at the core of their operations.

(ii) Identify measures that could be taken by the state, businesses, and other actors, towards addressing existing gaps in the implementation of the UNGPs in the mining and agriculture sectors.

(iii) Provide a basis for continuous multi-stakeholder dialogue, on prevention, human rights education, redress and capacity development in relation to business and human rights, including in order to re-stimulate interest in the development of an effective NAP.

1.3. STRUCTURE

The report has five chapters. Chapter 2 provides an overview of the methodology, including the rationale for the case selection and the data collection methods. Chapters 3 and 4 on the mining and agriculture sectors, respectively, present the main study findings on the levels of company implementation of the UNGPs. The findings focus on four areas: human rights policy commitments; human rights due diligence; operational grievance mechanisms; and human rights reporting. Chapter five outlines recommendations addressed to different stakeholders arising from the findings of the study.

2 METHODOLOGY

2.1. SECTOR SELECTION

The study focuses on the mining and agriculture sectors for two reasons. First, both sectors make a significant contribution to the Zambian economy by generating government revenue, including foreign exchange, and employment. Zambia is Africa´s second largest producer of copper. In 2017, the extractive sector contributed 29.10% of government revenues, 10.40% of the GDP and 80.40% of its exports.[5] In 2018, the sector employed 2.9% of the total employed persons.[6] The agriculture sector sustains Zambia's rural economy which relies on it for both subsistence and income. In 2017, the share of agriculture in Zambia's GDP was 4.02%.[7] Agriculture contributed to almost half of the total number of jobs.[8]

Second, they have the potential to generate significant human rights risks and impacts because of their extensive land, water, labour and other operational requirements. Large-scale mining and agriculture operations in Zambia have been documented to cause or contribute to, among others, the displacement of communities, destruction of local livelihood systems, unplanned population increases degenerating into public service provision failures, decimation of local cultural values and traditions etc.[9]

In respect to mining, human rights concerns have been raised in relation to environmental contamination and effects on human health and local livelihoods, inadequate resettlement and compensation in the case of land acquisitions, and insufficient redistribution of revenues at the local level.[10] Affected rights-holders face various financial, legal and practical barriers in pursuing legal remedies in the country. For example, in September 2015, 1826 villagers filed a lawsuit against Vedanta Resources in the UK courts over alleged water pollution by the subsidiary's copper mining operations contributing to adverse impacts on lands and livelihoods.[11] Large-scale agriculture has contributed to the eviction of residents from their traditional lands without due process or adequate compensation.[12] Casualisation of labour has been a major concern in large agriculture farms which engage workers on a short term basis, often without clearly codified contracts of employment.[13] Research has also indicated that many large agriculture companies operate without respecting legal provisions meant to protect the environment[14] and expose children to the risk of child labour.[15]

2.2. DATA COLLECTION

The study uses a mixed methods approach to data collection combining interviews, field work and desk research. The data was collected between January 2019 and March 2020 by a team of four personnel of the Zambian Human Rights Commission led by the Head of Research.

In total, the study team conducted 77 structured interviews with representatives of companies, workers and local communities. The study findings primarily rely on data collected through interviews with 24 representatives of mining and agriculture companies (see Annex 2 for the questionnaire used in the company interviews). To complement these companies´ perspective on the implementation of the UNGPs, the study team also interviewed their key internal and external stakeholders, i.e. representatives of their workers, local communities and contractors with which they had a business relationship. The names of the companies and the interviewees have been anonymised throughout this report.

Two limitations should be noted. First, while the study team conducted some desk research to contextualize and verify the data from the interviews, no independent verification of all the answers provided by companies and their stakeholders was conducted. Second, the study team aimed to identify and interview representatives of companies´ stakeholders that could speak in an informed manner on behalf of the larger group. However, stakeholder groups such as workers and local communities are internally diverse; hence, the perspectives offered by the interviewees might not reflect the experience and views of all individuals.

A comprehensive overview of the data collection process, including a breakdown of interviewee numbers and methodological limitations, has been included in Annex 1.

Pillar II of the UNGPs: The Corporate Responsibility to Respect Human Rights

The UNGPs clarify that all businesses irrespective of size, sector or ownership have a responsibility to respect human rights wherever they operate. This responsibility concerns all internationally recognised human rights and applies regardless of a government's ability to protect human rights. Pillar II of the UNGPs outlines three measures that any business should implement to prevent and address adverse human rights impacts:

Adopt a human rights policy commitment. The commitment should set out clearly the company´s commitment to respect human rights which at the minimum should be understood as the standards in the International Bill of Human Rights and the ILO core labour standards. The commitment should be approved at the most senior level of the business enterprise, stipulate the human rights expectations of suppliers and business partners and be communicated internally and externally to all stakeholders.

Implement a human rights due diligence process. This is an ongoing process through which companies gather information to understand specific human rights risks and implement effective actions to prevent and mitigate them. Meaningful stakeholder engagement is essential throughout the due diligence cycle. This particularly involves consultation and engagement with rights-holders such as workers, including those in supply chains, local communities, consumers, and business partners to understand the scale and scope of the company´s human rights impacts. Companies are expected to communicate how they address their human rights impacts, how effective they have been and what actions are planned to address pending issues. If companies assess that they operate in a state/region with significant human rights compliance gaps, they should factor this as a contextual risk in their due diligence process and identify individual or collective measures to prevent and address related adverse impacts.

Establish a legitimate and widely accessible grievance mechanism. Even with the best policies and practices, a business enterprise may cause or contribute to adverse human rights impacts. Where a business enterprise identifies such a situation, active engagement in remediation is required. A grievance mechanism offers a formalised means through which individuals or groups (e.g. including workers in supply chains, consumers and local communities) can raise concerns about the impact an enterprise has on them – including, but not exclusively, on their human rights – and can seek remedy. Existing complaints mechanisms within companies, such as whistle-blower functions, hotlines, worker representatives and open-door policies, can also be used to contribute to remedy.

3 THE IMPLEMENTATION OF THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS IN THE MINING SECTOR

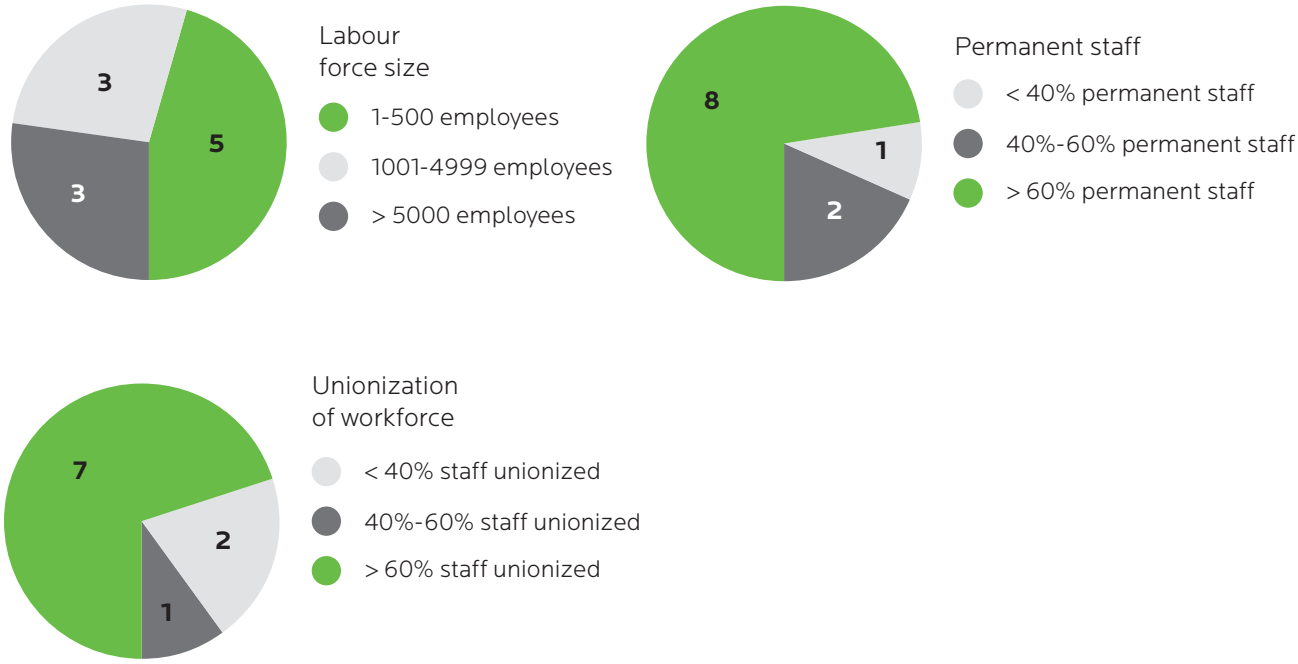
This chapter presents the main findings in respect to the implementation of human rights by companies in the mining sector. The first section gives an overview of the companies that were surveyed as part of the research, whereas the remaining sections focus on four components of the corporate responsibility to respect human rights: a policy commitment; human rights due diligence; operational grievance mechanism; and reporting.

