



CLIMATE  
NEXUS  
REPORT

# Climate + Human Rights

The Business Case  
for Action

November 2018

WE MEAN  
BUSINESS



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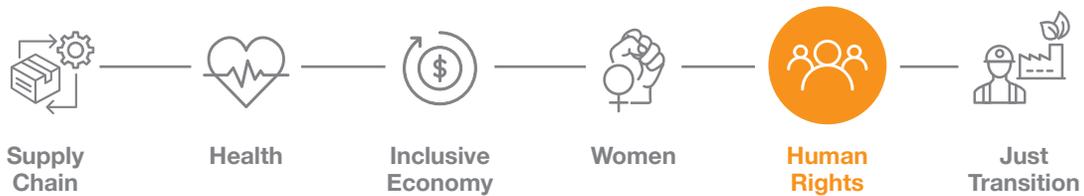
# About this Report

Climate change and human rights are intimately connected. The impacts of climate change undermine the realization of a range of internationally recognized human rights, including those dealing with life, health, food, adequate standard of living, housing, property, and water. The absence of adequate protection for human rights—

particularly those that provide access to information, right to public participation in decision-making, and access to remedy—exacerbates vulnerability to climate impacts, magnifying the risk faced by marginalized communities, who are disproportionately impacted by climate change.

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This report is part of a series of six **climate nexus reports** that cover:



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Historically, climate and human rights have been treated separately—governed by different policy frameworks, addressed by different communities of practice, managed by different tools, and treated in isolation. This accidental siloing has undermined efforts to develop comprehensive and integrated approaches to two issues that consistently rank as the top two sustainability priorities for companies globally. Failure to manage these issues leads to cascading and overlapping risks inside individual companies, across complex global supply chains, and within vulnerable communities. An integrated approach to managing these issues creates a foundation for resilient business in a resilient world.

This report is part of a series of six climate nexus reports that cover human rights, inclusive economy, women’s empowerment, supply chain, just transition, and health. All papers in this series are aimed at businesses to drive resilience inside their companies, across supply chains, and within vulnerable communities. The reports address issues that are material to business, vital in the current political environment, and key to building resilience.



This report demonstrates why and how business can act, including how to establish a deeper understanding of the nexus of climate change and human rights throughout the company and how businesses across sectors can articulate their risk and opportunities. The report proposes operational principles to help companies identify, assess, prevent, mitigate, and remedy adverse climate change and human rights impacts.

The report is aimed principally at sustainability professionals working inside global businesses and is intended to aid their work as they seek greater alignment across sustainability priorities, improved resilience for their companies, and positive impacts on socio-ecological systems across the globe.

This report was prepared using a mixed-methods research methodology. The authors' own experience as participants and observers in shaping public and corporate policies on climate change and human rights provided a foundation for the analysis. In addition, the research draws upon a significant volume of documentary sources, including scientific literature covering climate science and the socio-ecological impacts of climate change, development literature

covering the financial and economic aspects of climate change, climate policy literature covering the history of developments in the international climate regime, human rights literature covering the history of the international human rights regime, literature covering issues of justice and equity, and survey data on the changing perceptions on climate change and human rights within the private sector. Finally, the report benefited from the results of semi-structured interviews conducted with dozens of companies as part of BSR's work on climate risk and resilience.

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## Acknowledgments

The authors wish to thank the IKEA Foundation and the We Mean Business coalition for providing funding for this report and for their commitment to deepening private-sector understanding of how to address overlapping sustainability issues. The authors would also like to acknowledge David Wei, Samantha Harris, and Shubha Chandra of BSR for serving as peer reviewers of this paper.

## Disclaimer

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## Suggested Citation

Cameron, Edward, and Nestor, Peter. 2018. "Climate and Human Rights: The Business Case for Action." Report. BSR, San Francisco.

# Climate Human Rights

## The Nexus

Rising global temperatures create a series of climate impacts felt disproportionately by communities around the world. These include the increase in intensity and frequency of extreme weather events, changes in precipitation and distribution of water, ocean acidification, and sea level rises.

CLIMATE IMPACTS NEGATIVELY AFFECT RIGHTS RELATED TO



**> 60%** of companies who participated in the 2018 BSR/Globescan State of Sustainable Business Survey  
**have adopted standalone human rights policies**

The same survey of corporate responsibility professionals indicated that 77% now manage human rights within their own operations either “a fair amount” or “a great deal.”\*



**Climate change magnifies vulnerabilities**—where human rights protection is weak, individuals and communities are less able to adapt. Strong protection of human rights helps to build societal resilience and the ability to anticipate and respond to climate-related events.

## The Business Case

### RISK



The case for business action on climate change and human rights is primarily driven by:

- material risks to business
- adherence to international norms
- reputational risk
- emerging litigation
- legislation

### OPPORTUNITY

Where a company seeks to go beyond its obligation to “respect” human rights, it should consider either **strategic promotion of human rights** or **supporting the development of the human rights ecosystem.**

While this is seemingly disconnected from operations, companies that go beyond their duty to respect human rights likely will realize returns on investment in the form of **stronger and more resilient supply chains, in addition to advancing human rights in vulnerable communities.**



## EXAMPLES:

**1** A consumer goods company is manufacturing in a region with significant levels of discrimination against women in the workplace. This would place its own operations in jeopardy in the event of a significant adverse weather occurrence, should the women be forced to stay home.