3.1. AN OVERVIEW OF THE MINING COMPANIES IN THE STUDY

The mining sector has attracted a considerable amount of international investment since its liberalisation in the early 1990s. The Zambian government maintains a limited form of ownership through minority holdings across the industry managed by Zambia Consolidated Copper Mines Investments Holdings. The industry is dominated by copper production (73.6% of the total production [16]), with a small share of cobalt, gold, coal, manganese, and semi-precious stones production. Mining has been historically concentrated in the Copperbelt Province, but production currently takes place in all nine provinces of Zambia, particularly in the North-Western Province ('the new Copperbelt'), Southern Province, Luapula Province, Central Province and Eastern Province.

The study includes 11 mining companies most of which are subsidiaries of multinational businesses and integrated in global supply chains. Overall, the companies employed more than 22,891 workers, most of whom are employed on a permanent basis and are members of a union (see figure 1).

Figure 1: Breakdown of mining companies per integration in global economy and workforce



The sample includes the four biggest mines in the country all of which are operated by transnational companies and account for around 80% of Zambia's annual copper production, most of the mining employment and the corporate social investment.

3.2. KEY FINDINGS ON POLICY COMMITMENT TO HUMAN RIGHTS

All companies interviewed reported to have a commitment to human rights either formulated as a stand-alone policy (6 companies) or integrated in other policies (5 companies). Moreover, all the company representatives reported that they developed the policy with the involvement of key stakeholders, that the policy was communicated to stakeholders including through the provision of training and guidance and that the policy commitment was integrated in third party contractual requirements.

In the absence of any legal or policy framework on business and human rights, this is a notable finding. This can be partially explained by their exposure to responsible business conduct requirements via integration in global value chains. This is particularly the case for subsidiaries of multinational enterprises with the main headquarters in states with relatively advanced business and human rights frameworks (e.g. Canada, Australia, UK, Switzerland) and with Group-level (i.e. adopted by the parent company) policies on human rights.
A complementary explanation is that most companies are members of domestic

associations such as the Zambia Chamber of Mines and the local Extractive Industry Transparency Initiative[17] (EITI) which promote responsible business conduct, albeit with a limited focus on human rights. For example, the Zambia Chamber of Mines has encouraged its members to commit to responsible business conduct in the areas of occupational health and safety standards, environmental management, local content, as well as gender equality and women´s empowerment.[18]

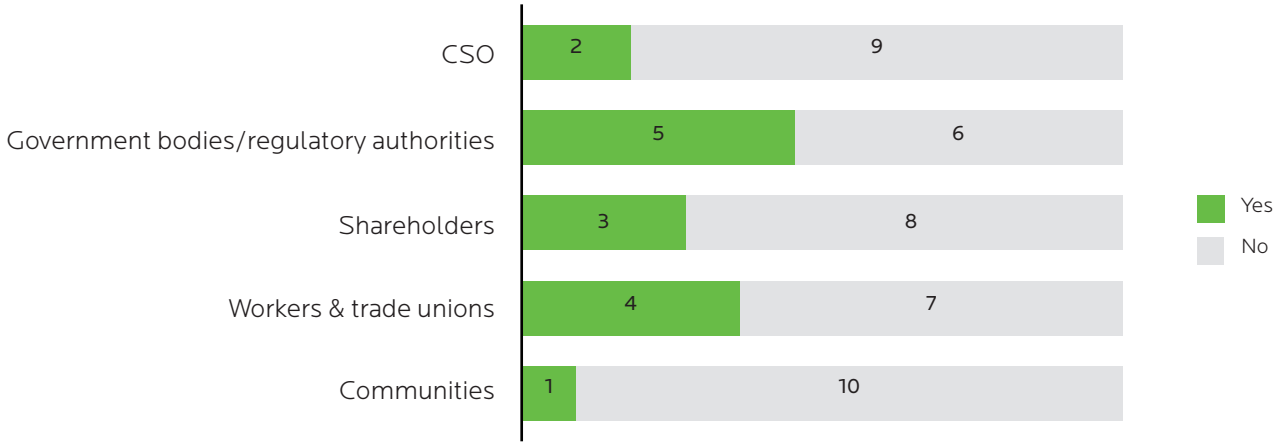
This positive finding notwithstanding, the study team found evidence that casts doubt on the effectiveness and traction of the policies. First, company interviewees had limited knowledge and understanding about the implementation and monitoring of these policies. Except for three company interviewees, company representatives could not clearly explain how the policy commitment is translated into practice.

Second, while many company interviewees named workers as one of the stakeholder groups involved in policy development and reported to have conducted trainings for them as part of policy communication, the worker interviewees only partially corroborated this claim (see Figure 2). Almost all worker interviewees reported not being involved in the development of the companies´ human rights policies; relatedly, they lacked knowledge about companies´ participation in voluntary initiatives encouraging responsible business conduct.

Figure 2: Involvement in policy development and implementation – worker interviewees´ answers

Third, the study found a limited involvement of local communities and civil society organisations (CSOs) in policy development (see Figure 3). The UNGPs do not require that companies involve stakeholders in the policy development process but recommend that companies draw upon relevant internal or external expertise. In the case of businesses with significant human rights risks – which is arguably the case of a large-scale mining operation – consulting those community rights-holders (or their representatives) most likely to be impacted can provide important insights into how to contextualise and localise a policy commitment and/or identify salient human rights issues.

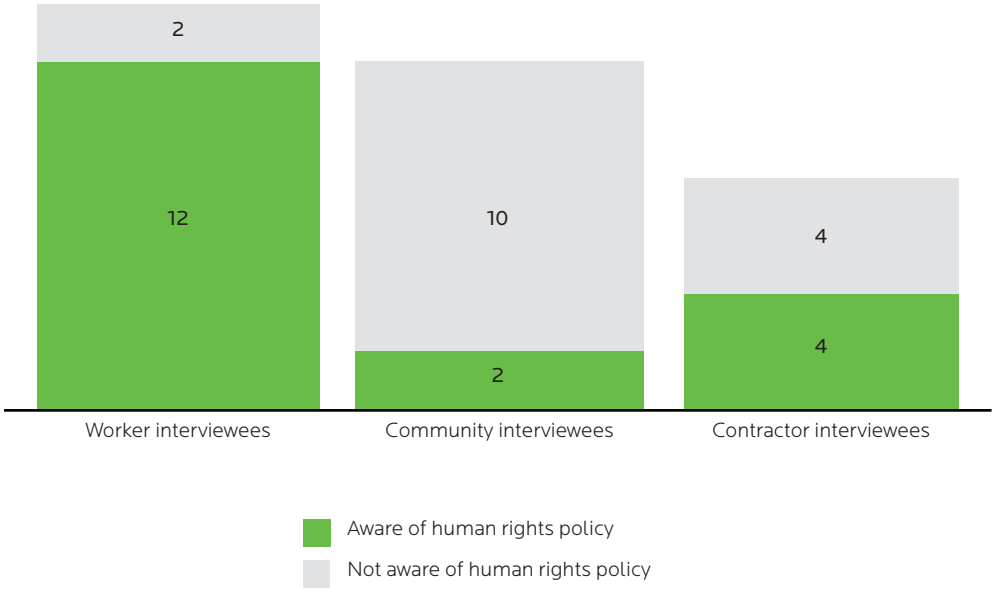
Figure 3: Stakeholders engaged during policy development – company interviewees´ answers



The interviews with the companies' stakeholders, i.e. workers, communities, contractors, revealed varying degrees of awareness about the companies' human rights policies. Workers were followed by contractors as the stakeholder groups most familiar with companies' human rights policies (see Figure 4).

The worker interviewees clarified that the policies included references to international labour standards and covered all categories of workers including those on short term contracts and from contracting companies. The contractors also highlighted that the companies they had a business relationship with explained their expectations on human rights and that their contracts included references to human rights.

Figure 4: Stakeholders´ awareness about the companies´ human rights policies



In contrast, a very small percentage of the local community interviewees reported being aware of the human rights policies of the companies in their proximity. The UNGPs recommend that a policy should be communicated to potentially affected stakeholders in situations of significant human rights risks.[19] As mentioned in section 2.1., local communities in Zambia have raised concerns about adverse impacts on their water sources, land, health and livelihoods by both old and new mining operations. Notably, some of the communities interviewed for this study complained about the lack of independent investigations into complaints of pollution, the destruction of housing as result of drilling and blasting and insufficient development opportunities at the local level. This suggests that community-level impacts are a significant contextual human rights risks for mining operations in Zambia, which companies should factor in when deciding whom to communicate their policies to. This is crucial to the credibility of their human rights commitment and the ability to form trust-based relations with key stakeholders.

3.3. KEY FINDINGS ON HUMAN RIGHTS DUE DILIGENCE

All companies reported having a process in place to identify potential human rights impacts at key moments of their operations. However, most companies' understanding of the process gravitated towards environmental and social impact assessments (ESIAs) which are however different from the process of human rights due diligence envisaged by the UNGPs.

To explain, ESIAs are a legal requirement for the approval of large-scale economic projects in Zambia. Human rights due diligence refers to the expectation that all business enterprises – irrespective of size and sector- should identity and prevent adverse human rights impacts on an ongoing basis through a company-wide management process. While ESIAs could in theory generate information about social impacts with implications for human rights, such an outcome is unlikely in the Zambian context. The provisions on social impacts and on public consultation in the Environmental Management Act are under-defined and therefore poorly implemented[20], with most ESIAs biased towards the identification and mitigation of environmental impacts.[21] The process of human rights due diligence presupposes the use of international human rights standards as benchmarks, as well as a human rights-based approach to stakeholder engagement and consultation. Overall, the discussions with participating company interviewees suggested a limited understanding of what the human rights due diligence process entails in practice.[22]

Company interviewees reported to have involved stakeholders in the process of impact assessment and informed them about the findings. However, less than half of the workers and community interviewees confirmed having been involved in impact assessments (see Figures 5 and 6). Among community interviewees, there was an overwhelming perception that the views of the community members do not actually influence company decisions and that the frequency and quality of the dialogue and general engagement with company representatives is not adequate. While all worker interviewees answered that the company has channels through which workers can raise human rights issues, only half of the respondents said that the company took measures to ensure there would be no reprisals for raising rights issues.
When asked about the adverse impacts identified through ESIAs, company interviewees

Figure 5: Worker interviewees´ perception of company human rights due diligence

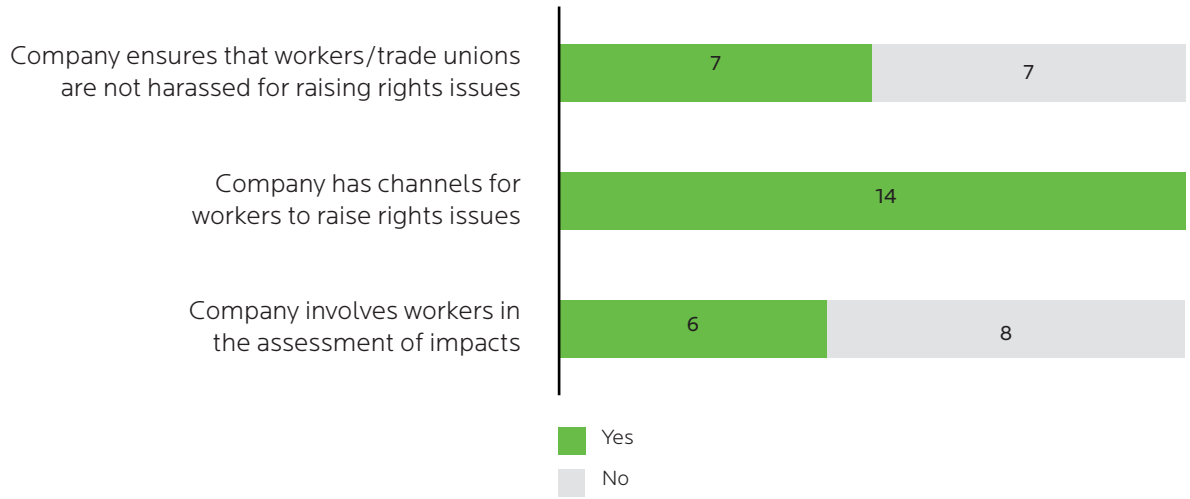
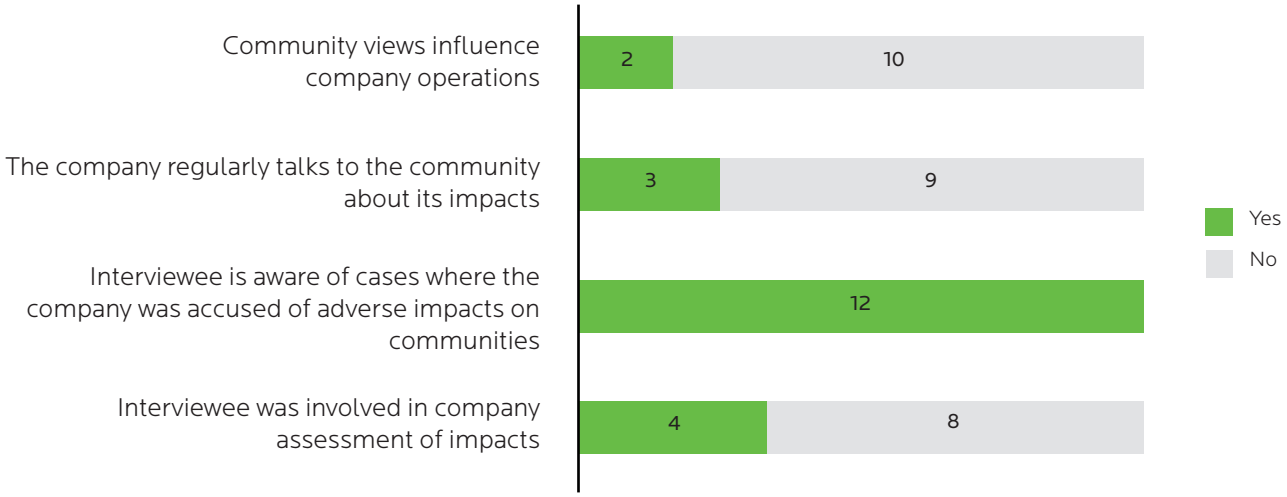


Figure 6: Local community interviewees´ perception of company human rights due diligence



reported various issues including displacements, influx of people resulting into cultural dilution, increase in communicable diseases, inadequate housing and sanitation services, cracking of dwelling houses, increase in consumer prices, increase in crime, soil, water, and air pollution and damage to biodiversity, water and food supply sources among others. **Worryingly, all 12 community interviewees were aware of cases where companies were accused of adverse human rights impacts**. Some of these impacts were reportedly associated with cracking of houses, water and air pollution, discrimination in employment, ineffective CSR projects, rising incidences of crime and communicable diseases etc.

3.4. KEY FINDINGS ON OPERATIONAL GRIEVANCE MECHANISMS (OGMS)

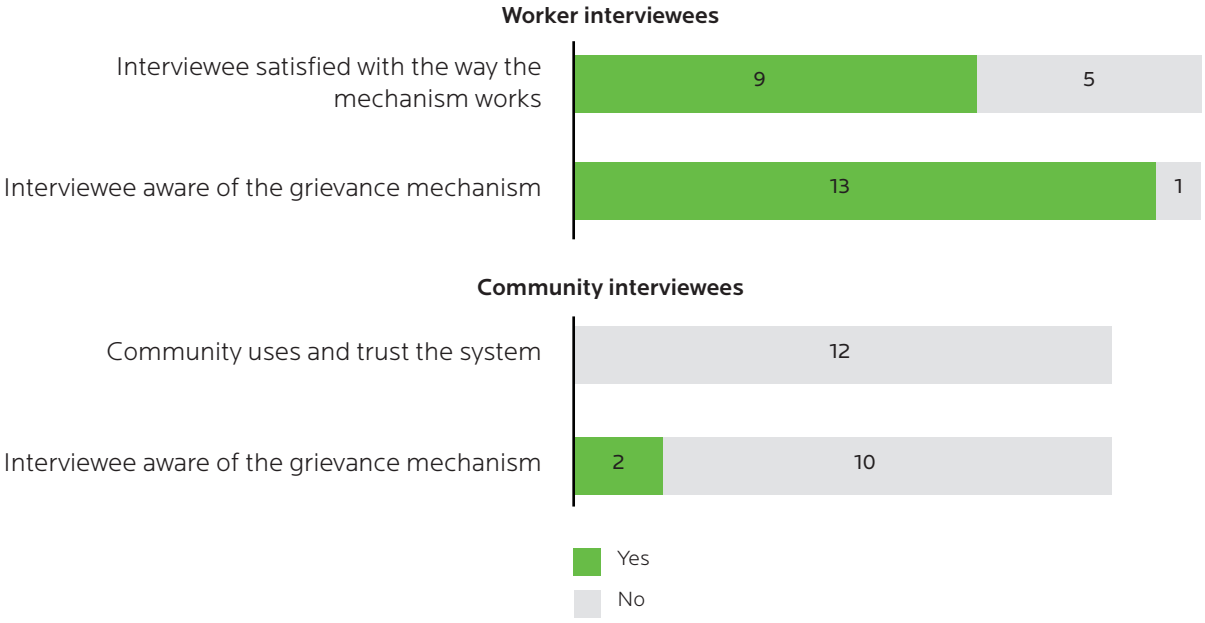
The UNGPs recommend that a grievance mechanism should be available to all stakeholders, including communities, who may potentially be impacted by a company's operations and that appropriate remedies be provided in accordance with human rights standards. A mechanism that is only open to workers´ complaints and concerns wouldn´t meet the criterion of OGM accessibility in the UNGPs.