**2** A construction company employs a workforce composed of 90 percent migrant workers who lack the realization of several human rights (e.g., legal status, adequate access to courts, equal rights under the law) and who thus would not be entitled to basic services during a climate emergency.

## Recommendations



### ADOPT A COHESIVE CLIMATE AND HUMAN RIGHTS POLICY

Businesses should adopt a policy clearly stating their corporate commitment to climate resilience and respect for human rights.



### EXPAND HUMAN RIGHTS DUE DILIGENCE TO INCLUDE CLIMATE CHANGE

At minimum, the UN Guiding Principles on Business and Human Rights (UNGPs) require companies to respect the human rights of people affected by their operations, and to avoid causing or contributing to activities that would harm them.

#### Three-step analysis under the UNGPs:

- 1 Locate high-risk areas.
- 2 Clarify the scope of responsibility.
- 3 Determine the appropriate remedy.



### INCLUDE A GENDER FOCUS IN DUE DILIGENCE

Considering the role of the world's poor (and within this community, the role of women) in global value chains, reducing the vulnerability of these populations to climate is crucial for companies. Corporate approaches to climate change and human rights must be sensitive to the gender dimensions of these issues and designed specifically to enhance the capacity of women to be empowered agents of resilience.



### PROVIDE TRANSPARENCY AND ACCOUNTABILITY

Improved disclosure and better-quality reporting of the financial risks and opportunities at the nexus of climate change and human rights will benefit companies' relations with investors, stakeholders, and the public.

# Executive Summary

This paper explores the corporate responsibility to understand and address issues at the nexus of human rights and climate change. While each of these issues is a top priority for corporate responsibility practitioners, they are currently understood and managed separately.

This paper posits that there are significant interrelated impacts and opportunities specifically in communities that are vulnerable to climate change impacts and that are not able to fully realize their internationally guaranteed human rights. Weak realization of human rights exacerbates communities'

climate vulnerability, and companies operating in these communities should incorporate human rights due diligence, consistent with the UN Guiding Principles on Business and Human Rights (UNGPs), into their climate risk analysis and eliminate or mitigate increased vulnerability caused by their operations.

## The proposition unfolds in three parts:

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**Part I** explains how a weak realization of human rights in communities facing a high risk of harm due to climate change exacerbates the vulnerability of these communities. It introduces the idea of “capital assets,” which have been shown to improve climate resilience of high-risk communities. It also identifies human rights entry points that affect the strength or weakness of capital assets, including access to information, decision-making, and justice.

02

**Part II** discusses the key drivers for business action on climate and human rights. From both the climate change and human rights perspectives, key drivers include mitigating material risks to business by supporting the resilience of climate-vulnerable communities and avoiding increasing legal scrutiny that falls squarely at the nexus of human rights and climate change.

03

**Part III** describes an approach to incorporating human rights due diligence into climate change risk and resilience analysis. Carrying out climate and human rights due diligence aligned with the UNGPs allows companies to identify where they may have obligations to provide forward-looking remedies to improve the resilience of communities where they have significant impacts.

This paper proposes a three-step approach that leverages the due diligence framework established in the UNGPs:

- **The first step** is to map where in a company's operations, or in the operations of significant suppliers, the company is working within a climate-vulnerable community with weak realization of human rights, exacerbating the community's vulnerability.
- **The second step** is to determine the scope of responsibility through the lens of the UNGPs' "cause, contribute, and directly linked" framework. Where a company's operations, or the operations of a significant business partner, increase the vulnerability of communities facing climate-related risks, the company has an obligation to prevent the negative impact from occurring, or to engage with key business partners to do so.
- **The third step** is to determine an appropriate remedy. We propose investment in capital assets, which have been shown to significantly improve a community's resilience to climate change. Human rights provides an entry point into several types of capital assets, and companies can direct investments in these assets to strengthen human rights and thus strengthen climate resilience. This report also argues that, in some cases, companies should consider going beyond "respect" and into the areas of strategic rights promotion and ecosystem change to leverage business resources to support people who are most susceptible to the negative impacts of climate change.

# Climate Change and Human Rights

This paper explores the connection between human rights and climate change. It describes the ways that weak realization of human rights exacerbates the vulnerability of communities facing climate-related risks. It provides a due diligence approach for companies to clarify their obligation to respect, and in some cases support, human rights in those communities. Strategic investments in capital assets of communities will bring significant benefit to those communities and meet corporate obligations to align with international standards on human rights and climate.

Corporate leadership on human rights and climate change has accelerated over the past decade. The traction has inspired investigation into the nexus of climate change and human rights and explorations of whether joint approaches to corporate due diligence and remedy in high-risk communities can be developed.

In the business and human rights field, the private sector has embraced the call to action in the UNGPs to understand and manage human rights impacts that are connected to business operations. More than 60 percent of Fortune 100 companies in the U.S. and Europe have adopted a standalone human rights policy, and a recent survey of corporate responsibility professionals indicated that 85 percent now manage human rights within their own operations either “a fair amount” or “a great deal.”<sup>1</sup> The progress has been meaningful and widespread, albeit far from complete.