All company interviewees reported having operational-level grievance mechanisms in place. Of those, nine reported having OGMs which handled complaints from anyone impacted by company operations while two had mechanisms which dealt with worker grievances only. One company, for example, had an outsourced and off-site toll-free line specially dedicated for lodging of grievances. Company interviewees reported that their mechanisms allowed for appeals and guaranteed fairness, justice, confidentiality, dignity and security of complainants.
However, stakeholder interviews and secondary research conducted by the study team suggested that fewer companies had actual OGMs or had OGMs that met the UNGPs

effectiveness criteria. For example, the interviews with workers revealed that some of them equated OGMS with internal disciplinary mechanisms provided by a Disciplinary and Grievance Code.[23] When asked who uses the mechanism, except for one interviewee, all said workers and management. When asked what types of grievances were resolved through the mechanism, some mentioned disciplinary cases.

While the company interviewees said they informed stakeholders regarding the availability of the OGM, not all stakeholders were equally aware of existence of mechanisms. **Overall, worker interviewees appeared to be both better informed as well as more satisfied with its outcomes than the community interviewees** (see Figure 7).

Figure 7: Stakeholders´ views on the grievance mechanisms



3.5. KEY FINDINGS ON COMPANY REPORTING

Ten companies reported that they publicly communicate on issues of sustainability, including human rights. However, a review of secondary information from mining companies' websites suggests that only two companies regularly reported on their sustainability performance. Four had separate annual sustainability reports, including a specific human rights component, and one had a report that included both financial and non-financial, i.e. sustainability, aspects. The coverage of human rights/social issues in the latter is weak. For example, in one reviewed integrated report for 2018, the non-financial component covered only two issues, i.e. Corporate Social Responsibility and Environmental Review.

All five companies reported through the group platform and not as individual subsidiaries. As result, the human rights and social issues pertaining to individual subsidiaries got a very superficial and generic coverage. This potentially makes it very difficult for stakeholders to understand the main impacts and areas of risk at the national/local level and assess whether the prevention and mitigation measures taken by companies are adequate and effective.

CONCLUDING REMARKS

Company interviewees overall assessed their companies to be compliant with the basic requirements under Pillar II of the UNGPs. All or most of them reported to have a public commitment to human rights, assess human rights impacts and provide remedy through an OGM. When asked about the three top barriers to human rights integration, none of the company interviewees identified a lack of understanding about human rights responsibilities and a lack of internal resources as barriers (see Figure 8). This suggests a high level of confidence regarding the internal resources and knowledge to embed human rights throughout the business.

Figure 8: What are the three biggest barriers your company faces in addressing human rights?

However, the study team found a good deal of evidence that put into question this relatively positive self-assessment. Many company interviewees had fragmentary information about how polices were translated into practice and/or had a superficial understanding of the key concept of human rights due diligence in the UNGPs. Moreover, the interviews with workers and communities only partially corroborated the companies' statements regarding their stakeholder engagement practice. Notably, community interviewees were not aware of and involved in the development of the companies' human rights approach and displayed low levels of trust towards the companies.

4 THE IMPLEMENTATION OF THE CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS IN THE AGRICULTURE SECTOR

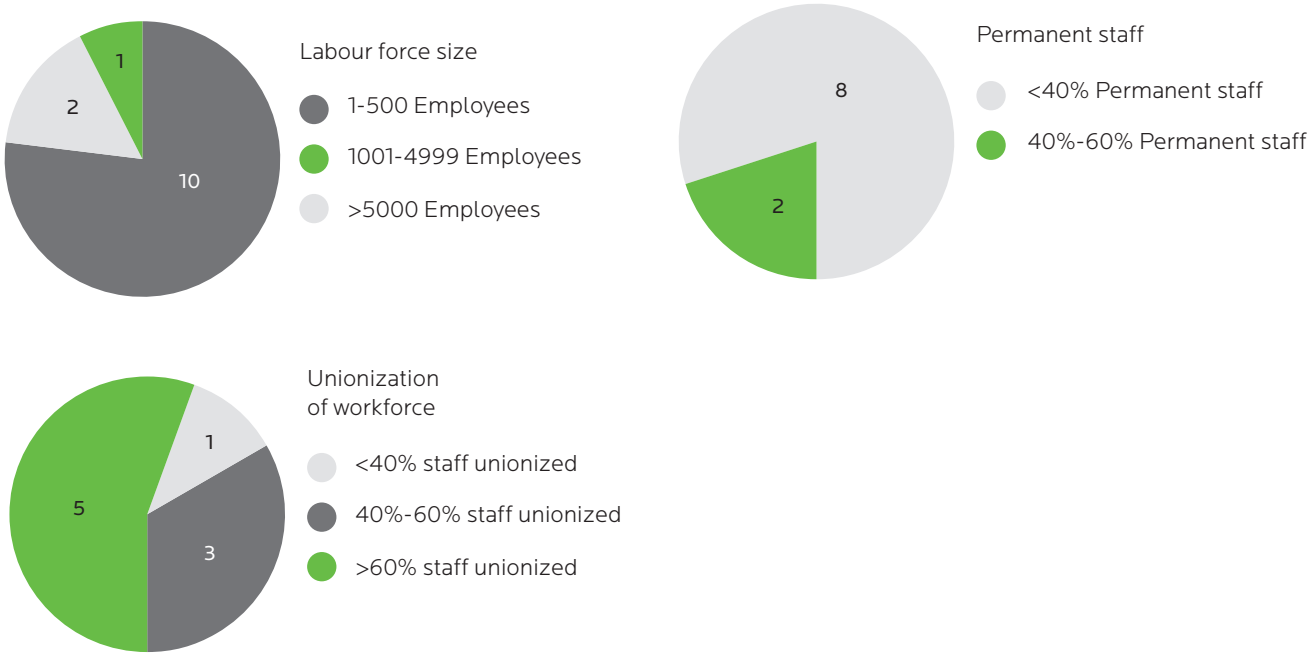
Chapter 4 discusses the findings on the implementation of human rights by companies in the agriculture sector. The chapter opens with an overview of the agriculture companies surveyed as part of this study and continues with the presentation of the findings relating to the corporate responsibility to respect human rights in respect to a policy commitment; human rights due diligence; operational grievance mechanism; and reporting.

4.1. AN OVERVIEW OF THE AGRICULTURE COMPANIES IN THE STUDY

Agriculture in Zambia comprises crop production, livestock keeping, fishing, forestry and game. The major crops produced in Zambia include: sugar; tobacco; maize; wheat; horticultural produce; sunflower seeds; coffee; cotton; groundnuts; rice; soybeans; and fruits.[24] In addition, the country produces dairy and meat products, eggs, fish, skins and hides. Small scale farmers produce almost exclusively for the domestic market. They represent approximately 60% of the Zambian population, producing 85% of the food for the population.[25]

The study includes 13 companies; six are large-scale companies out of which four are subsidiaries of multinational companies. The rest are medium-scale and family-based farming businesses. In total, the companies employed more than 17,400 workers and of those, two thirds were employed by three companies (see Figure 9).

Figure 9: Breakdown of agriculture companies per workforce



The lower number of permanent workers – as compared to the mining sector – is due to the fact that many agricultural operations are seasonal in nature and rely on short-term labour. For example, sugar cane plantations close during the rainy season because of waterlogging and re-open at the end of rainy season, around the month of April. Expatriates constituted 3% of the total work force while female employees, on average, represented 20% of the work force.

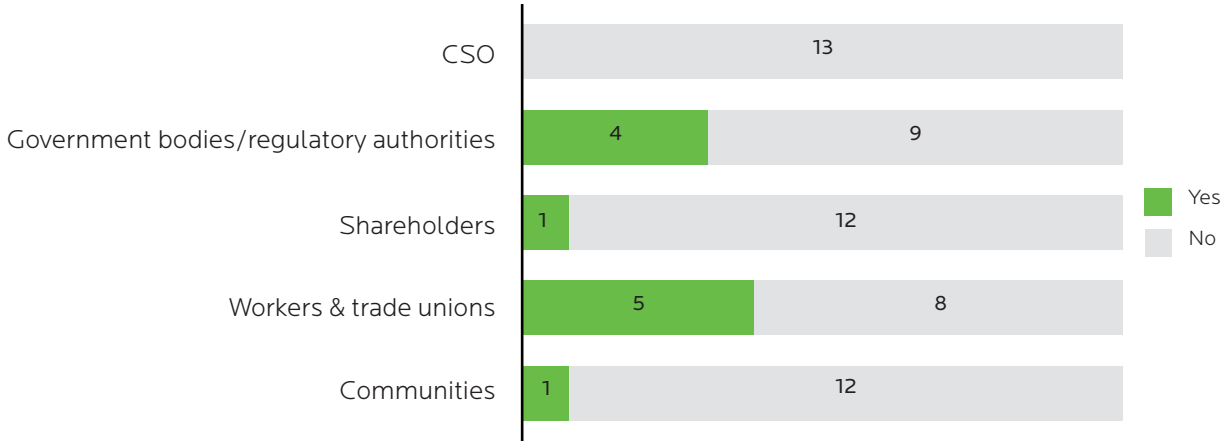
4.2. KEY FINDINGS ON POLICY COMMITMENT TO HUMAN RIGHTS

In terms of commitments to human rights, the majority of the companies (8) reported having a human rights policy. Beyond human rights commitments, six companies reported commitments to international initiatives promoting responsible business conduct such as Fairtrade, the Global Compact, International Finance Corporation (IFC) environmental and social performance standards. The Zambia National Farmers Union (ZNFU), a business association representing the agriculture sector, informed the study team that the association encourages business members to commit to responsible business conduct through programmes such as, for example, the Women Farmers Forum which promotes the empowerment of women members of the Union.[26]

All company interviewees stated that the human rights policy was approved at the highest level and employees were informed about company responsibilities,

commitments and expectations regarding human rights. **The study found that just like in the mining sector, the companies in the agriculture sector engaged more with government and workers in policy development than they did with local communities and/or civil society organisations** (see Figure 10).

Figure 10: Stakeholders engaged during policy development – company interviewees´ answers



Five company interviewees reported that their policies were publicly available while another five reported having included human rights commitments in third party contractual agreements. Six of the company interviewees stated that they provide training and guidance as part of the implementation of the policy.

Despite company interviewees claiming to have these policies, there was limited awareness about their existence among key stakeholders (see Figure 11).

Figure 11: Stakeholders´ awareness about the companies´ human rights policies

All the worker interviewees in companies with human rights policy commitments reported that they were not consulted in the development of the policy and that no training or guidance was provided as part of policy implementation. Among the four contractors interviewed, half reported being aware of the human rights policies of the companies with whom they had a business relationship. They also reported that the companies explained expected responsible business conduct in line with the human rights policy and further reported inclusion of human rights clauses in the contracts they signed with the company.

4.3. KEY FINDINGS ON HUMAN RIGHTS DUE DILIGENCE

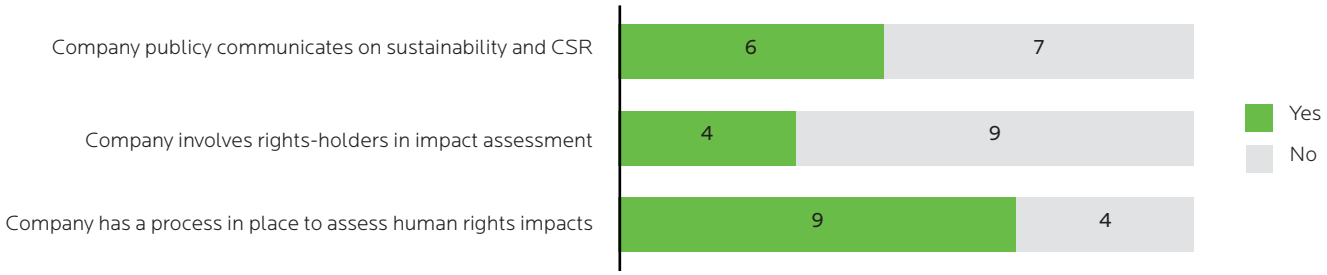
The majority of company interviewees (9) reported that their companies have a process in place to identify potential human rights impacts at key stages of operations. However, when asked to describe the process, they referred to the ESIA process, which as described earlier, has limitations from a human rights due diligence perspective. Only three company interviewees specifically referred to international human rights standards particularly guidance in the IFC Performance Standards.

When asked about the key adverse impacts identified, the company interviewees mentioned health hazards, uncontrolled fires, damage to biodiversity and personal property, among others. Companies identified some of the prevention and mitigation measures to include staff training, spraying using tractors and not planes, engaging stakeholders, use of integrated pesticide management, testing soil and water samples regularly etc.

Only four of the company interviewees reported that their companies involved rights-holders in impacts assessments and informed them of the impacts identified (see figure 12).

The workers´ and local communities´ perceptions of company processes for assessing impacts were mixed (see Figures 13 and 14). Among workers, no interviewee could

Figure 12: Human rights due diligence – company interviewees´ answers



confirm that the company involved workers in the assessment of impacts. However, the majority agreed that the companies had in place channels workers could use to raise concerns and human rights issues, even though only a few mentioned that the company also has in place measures to ensure that there are no reprisals for doing so. Among local community interviewees, while all reported being aware of cases where companies were accused of negatively impacting communities, only half reported having been involved in the company´s assessment of impacts.

Figure 13: Worker interviewees´ perception of company human rights due diligence

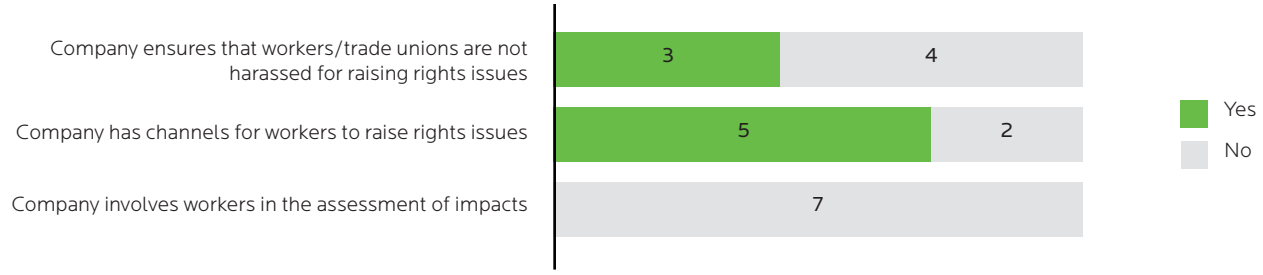
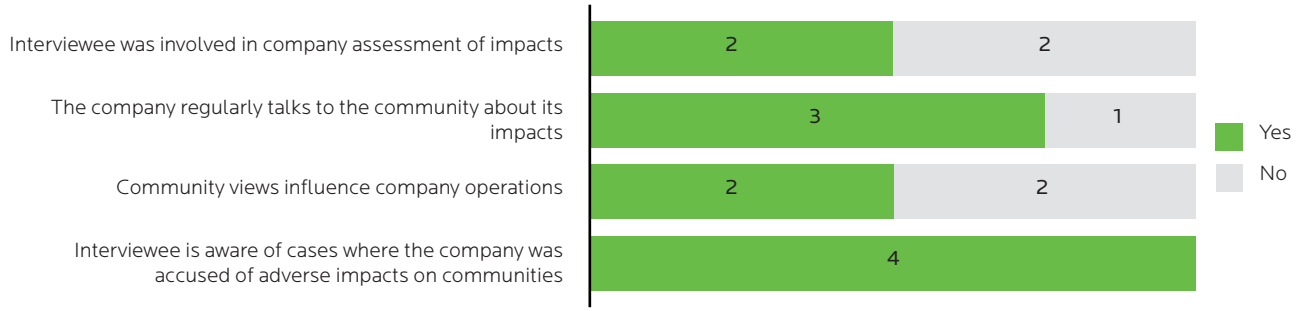


Figure 14: Local community interviewees´ perception of company human rights due diligence

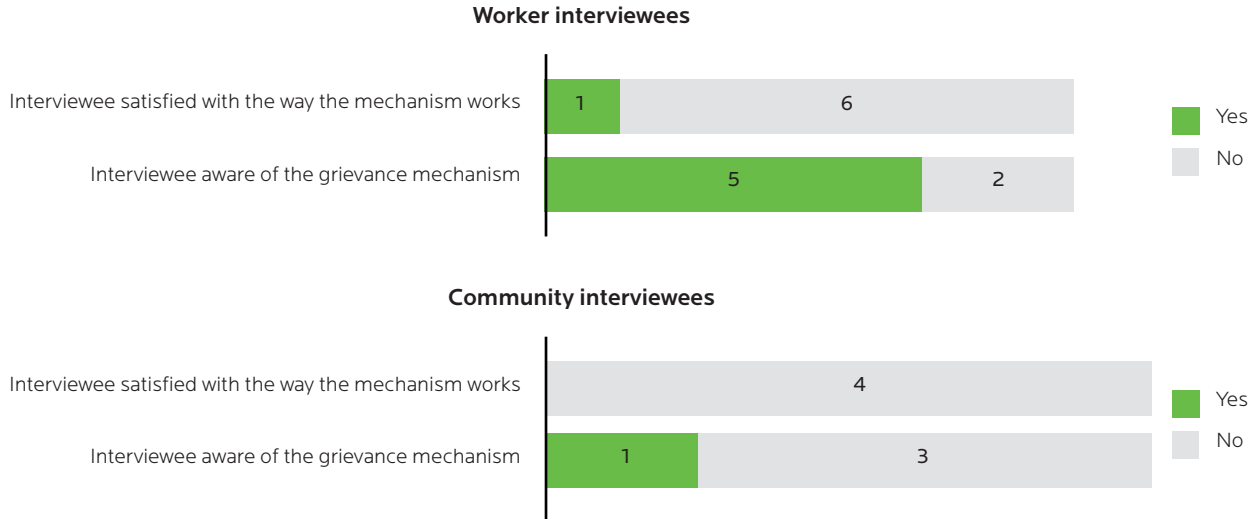


4.4. KEY FINDINGS ON OPERATIONAL GRIEVANCE MECHANISMS (OGMS)

The majority (10) of the company interviewees reported having a grievance mechanism through which complaints relating to companies' operations could be resolved. They also reported having informed communities and workers about its existence. However, explanation on how the mechanisms worked, type and number of complaints handled suggested the mechanisms mostly dealt with internal disciplinary related matters.