Similarly, companies are acting on climate change. Spurred by the landmark 2015 Paris Agreement, more than 700 companies have made more than 1,200 climate commitments through the We Mean Business coalition alone. These commitments include pledges to adopt science-based emissions-reductions targets, purchase 100 percent renewable

energy, double energy productivity, and remove commodity-driven deforestation from supply chains.<sup>2</sup>

This paper explores the nexus between climate change and human rights. It posits that weak realization of human rights exacerbates the vulnerability of at-risk communities to climate change impacts. This paper proposes that companies operating in communities facing climate risks have an obligation to incorporate human rights due diligence into their climate risk and resilience analysis and eliminate or mitigate increased vulnerability caused by their operations. Wherever possible, and in partnership with local governments and civil society, companies should seek to strengthen the human rights of vulnerable populations to strengthen their resilience to climate change.

These propositions unfurl a range of additional complexities: How should companies manage climate change and human rights risk assessments in a coherent due diligence framework? What is the scope of responsibility for supporting at-risk communities under the UNGPs or the Paris Agreement? What types of forward-looking human rights remedies are available to strengthen a community’s climate resilience?

**Part I** of this paper explores the nexus between weak realization of human rights and increased vulnerability of communities facing climate risks. It proposes six categories of “capital assets”—the combination of human, financial, social, natural, physical, and political capital—that are essential to enhancing capacity to adapt to climate risk. Investing in these capital assets strengthens human rights and, in turn, protects those most vulnerable to climate change.

**Part II** of this paper explains the corporate obligations under the UNGPs and proposes an approach to incorporate climate risk and resilience analysis into existing human rights due diligence. Human rights and climate change have been managed separately within companies, governed by different policy frameworks, addressed by different communities of practice, managed by different tools, and treated as isolated sustainability issues. This has contributed to a lack of understanding of the risks, responsibility, and obligation of companies to strengthen vulnerable communities. The siloed walls are dissolving, and many companies now view human rights and climate change as two of the most important sustainability issues.<sup>3</sup>

**Part III** of this paper presents a tactical approach to developing human rights and climate change due diligence. One critical element is a mindset shift away from viewing corporate climate change “causation” as liability for historical CO<sub>2</sub> emissions. Instead, the focus is on operational risks imposed by the company on communities facing climate risks, and the remedy is to strengthen the community’s resilience. The focus of the analysis should not be on attempting to determine “causation” by looking backward at emissions. Rather, it should be on identifying vulnerability caused by weak human rights realization and exacerbated by the company’s operations, and then identifying pragmatic ways the company can contribute to improving human rights realization through forward-looking “remedies” that strengthen the climate resilience of these communities.<sup>4</sup>

## Part I: The Climate Change and Human Rights Nexus

This section offers a primer for business on the ways in which negative climate impacts and poorly designed climate policy undermine the realization of human rights. We illustrate how the absence of adequate safeguards to respect and protect human rights magnifies climate risk by exacerbating vulnerability and how the protection of human rights contributes to resilience.

### CLIMATE CHANGE UNDERMINES HUMAN RIGHTS

Climate change and human rights are intricately linked and have profound implications for the planet, people, and the joint prosperity of business and communities.

Rising global temperatures create a series of climate impacts felt disproportionately by vulnerable communities around the world. The impacts include the increase in intensity and frequency of extreme weather events, changes in precipitation and distribution of water, ocean acidification, and sea level rises. These events negatively affect jobs, homes, mobility, natural resources, health, livelihoods, and ultimately respect for human rights.

Where the protection of human rights is weak, climate risk is exacerbated. Individuals and communities lack the ability to address the intersecting inequalities that magnify vulnerability. Where protection of human rights is strong, those on the frontline of

climate change are more equipped to build the human, financial, social, natural, physical, and political capital assets needed to anticipate, avoid, and recover from climate-related events.

The UN began exploring the intersection between climate change and human rights in 2008. The UN Human Rights Council concluded that climate change “poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights.”<sup>5</sup>

A follow-up report from the UN Office of the High Commissioner on Human Rights (OHCHR) further asserted that certain human rights are more directly affected by climate change impacts, including fundamental rights to life, health, food, water, and adequate standard of living.<sup>6</sup>



Climate change poses an immediate and far-reaching threat to people and communities around the world and has implications for the full enjoyment of human rights.”

— UN HUMAN RIGHTS COUNCIL RESOLUTION (JULY 23, 2008)

- **Rights to life and health** are directly and indirectly affected by climate-change-induced hurricanes, cyclones, floods, or heat waves. These rights are also affected by slow-onset death resulting from malnutrition or vector- or water-borne diseases.<sup>7</sup>
  - **Right to food** is likely to be undermined as climate change alters hydrological patterns, the frequency of droughts, land salinization, soil erosion, nutrient depletion, and water scarcity. These threaten to undermine the core factors that provide a basis for food production, namely productive soil and fresh water.<sup>8</sup>
  - **Right to water** is impacted through changes to levels and patterns of precipitation, melting snow and ice, and retreating glaciers. These changes are altering hydrological systems and affecting water resources and quality.<sup>9</sup>
- The Intergovernmental Panel on Climate Change (IPCC) projects that climate change will reduce renewable surface water and groundwater resources significantly in most dry subtropical regions.
- **Right to an adequate standard of living** is intimately linked to the ways in which climate change undermines livelihoods, particularly for people such as the poor who depend on a predictable environment. About 2.6 billion people depend on agriculture for their livelihoods;<sup>10</sup> 450 million of the world's poorest people are entirely dependent on ecosystem services;<sup>11</sup> and the economic gains from tourism and fisheries in coral reefs, many of which are on the coasts of developing countries in the Caribbean, the Pacific Ocean, and the Indian Ocean, are estimated to be worth up to US\$30 billion per year.<sup>12</sup>

## CAPITAL ASSETS SUPPORTING HUMAN RIGHTS

Capital assets are interdependent capacities that, together, address the underlying causes of vulnerability, such as poverty and inequality, or, in this case, vulnerability to harmful climate impacts.<sup>13</sup> Based on a review of more than 20 frameworks on climate risk and resilience, the bulk of evidence suggests that a resilient community is determined by the strength of the six capital assets described below:

### Six Capital Assets to Build Climate Resilience



#### Human Capital

refers to the skills and knowledge of available human resources, particularly in the workforce.



#### Political Capital

refers to access to decision making to shape policy environments that enable resilience.



#### Financial Capital

refers to the volume of available financial resources and access to financial goods and services.



#### Physical Capital

refers to infrastructure and equipment, including those related to manufacturing facilities, transport, logistics and communications.



#### Social Capital

refers to the strong relationships, collaborations, and bonds of mutual support and cooperation that are essential for addressing a systemic global challenge such as climate change.



#### Natural Capital

refers to the full range of services provided by biodiversity and ecosystems, including land and water.

The international human rights framework provides entry points that can be leveraged to strengthen capital assets, and it provides opportunities for vulnerable populations to improve their resilience and shape outcomes in their favor. These entry points play a critical role in determining the strength of capital assets in communities, primarily through the allocation of community resources, access to education, vocational opportunities, and protection of assets like physical property and communal marriage property.

#### **Protection of the three areas of human rights described below is critical to strengthening climate resilience.**

- **Access to information:** Access to information provides opportunities for individuals to understand and develop agency to mitigate the impacts of climate change. Access to information is anchored in the human rights that guarantee access to education, free assembly and association, and free opinion and expression. It allows otherwise marginalized and vulnerable groups to gain insight into what inputs are shaping policy-making, and to remain informed on how policy is being implemented and enforced.
- **Access to decision-making:** This concept is anchored in rights to shape governing political systems, access a free press to be informed by and to inform decision-making, access fair and open public administrative and judicial hearings, and access decision-making to promote participatory policy-making. Importantly, vulnerable populations should be counted among those shaping climate change interventions.

- **Access to justice:** Access to justice through various tribunals—including company-led grievance mechanisms and remedies—provides the scope for dispute settlement and redress when policies are poorly conceived, processes are not respected, or outcomes are harmful. Access to justice enables communities to hold the public and private sector accountable for failures to build resilience in a manner that is proportional.

To illustrate the importance of these rights areas, consider the disproportionate impact of climate change on two hypothetical women, from Country A (realized human rights) and Country B (unrealized human rights). They are both factory workers in the garment industry, but with different levels of human rights realization.

 COUNTRY A	 COUNTRY B
<p>The first woman has <b>access to information</b> and to technology that relays this information to her in a timely fashion. She is given prior warning of a weather event. She has <b>access to decision-making</b> and has been participating in the development of local climate-adaption policies in a manner that enables her to advocate for her interests and contribute to a plan that addresses her needs. She has <b>access to financial services</b> and she has been able to save money in anticipation of this climate-related event. She knows she will receive a line of credit in the aftermath of the event to rebuild her home and her livelihood should the worst-case scenario unfold.</p>	<p>The second woman is less fortunate. Her government is under no obligation to provide access to information, decision-making, or justice, and she has no prior warning of the event and no means to shape climate-adaptation policy in her region. Social and cultural norms in her community mean she has never been taught to swim and cannot leave home without a male guardian. She lacks access to basic services, including financial services, and will not be able to rebuild her life in the event of a climate shock.</p>

The exposure to a physical hazard is a proximate cause of the harm to vulnerable individuals. But the true determinant of climate risk is vulnerability, which depends on whether the potential victims’ human rights are realized or not.

Where appropriate linkages exist, the private sector is in a position to reduce this vulnerability by enhancing the capital assets of these communities and thereby strengthening human rights realization. As we explore further next, doing so requires companies to identify vulnerable communities within their operations or business

partnerships through due diligence and active engagement with experts.

Once the relevant communities are identified, “remedies” should flow into capital assets where business and community benefits overlap, and where capital asset investments make the business more climate resilient in that community—for example, by ensuring protection and continuity in the workforce, and where it advances the fulfillment of human rights. The next section outlines additional drivers for action.