As shown in Figure 15, among the seven workers interviewed, five reported being aware of its company´s grievance mechanisms. As in the case of the mining sector, the high levels of awareness may be attributed to most worker interviewees confusing OGMs to work place Disciplinary and Grievance Code. Only one interviewee expressed satisfaction with the way the mechanism worked.

Figure 15: Company stakeholders´ views on the company grievance mechanism



In the case of communities, only one interviewee was aware of the companies' grievance mechanism and all reported not trusting or using the mechanism. One of the reasons advanced was the lack of assurance that grievances lodged would effectively be dealt with. Of the four interviewed, half reported having lodged complaints about adverse impacts of the company through different channels such as local authorities. None of the two interviewees who lodged complaints against companies reported having been provided feedback on progress in resolving their grievances.

4.5. KEY FINDINGS ON COMPANY REPORTING

The study found that six companies in the agriculture sector reported publicly on issues of sustainability or corporate social responsibility through multimedia platforms. However, further verification through company reports and other documents suggested only three of the companies publicly reported on their human rights performance. Of those, two were subsidiaries of multinational enterprises and were listed on the Lusaka Stock Exchange. From the three companies, only one reported through stand-alone sustainability reporting and two integrated their sustainability reports into annual financial reports. The sustainability reports accessed mostly referenced the Sustainable Development Goals and covered CSR and environmental issues. The reports did not provide detailed analysis of company performance in relation to human rights.

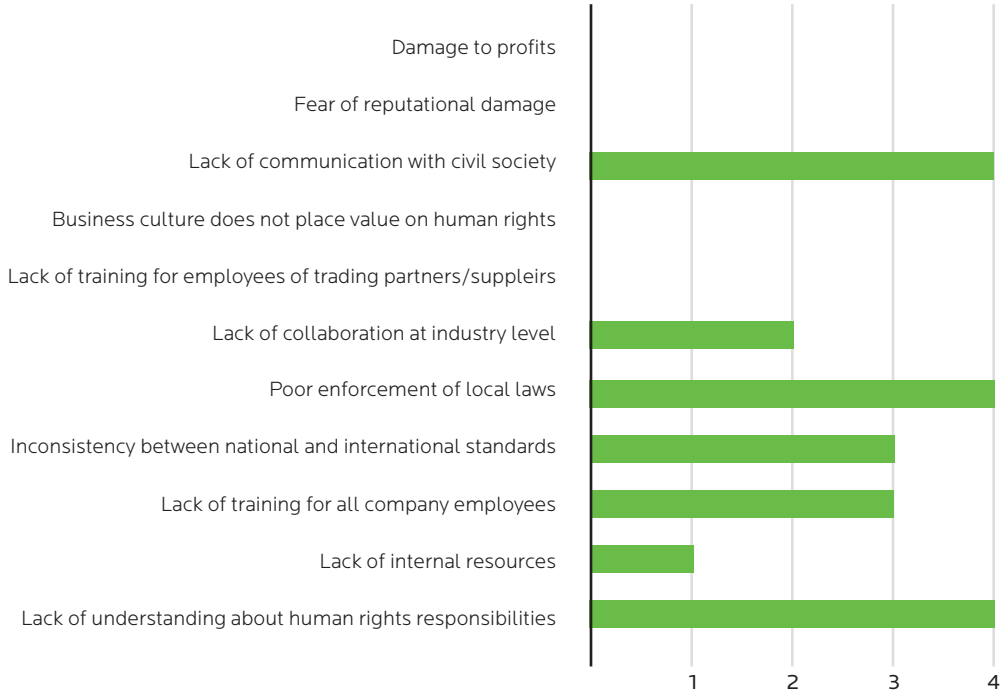
CONCLUDING REMARKS

Unlike in the mining sector, the uptake of human rights by the agriculture companies included in the study was found to be relatively weak. This can be partially explained by the fact there are fewer multinational companies in the sector and exposure to

international human rights standards or other standards relating to responsible business conduct is therefore limited. For most of the medium scale and family owned businesses, apart from limited knowledge on human rights standards, establishing human rights due diligence procedures can be cumbersome and costly.

As regards company perceptions on barriers to addressing human rights in their operations, most of the interviews converged around a lack of understanding about human rights responsibilities, lack of communication with civil society organization and poor enforcement of national laws (see Figure 16).

Figure 16: What are the three biggest barriers your company faces in addressing human rights?



While most of the agriculture companies surveyed reported having a human rights policy, only a minority of these companies published the said policies. It appears that many companies equated ESIA processes to having a human rights due diligence process. Despite evidence that some of the agriculture companies have operational grievance mechanisms which are open to a wide array of stakeholders, these mechanisms appeared to be largely under-utilised, especially by external stakeholders and rights-holders. Less than half of the companies adopted human rights reporting. Even then, reporting mainly relates to companies' CSR initiatives rather than on processes to prevent and address potential human rights impacts.

5 RECOMMENDATIONS

One of the objectives of this study is to identify measures that could be taken by the state, businesses, and other actors, towards addressing existing gaps in the implementation of the UNGPs in the mining and agriculture sectors. The recommendations below are informed by the findings regarding the gaps in companies' efforts to implement their responsibility to respect human rights but also by weaknesses in the state´s business and human rights legal and policy framework (see Chapter 1).

The Zambian State

♦ The State should enact laws and formulate policies requiring companies to develop and implement human rights policy commitments and set a clear expectation that all businesses operating in the country should respect human rights. These laws and policies should provide adequate guidance for companies to establish and develop frameworks for the implementation of the corporate responsibility to respect under Pillar II of the UNGPs, as relevant to the various sectoral contexts – including, consideration of the size of enterprise and the engagement of rights-holders, especially groups at risk.

♦ The state should designate and resource a relevant government ministry, department or agency to coordinate and lead the process of implementing the UNGPs. Institutions such as the Human Rights Commission should be engaged to raise awareness and build capacity of state and non-state actors on business and human rights standards and relevant initiatives encouraging responsible business conduct.

♦ The State should make a formal commitment to developing a National Action Plan on Business and Human Rights and commence the NAP development process, in line with the government's acceptance of the recommendation by Kenya for Zambia's promulgation of a NAP on Business and Human Rights.

♦ The State should review relevant laws and policies to align business obligations with international human rights standards, including by:

o Enacting provisions requiring human rights due diligence in the Environmental Management Act As per the recommendation made by the Parliamentary Committee on Legal Affairs, Human Rights,

Gender Matters and Governance of 2019.

o Reviewing the 2017 Companies Act to include an obligation for Non-Financial Reporting by companies.

♦ The State should promote through policy and administrative action the adoption by companies of voluntary international and regional initiatives encouraging responsible business conduct, including but not limited to the Voluntary Principles on Security and Human Rights and the Guiding Principles on Large Scale Land Based Investments in Africa.

Companies

♦ Through human rights policy commitments, companies should commit to respecting human rights in accordance with the UNGPs, via consultative and appropriate operational level frameworks integrated across all company functions. Human rights policies should facilitate the conduct of human rights due diligence, establishment and operationalisation of effective operational grievance mechanisms, and regular communication on human rights performance. Companies should communicate and disseminate their policies and sensitise all staff, relevant rights-holders and value chain stakeholders, on human rights commitments, implementation and monitoring frameworks.

♦ Companies should pay heightened attention to the needs and vulnerabilities of groups-at-risk and ensure that stakeholders are included and consulted in identifying and redressing human rights impacts.

♦ There should be regular and structured communication to staff and external stakeholders on the company´s actual and potential adverse human rights impacts and the measures taken by the company to prevent or mitigate the company's impacts.

♦ Companies should strengthen industry level collaboration on sector-specific human rights risks, including by engaging constructively government representatives on the responsible business conduct and business and human rights agenda.

Employers and Business Associations

♦ Employers and business associations should sensitise and build the capacities of companies on the corporate responsibility to respect human rights as outlined in the UNGPs, including through strategic partnerships, as

relevant, with human rights organisations as the Human Rights Commission, trade unions and relevant civil society organisations.

♦ Business associations should require their members to adopt and implement policies and practices that promote respect for human rights, as a condition for membership.

♦ Employers and business associations should prioritise human rights in their strategic engagement with government officials and ensure that lobby and advocacy activities do not undermine the realisation of human rights.

Trade Unions

♦ Trade unions should raise awareness on the corporate responsibility to respect human rights, including by partnering, as relevant, with the International Trade Union Congress and the Human Rights Commission, in building workers´ capacities on business and human rights.