# Part II: The Drivers for Business Action on Climate and Human Rights

The case for business action on climate change and human rights is driven by material risks to the business, adherence to international norms, reputational risk, emerging litigation and legislation at the nexus, and business opportunities in a low-carbon environment.

## MATERIAL RISKS TO BUSINESS

Climate change and human rights represent a material and cascading risk to the private sector, with profound implications across the supply chain on strategy, finances, operations, human resources, and compliance.

Vertical risks appear across divisions, practices, and functions within individual companies. Consider the following types of risk:

- Climate change poses **strategic risks** to business, as some technologies may become obsolete while others may take their place because of the need to drive down greenhouse gas (GHG) emissions reductions. Alternatively, new competitors spurred by changing markets for low-carbon, climate-resilient goods and services may respond to shifting consumer demands and address resource constraints linked to climate, thereby threatening profits and market position.<sup>14</sup>
- **Operational risks** include critical damage to infrastructure, production, quality of goods and services, and disruption to logistics. Utilities; telecommunications; and food, beverage, and agriculture companies have suffered losses due to production shortfall risk. Significant operational and financial risks due to human rights issues have been borne by companies primarily with large capital footprints in communities without robust rights-protection.
- **Legal and policy risks** include the growing body of human rights and climate litigation and legislation that are being used to drive transparency and accountability. Global legislatures have been active in

developing and passing human rights disclosure laws, including the UK Modern Slavery Act and France's Human Rights Due Diligence law, which both require covered companies to disclose steps they are taking to respect human rights.

Over the last two years, a flurry of legal activity has sprung up at the nexus of human rights and climate change. In 2015, the Human Rights Commission of the Philippines opened an inquiry into the climate contributions of several major international companies. In November 2017, a German court allowed a lawsuit to proceed against RWE, a German utility company. The lawsuit was brought by a farmer in Peru who claimed RWE's contributions to CO<sub>2</sub> emissions negatively affected his crops.<sup>15</sup> In early 2018, New York City brought a lawsuit against the five largest oil and gas companies seeking to shift the costs of protecting the city from climate change impacts back onto the companies.<sup>16</sup>

Across 177 countries, the number of climate change laws and policies has risen from 60 in 1997, to nearly 1,400 at the end of 2017. Although consensus has not been attained, progress is being made on the thorny problem of "attribution," or linking liability for climate change to the emissions contributions of individual actors.<sup>17</sup>

- **Financial risks** include the immediate losses caused by a climate-related hazard or a broad threat to profits as a company's exposure to climate risk becomes known. These risks could also take the form of diminished capital availability and higher credit risk as investors and lenders refuse

to make capital available to companies seen to be vulnerable to climate impacts or companies perceived as failing to manage these impacts adequately.<sup>18</sup>

- **Human resource risks** involve threats to employee health due to climate-related events. These risks also derive from the growing concern that recruitment and retention of staff—particularly Millennials—will become difficult for companies that earn a reputation for being poor on climate and human rights.
- **Risks to the disruption of complex global supply chains** exist from the extraction of raw materials all the way to engagement with consumers. The

resilience of any individual business depends heavily on the resilience of its suppliers and purchasers, whose supply chains can span many countries.<sup>19</sup>

- **Risks from investor and stakeholder pressure** include when external groups advocate for corporate commitments on climate change and human rights. The Global Investors Coalition on Climate Change, which represents US\$24 trillion in assets, expects companies to have climate change strategies in place. More than 800 investors now request disclosure through CDP. Similarly, investors and stakeholders are now ranking companies on their human rights performance through the Corporate Human Rights Benchmark.

## INTERNATIONAL STANDARDS

The UNGPs and the Paris Agreement provide a roadmap for how companies should contribute to mitigating harm at the climate and human rights nexus.

The UNGPs establish the corporate responsibility to respect human rights. Companies are required to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur. They also must establish the duty to provide access to effective remedy (both judicial and non-judicial) for victims. The UNGPs reinforce the primacy of the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and judicial channels.

The scope of the UNGPs is broad. Principle 13 states that companies have an obligation to respect human rights in their own operations and extends that obligation to all “business relationships” where it is “directly linked” to adverse human rights impacts. Principle 17 reinforces the obligation to carry out due diligence in a company’s own operations and business relationships to identify and prevent adverse human rights harm.

This duty to respect human rights means that companies must:

- Express their commitment to respect human rights through a statement of policy and communicate efforts to address human rights frequently.
- Carry out human rights due diligence, assessing actual and potential human rights impacts, integrating and acting on the findings, tracking responses, and communicating how impacts are addressed.
- Avoid infringing on the human rights of others and address adverse human rights impacts with which they are involved.
- Take adequate measures to identify, assess, prevent, mitigate, and remedy adverse human rights impacts with which they may be involved, either through their own activities or because of their business relationships. To verify whether adverse human rights impacts are being addressed, businesses should track the effectiveness of their response.
- Provide remedy where the company is “causing or contributing” to adverse human rights impacts, and “seek to prevent or mitigate” adverse human rights impacts that are directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts.<sup>20</sup>

The Paris Agreement provides a similar global standard to avoid the unmanageable and manage unavoidable climate change.

Through the Paris Agreement, the international community commits to hold the increase in the global average temperature to well below 2°C above pre-industrial levels, and to increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low GHG emissions development. The agreement further commits signatories to reach global peaking of GHG emissions as soon as possible, and to undertake rapid reductions thereafter to achieve net-zero emissions in the second half of this century.<sup>21</sup>

Companies around the world are participating in designing “Paris-compliant” policies and adopting corporate climate strategies in line with the Paris objectives. The We Mean Business coalition, which works with thousands of the world’s leading companies, currently counts more than 1,000 commitments from over 600 companies that represent more than US\$6 trillion in revenue.

In seeking to meet their ambitious climate goals, companies are adopting a range of principles and approaches, including to:

- **Understand baseline emissions and climate risks:** This means creating an accurate inventory of GHG emissions. Direct emissions occur from sources that are owned or controlled by the company, including on-site fossil fuel and fleet fuel consumption. Indirect emissions result from the generation of purchased electricity consumed by a company.
- **Undertake aggressive GHG emissions reductions:** This can take multiple forms, but the leadership benchmark is represented by the adoption of science-based targets.
- **Enhance resilience to climate impacts inside companies, across supply chains, and within vulnerable frontline communities:** A resilient business will be able to anticipate, absorb, accommodate, and rapidly recover from climate events

in its own operations and throughout its value chain. It will contribute to resilient societies, which means moderating harm to socio-ecological systems and enabling people, the economy, and natural systems to rebound quickly in the face of adversity.

- **Progressively increase ambition over time:** Article 4 of the Paris Agreement provides the basis for commitments that are sequenced, if the sequencing represents a progression over time and reflects the highest possible level of ambition considering circumstances and capabilities.
- **Disclose action and track effectiveness of climate strategy to shareholders and other stakeholders:**

The Global Investors Coalition on Climate Change, which represents US\$24 trillion in assets, expects companies to have climate change strategies in place. More than 800 investors now request disclosure through CDP.

Many companies now conduct risk assessments based on exposure to climate hazards. However, these assessments neglect to examine the underlying vulnerabilities that exacerbate risk. As a result, there is a need to revamp risk-assessment methodologies to allow for a more effective and comprehensive understanding of risk.<sup>22</sup>

Companies currently seeking to satisfy their corporate responsibility on climate change and human rights are often working through separate frameworks. The final section of this paper proposes a program of action that together represents a composite framework for working at the nexus between climate change and human rights. This framework provides a roadmap for leadership on both issues.

# Part III: An Approach to Climate Change and Human Rights Due Diligence

All companies have a responsibility to identify where they may be operating directly or through supply chain partners in communities facing a high risk of climate impacts. Under the UNGPs, where a company or partner is “causing or contributing” to adverse human rights impacts in those communities—and thus weakening climate resilience—it has an obligation to provide remedy, which could include investment in capital assets.

Where a company seeks to go beyond its obligations to “respect” human rights, companies should consider either strategic promotion of human rights or supporting the development of the human rights

ecosystem. While seemingly disconnected to operations, companies likely will realize returns on investment in the form of stronger and more resilient supply chains, in addition to advancing human rights in vulnerable communities.

The approach presented here begins with developing a cohesive policy commitment, and then it provides an approach to integrating climate resilience into human rights due diligence and pragmatic ways to prevent and mitigate identified harm.

## ADOPT A COHESIVE CLIMATE AND HUMAN RIGHTS POLICY

Businesses should adopt a policy clearly stating the corporate commitment to climate resilience and respect for human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved. In addition, business should contribute to collective climate action by all with the goal of holding the increase in the global average temperature to well below 2°C above pre-industrial levels, while increasing the ability of high-risk communities to adapt to the adverse impacts of climate change.

Company policies should illustrate where the nexus affects operations and provide a clear understanding of how climate change undermines the realization of rights, and how strengthening human rights can enhance resilience. Companies should also be mindful to avoid undermining one of these sustainability priorities by making poor choices on the other.

## EXPAND HUMAN RIGHTS DUE DILIGENCE TO INCLUDE CLIMATE CHANGE

Under the UNGPs, companies should follow a three-step analysis to identify and clarify where they may have responsibilities to support communities facing climate risks. At minimum, the UNGPs require companies to respect the human rights of people affected by their operations and to avoid causing or contributing to activities that would harm them. Companies seeking to go beyond the minimum UNGPs requirements could promote human rights (moving beyond “respect”) or work to change the ecosystem and structures around vulnerable communities that prevents fulfillment of human rights.

### Three-Step Analysis Under the UNGPs

Integrating climate due diligence into existing human rights due diligence processes requires three stages of analysis: identifying high-risk locations; determining whether the company’s operations, or those of significant business partners, are weakening human rights for vulnerable communities; and determining the appropriate remedy.