ANNEX 1 METHODOLOGY: DATA COLLECTION

Secondary research

The study has been informed by desk research on the Zambian mining and agriculture sectors, key companies operating in the sector and their policies and practices, and specific information on human rights related issues. The literature review included previous studies on the implementation of the corporate responsibility to respect human rights in other countries.

Primary data collection

Primary data was collected through two types of interviews. First, the study team conducted semi-structured interviews with a diverse range of national stakeholders with the objective of seeking clarity on laws, policy and practices related to the corporate responsibility to respect human rights. The stakeholders included representatives of the government, multi-stakeholder organisations, trade unions, business associations and the stock exchange.

Second, the study team conducted structured interviews with representatives of 28 large-scale mining companies and medium to large agriculture companies and their stakeholders, i.e. workers, local communities and contractors. Based on a rough estimate, the mining companies interviewed represent approximately 90% of all operational and formal large- and medium-scale mining, while the agriculture companies represent around 80% of large-scale farming companies in Zambia.[27] The data collection entailed field visits in Southern, Lusaka, Central, Copperbelt and North-Western provinces of Zambia. A specific questionnaire was designed for each interviewee category, i.e. company, worker, local community, contractor, with a view to gathering multiple perspectives on the progress businesses were making in discharging their responsibility to respect human rights. During the interviews, the questions were explained in detail, with examples provided where necessary to make it easier for respondents to provide relevant information. In a few cases, follow-up interviews were conducted to address information gaps or inconsistencies in the answers provided. The data collected through the questionnaires was processed and analysed in Microsoft Excel.

The companies were identified based on membership lists of industry associations such as the Zambia Chamber of Mines[28] and the Zambia National Farmer Union.[29] The questionnaires were mostly answered by senior company executives from either the Corporate or Human Resource Department. However, while the research team engaged with 28 company representatives, ultimately only 24 companies returned

the questionnaires that were also retained for analysis and production of this report (see Figure 17). The company questionnaire has been designed to assess the degree to which companies have implemented the corporate responsibility to respect human rights as outlined in Pillar II of the UNGPs and includes questions on human rights policy commitments, human rights due diligence, including reporting, and operational grievance mechanisms.

Figure 17: Number of companies included in the study

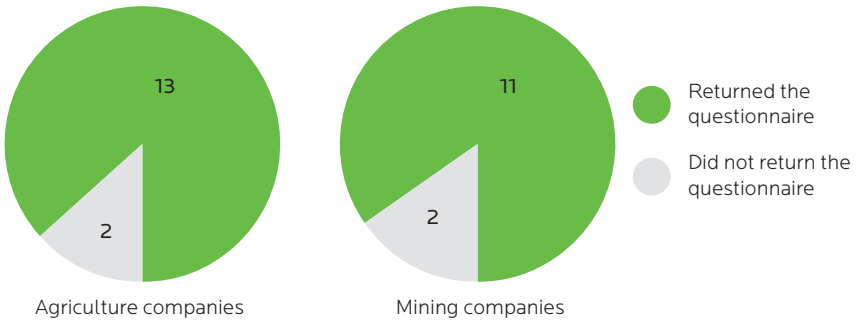
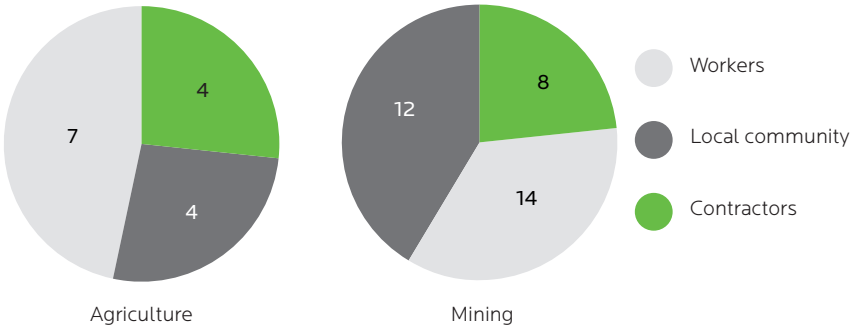


Figure 18: Number of interviews with company stakeholders



The fewer number of interviews with workers and community representatives in the case of the agriculture companies is due to many of such companies being small and family run. Some of these businesses did not have a recognised union and in many cases, non-unionised workers were not willing to answer questionnaires. This was compounded by the fact that the data collection was carried out during the planting season when most workers were too busy in the field. Moreover, because some of these businesses were established in farming blocks, there were no immediate communities to interview.

Limitations

Several methodological limitations should be noted.

First, the study only covers two sectors (mining and agriculture) and a sample of 28 companies. Generalising these findings, including to other sectors, should be therefore done with caution. Moreover, the study does not cover artisanal mining which plays an important role in the economy, notably in rural areas, and carries significant health and safety risks due to lack of protective equipment and often poor work conditions. Additional research is needed to verify whether these findings are applicable more broadly to other businesses in Zambia.

Second, the company questionnaire, especially the questions around the existence of policies and procedures on human rights, assumed a certain level of formality and hierarchy in the business organisation. However, some of the agriculture companies interviewed were family-based farms with little in the way of a formal business/ management structure. As such, the expectations of the UNGPs could not be easily translated to their context and their answers were only partially included in the final analysis. This highlights the need for more guidance and resources on how to assess the human rights performance of small and micro enterprises.

Third, the questionnaire for contractors included some questions that were misinterpreted by the interviewees which rendered some data relating to human rights due diligence and grievance mechanism components misaligned and unusable. Therefore, only the contractors´ answers on human rights policies was incorporated into the study.

Finally, the study team´s commitment to achieve gender balance among the interviewees was difficult to implement in practice. [30] Part of the explanation is structural. For example, in the mining sector, female employees on average represent only 10% of the work force which has a long historical background given that it used to be government policy not to employ women in mining operations. Unions nominated male representatives to answer the questionnaire (even when advice was given for them to balance genders) because they deemed that only senior staff, the majority men, could provide adequate answers with minimal consultations. In terms of community representatives, the approach was to ask in the communities for some available community leaders or known activists in community mobilisation on matters especially related to company-community relations. In most cases, the community members that were suggested to the study team were male. This limitation speaks to the need for additional research that focuses on how these companies take into account gender and diversity aspects into their policies and procedures and should be informed by the perspectives of female workers and community representatives.

ANNEX 2 COMPANY QUESTIONNAIRE

Respondent: Company Representative

Introduction
The Human Rights Commission (HRC) is a Zambian National Human Rights Institution (NHRI) established under the Constitution of Zambia (Amendment) Act No. 2 of 2016 to promote and protect human rights. Its broad mandate is provided for under Article 230 (2) and (3) of the Constitution and Section 9 of the Human Rights Commission Act Chapter 48 of the laws of Zambia. The mandate includes facilitating domestication of international and regional human rights instruments and agreements.

This study seeks to collect views from companies on implementation of their responsibility to respect human rights through their human rights commitments, due diligence and operational level grievance mechanisms as guided under United Nations Guiding Principles on Business and human Rights. Adopted by the UN Human Rights Council resolution 17/4 of 16 June 2011, the UNGPs is a unanimously adopted instrument which implements the UN Protect, Respect and Remedy Framework. It elaborates that:

- States have an obligation to protect against human rights abuse by third parties, including businesses
- Businesses have an obligation to respect human rights;
- Victims of human rights abuses by business actors have a right to effective remedy.

Ensuring UNGPs become part of national laws as well as policies of business actors is an going global effort. In order to make UNGPs implementation process in Zambia more comprehensive and evidence-based, HRC in cooperation with the Danish Institute for Human Rights (DIHR) produced a "national baseline assessment report" (the NBA) in 2016. It highlighted how the State implemented its obligation to protect human rights from business-related human rights risks and impacts.

The second phase of assessment, which this research is part of, aims to find out how business enterprises in Zambia are implementing their responsibility to respect human rights in their business operations. Your participation in this study is important in ensuring appropriate and accurate views are collected from as many businesses in the mining and agriculture sector in Zambia.

Please note that information collected in this study will not be used for any purposes other than the national baseline assessment. We recommend this questionnaire to be filled out by competent persons in your organization (e.g. CEO, Senior Executives in Corporate Affairs, Human Resource Depts etc.).

In case you face any difficulties answering questions, please contact us at (0977-767019 or 0967-791510)

Thank you for your cooperation.

(a) Introduction

1. What position do you hold within the company?
2. How long have you worked in the company?
3. In which business sector is your company? (a) Agriculture (b) Mining
4. Does your organization source materials from overseas? Yes..... No.....
5. Does your organization supply or sell materials overseas? Yes ..... No.....
6. Is your organisation a subsidiary or affiliate of another organisation? .....
7. How many staff are employed in your organisation? .....
8. What is the respective percentage of the workforce? (1) permanent (2) short-term contracts (3) long term contracts (4) Expatriates (5) male (6) female (7) others (specify)
9. What percentage of the workforce is unionized?

(b) Human Rights Policy Commitments.

10. Does Your Company have a Human Rights Policy in place? Yes.... No....
11. Is this a stand-alone policy or part of another policy (e.g. CSR, sustainability)? Yes (stand-alone).... No (part of another)
12. Is the policy publicly available? Yes... No.....
13. Has your human rights policy been approved at the most senior level of the business, e.g. CEO, Board? Yes... No.....
14. What human rights are referred to in the policy? (give some examples)
15. Has the company communicated to employees the company's responsibilities, commitments and expectations with regards to human rights? Yes ... No .....
16. Does the company provide guidance, training etc relating to the policy? Yes.... No ....
17. Are policy commitments integrated into contractual requirements with third parties? Yes ... No
18. Did your policy formulation process involve key internal and external stakeholders? Yes... No
19. Which stakeholders? (Mention them)
20. How is the policy implemented and monitored? (Explain)
21. What other policies does your company have and how are they implemented?.....
22. Does your company commit itself to other responsible business conduct standards, e.g. the IFC performance standards, the OECD Guidelines for multinational enterprises, International Council on Mining and Metals Sustainable Development Framework, national corporate responsibility initiatives? Yes ..... No .....
23. Does your company participate in any of the following multi-stakeholder initiatives? (tick against those your company participates in)
    - UN Global Compact
    - The Voluntary Principles on Security and Human Rights (mining)
    - The Extractive Industries Transparency Initiative (EITI) (mining)

- Fair trade (agribusiness)
- Others, (specify)

(c) Human Rights Due Diligence

24. Does your company have a process in place to identify potential human rights impacts at key moments of operations, e.g. acquisition of land, exploration? Yes ..... No ....If yes, please describe the process.....
25. Has your company carried out other types of impact assessments that take into account risks that external stakeholders may suffer due to company's operations? Yes ..... No .....
26. If yes, may you please explain the context of that assessment?.....
27. What were the main impacts identified?...
28. What were the prevention and mitigation measures taken? Have those measure been regularly monitored?.
29. How were the affected rights-holders involved in the assessment? ...
30. Were they informed about the impacts? Yes ... No .....
31. Did the company publicly report on its findings? Yes ... No.....
32. Has the company undergone any inspection from the following authorities in the last 2 years? (1) Environment. (2) labour (3) Occupational Health and Safety (4) others (specify) ..... If yes, what was the outcome of the inspection?
33. Does your company publicly communicate on issues of sustainability or corporate social responsibility? Yes ..... No .....
34. In what format is the communication?

(d) Grievance handling & other additional information

35. Does your company have a grievance mechanism though which complaints relating to the company can be raised? (A grievance mechanism is any company-established process through which concerns, issues or problems related to a company's operations can be raised. Complaints can be lodged for example, through a dedicated hotline, complaints form, complaints box etc) Yes..... No .....
36. Who can use the grievance mechanism? (a) Company management (b) Workers (c) Company employees only (d) Community members (e) Everybody associated with company operations
37. How does the mechanism work in practice? (Give details e.g. its structure (does it include stakeholders), which department is in charge, what are the procedures etc)
38. Does the mechanism provide for appeal? Yes .... No .....
39. Does the operation of the mechanism guarantee fairness, justice, confidentiality, dignity, and security of complainants/ Yes .....No.....
40. If yes, how?

41. Does your company provide information to employees and local communities about the existence of the grievance mechanism? Yes .... No .....
42. How many and what type of complaints have you received in the last year?
43. What are the three biggest barriers your business faces in addressing human rights from the list below? (tick against only 3 from the list below)
    i. Lack of understanding about what our responsibilities are in the area of human right
    ii. Lack of available internal organisation resources
    iii. Lack of training and education for all company employees...
    iv. Inconsistency between national law and international standards...
    v. Poor enforcement of local laws ...
    vi. Addressing human rights would reduce profit margins
    vii. Lack of collaboration at industry/sector level
    viii. Lack of training and education for employees at trading partners/suppliers
    ix. Business culture does not place a high value on the issue
    x. Lack of communication and trust with civil society actors
    xi. Fear of increasing risk of reputational damage

44. What support or guidance do you think would be useful for your organisation in order to help it strengthen respect human rights in its operations?
45. From whom would you like to receive advice regarding business and human rights? (for example, trade association, enterprise agencies, legal advisors, other)
    i. The Zambian government agencies
    ii. The Zambia Human Rights Commission
    iii. Trade associations
    iv. Legal advisors
    v. Sector specific bodies
    vi. Other (specify)

ENDNOTES

1 Companies are only required to report on their annual financial performance. See section 270 and 277 of the Companies Act no 10 of 2017.
2 In 2017 the government included a budget line to implement the UPR recommendation under the Seventh National Development Plan.
3 Report of the Committee on Legal Affairs, Human Rights, Gender Matters and Governance for the 3rd session of the 12th National Assembly, 2019, p. 29.
4 Interview with Lusaka Stock Exchange officials, February 2020.
5 Zambia Extractives Industries Transparency Initiative, 10th Zambia EITI Report, December 2019, p. 11, available at https://eiti.org/files/documents/2017_zambia_eiti_report.pdf
6 Zambian Central Statistical Office, 2018 Labour Force Survey Report, p. 29, available at https://www.zamstats.gov.zm/index.php/publications/category/28-labour
7 Statista Zambia: Share of economic sectors in the gross domestic product from 2008 to 2018, available at https://www.statista.com/statistics/457737/share-of-economic-sectors-in-the-gdp-in-zambia/
8 The Wold Bank, Zambia: Harvesting Agricultural Potential, May 2016, available at https://www.worldbank.org/en/about/partners/brief/zambia-harvesting-agricultural-potential
9 See Desderius Chisukulu, Mine growth and socio-economical impact in North-Western Province of Zambia, 2014, p. 9, available at https://openaccess.leidenuniv.nl/handle/1887/35743
10 Swedwatch, Copper with a cost: Human rights and environmental risks in the mineral supply chain of ICT: A case study from Zambia, May 2019, available at https://swedwatch.org/wp-content/uploads/2019/05/Copper-with-a-Cost-94_Zambia_191210.pdf
Human Rights Watch, ´We Have to Be Worried': The Impact of Lead Contamination on Children's Rights in Kabwe, Zambia, August 2019, available ay https://www.hrw.org/report/2019/08/23/we-have-be-worried/impact-lead-contamination-childrens-rights-kabwe-zambia
11 See the case description at the Business and Human Rights Resource Centre, available at https://www.business-humanrights.org/en/vedanta-resources-lawsuit-re-water-contamination-zambia
12 Human Rights Watch, "Forced to Leave", Commercial Farming and Displacement in Zambia, October 2017, available at https://www.hrw.org/report/2017/10/25/forced-leave/commercial-farming-and-displacement-zambia
13 International Labour Organization, Zambian Government bans Casualisation and Unjustified Termination of Employment Contracts, January 2016, available at https://www.ilo.org/africa/countries-covered/zambia/WCMS_449885/lang--en/index.htm
14 Human Rights Watch 2017, op.cit.
15 US Department of Labour, Zambia: child labour and forced labour reports, 2018,

https://www.dol.gov/agencies/ilab/resources/reports/child-labor/zambia

16 Zambian Ministry of Finance, Annual Economic Report 2017.

17 The Extractive Industries Transparency Initiative is a multi-stakeholder initiative aimed at improving transparency and accountability in the management of natural resources revenues. EITI company members are required to disclose their taxes and payments to the government and local communities as part of the community development programmes.

18 Interview with Zambia Chamber of Mines, 6 January 2020.

19 See UN Guiding Principles on Business and Human Rights, Commentary to Principle 16.

20 Zambia National Baseline Assessment 2016, p. 16, http://www.hrc.org.zm/index.php/publications/general-publications/file/156-2016-zambia-national-baseline-assessment-on-bussiness-and-human-rights

21 Interview with Zambia Environmental Management Agency official, 11 February 2020.

22 The data collection team engaged with company officials during the data collection process and took time to discuss the kind of information required under each section of the questionnaire and it became apparent that the level of understanding of the responsibility to respect human rights as entailed in UNGPs, was seriously lacking.

23 A Disciplinary and Grievance Code is and internal procedure used in a work place to address an employee's conduct or performance and to deal with problems or complaints raised by employees. Usually it is handled by Human Resource Department. A quick check with some of the companies found that most of them had a Disciplinary and Grievance Code.

24 Zambia Invest: Zambia Agriculture, March 2017, available at https://www.zambiainvest.com/agriculture

25 UN Special Rapporteur on the Right to Food, Zambia's peasants at risk of becoming squatters on their own land – UN expert warns, May 2017, available at https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21612&LangID=E

26 Interview with Zambia National Farmers Union, 7 January 2020.

27 This is an estimation made by the authors based on known medium- and large-scale mines. It excludes companies that are in agro inputs and processing or manufacturing.

28 Only one mining company interviewed was not an affiliate member of the Zambia Chamber of Mines.

29 Affiliation for membership to Zambia National Farmer Union is decentralised to District level. During our visits, some of the District Farmer Unions were found non-operational.

30 For example, the study team only interviewed 3 women from among community representatives in the mining sector. All were selected by Communities from among themselves.