01

**Locate high-risk areas:** All companies are connected to climate-vulnerable communities in some capacity, although often not in their direct operations. To determine the scope of responsibility and appropriate remedy, a company must first map its operations and the operations of significant business partners to identify where the company operates in known high-risk climate-vulnerable communities. These communities are found everywhere in the world and may include anywhere from Bangladesh and Myanmar, to California and Louisiana. Defining “significant business

partners” operations is not an exact science, and guidance should be drawn from existing concepts in supply chain due diligence approaches such as the OECD guidance.

In recent research conducted by BSR and CDP, 72 percent of suppliers stated that climate risks could significantly impact their business operations, revenue, or expenditure. Yet only half of these suppliers are currently managing that risk. Addressing the underlying vulnerability in global supply chains is essential to the business continuity and success of global companies.

02

**Clarify the scope of responsibility:** Next, companies should determine whether they are “causing” or “contributing” to increasing the vulnerability of high-risk communities, or whether they are directly linked to a business partner that is increasing the vulnerability of an at-risk community. Put differently, companies should ask whether their operations (or significant business partner) cause or contribute to weakening the realization of human rights that would protect vulnerable communities from the negative impacts of climate change.

All human rights in these communities should be reviewed. Particular attention should be paid to rights involving access to judicial or nonjudicial remedy structures; equal treatment under the law; access to adequate emergency response systems; full realization of property rights; and access to food, shelter, and water, with a particular focus on vulnerable sub-communities who may be living and working in the region (e.g., migrant workers, women, elderly people, children, and people with disabilities).

Specific examples of where a company may “increase vulnerability” or “weaken rights-realization” include:

- **A pharmaceutical factory** operating in a water-scarce, climate-vulnerable community learns that it is using highly inefficient technology and wasting water that will be needed during an emergency, thus weakening the rights realization of the community (reduced access to clean water).
- **A food and agriculture company** with a significant operational footprint in a high-risk community learns that its business partners have acquired land without contracts, making the proper enforcement of land rights after an adverse weather event more difficult, thus weakening rights realization.
- **A consumer goods company** is manufacturing in a region with significant levels of discrimination against women in the workplace. This would place its own operations in jeopardy in the event of a significant adverse weather occurrence, should the women be forced to stay home. It would also reinforce local social norms that will deprioritize responses to women.

- **A mining company** draws significant amounts of water from the only available freshwater stream in a high-risk area, thus potentially weakening rights of access to water during an emergency.
- **A food and agriculture company** is using extensive tracts of land to grow only cash crops, without considering whether the effects of a significant weather event would require a surplus of food.
- **A construction company** employs a workforce composed of 90 percent migrant workers who lack the realization of several human rights (e.g., legal status, adequate access to courts, equal rights under the law) and who thus would not be entitled to basic services during a climate emergency.

Because both climate risk and human rights situations are dynamic, assessments of both should be undertaken at regular intervals: prior to a new activity or relationship, prior to major decisions or changes in operations (e.g., market entry, product launch, policy change, or wider changes to the business), and in response to or anticipation of changes in the operating environment.

## 03

### 3. Determine the appropriate remedy:

Under the UNGPs, where a company is causing or contributing to an adverse human rights impact, it is obligated to cease or prevent that impact from occurring.

Risk mitigation can take many forms. Where due diligence reveals increased vulnerability caused by a company’s own operations, the remedy should include a focus on strengthening capital assets in those communities to provide a forward-looking remedy that strengthens the community’s resilience to adverse climate events. The company may also need to consider changing certain aspects of its operations, including diversifying water sources, mitigating risk in the workforce, updating land-acquisition methods, and incorporating ways to build capacity on preventing gender discrimination in the workforce.

Improving access to decision-making and justice strengthens political capital, which in turn enables vulnerable communities to shape policy environments that reflect their lived experience and addresses their underlying weaknesses. Access to information can help build human and social capital. Strengthening economic and social rights can help mobilize financial capital and provide the necessary resources to help individuals, households, and communities rebound from extreme weather events.

Where the company is directly linked to weakening rights realization through a business relationship, the company will need to engage with the relevant business suppliers. A remedy focused on capital assets may be appropriate, and the company and business partner will need to create a plan to develop capital assets.

These situations may also present opportunities for business to convene a broader, multistakeholder, or ecosystem approach, bringing local government and civil society voices into a conversation about structural changes needed to increase resilience. Business can be a powerful catalyst for change to spark this conversation.

Finally, many companies will conduct a due diligence investigation into human rights issues in climate-vulnerable communities and conclude that, while the community may be at risk or highly vulnerable to climate-related impacts, company or business partner operations are not increasing the vulnerability in any meaningful way. In those cases, no formal remedy approach is needed. However, businesses should look beyond the UNGPs and think more broadly about their role in a climate-vulnerable community with weak realization of human rights. Do these situations still present an opportunity to promote human rights in a way that supports vulnerable rights-holders and is strategically advantageous for the company? Would a more stable and rights-respecting operating

environment, coupled with a more climate-resilient community, be better over the long run for the company's operations? There may be opportunities to go beyond respect and promote, and into the conversations about the broader ecosystem structures in these communities, even without an obligation under the UNGPs.

BSR's approach to business and human rights encourages companies to meet their obligations under the UNGPs in terms of identifying actual or potential human rights harms and mitigating or remedying as appropriate. We recommend this same approach at the nexus of human rights and climate change. This nexus provides an opportunity to move into higher stages of promoting rights where there is a strategic overlap with business and opportunity to change the underlying ecosystem in which the business operates. We encourage companies to take the opportunity to implement this framework when thinking about human rights and climate change, even without a specific obligation under the UNGPs.



# A Caveat: Use of Ambiguous Terms

Several key terms in this analysis are ambiguous, such as “cause,” “contribute,” “increasing vulnerability,” and “weakening rights realization.” These terms are left undefined with precision for two reasons: First, there is no universal definition of these terms in the context of human rights investigations, in law, or otherwise. Second, the terms are intended to provide broad guidance to company practitioners, and the scope of responsibility and remedy will depend heavily on a number of context-specific variables, all of which should be accounted for in a case-by-case analysis for each company. Similar to the UNGPs themselves, this approach allows practitioners to experiment with conducting

the due diligence, and determining empirically the appropriate linkages and remedial actions based on myriad situations with several dynamic components.

Indeed, the UNGPs themselves do not clearly define “cause, contribute, and directly linked,” and while several attempts to do so have made important contributions to the business and human rights field, the final conclusions are subject to consensus among emerging communities of practice, trial and error by practitioners, and insights gleaned by external organizations working with communities and companies to help define the right level of accountability.

## INCLUDE A GENDER FOCUS IN DUE DILIGENCE

In terms of social differentiation, the world’s poor, particularly women and children, are especially vulnerable to climate change. The poor, vulnerable, and marginalized have the least capacity to cope with the impacts of climate change, and whether they live in developed or developing countries may determine who are most affected. They are most exposed to the health risks arising from pollution, poor sanitation, and unclean water. And they also rely most on natural resources, often deriving up to two thirds of their income directly from those resources and spending up to three quarters of their household income on food and other basic needs.<sup>23</sup>

The bulk of evidence suggests that climate change is hardest on women. Women are often constrained by social and cultural norms that prevent them from acquiring appropriate skill sets, restrict their access to assets (including land), prevent them from having adequate access to governance (including access to decision-making and information), place them in inferior social positions, and prevent them from acquiring education and appropriate healthcare.

The 1991 cyclone in Bangladesh illustrates many of these issues. More than 90 percent

of the estimated 140,000 fatalities were women; their limited mobility, skill sets, and social status exacerbated their vulnerability to this extreme weather event.<sup>24</sup>

Considering the role of the world’s poor (and within this community, the role of women) in global value chains and reducing the vulnerability of these populations to climate is crucial for companies. For instance, the garment industry employs just under 20 million workers in Asia and Southeast Asia. Between 2004 and 2008, employment in the sector has increased sharply—by 40 percent in Bangladesh, 20 percent in Cambodia, 48 percent in India, 8 percent in Pakistan, and 52 percent in Vietnam. What is more, women represent, on average, 68 percent of the workforce in the clothing industry, 45 percent in textiles, and 46 percent in the leather and footwear industries. In some countries, women comprise as much as 90 percent of the employees in these industries.<sup>25</sup>

Corporate approaches to climate change and human rights must be sensitive to the gender dimensions of these issues and designed specifically to enhance the capacity of women to be empowered agents of resilience.

## PROVIDE TRANSPARENCY AND ACCOUNTABILITY

Companies should report impacts to ensure transparency and accountability. Improved disclosure and better-quality reporting of the financial risks and opportunities at the nexus of climate change and human rights will benefit companies' relations with investors, stakeholders, and the public.

Climate change poses serious risks to the global economy. Nonetheless, investors and financial markets lack clear and comparable information about which companies or assets are most exposed to this issue and which are best prepared. To address this, companies

are encouraged to commit to implementing the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). TCFD has published recommendations for reporting climate-related financial information in mainstream reports. Companies, investors, and financial organizations globally are encouraged to implement the recommendations to allow a more efficient allocation of capital, improve the dialogue among all financial players, and support a smooth and rapid transition to a low-carbon economy.



# Conclusion

Companies in some operating contexts are pushing beyond “respect” and moving into the realm of promoting the advancement or fulfillment of human rights. This paper hypothesizes that companies will accrue significant business benefits by identifying and investing in capital assets in communities facing climate risks. While the formal obligation to “protect” human rights lies squarely with states, it may make very good business sense for a company to assume this obligation in some operating contexts.

Some companies are even working to change the ecosystem of barriers to rights-realization in some of the most vulnerable communities. Efforts to help vulnerable communities secure sustainable access to food, water, and equitable land rights, or significant support for rule-of-law initiatives, are examples of projects that would benefit some company operations and begin to address systems-level remediation.

# Endnotes

- 1 The number remains high at 77 percent for those assessing and managing human rights within their tier 1 suppliers, defined as manufacturing or processing suppliers directly supplying to the company. <https://www.bsr.org/en/our-insights/report-view/state-of-sustainable-business-2018-bsr-globescan>
- 2 <https://www.wemeanbusinesscoalition.org/>
- 3 <https://www.bsr.org/en/our-insights/report-view/state-of-sustainable-business-2018-bsr-globescan>
- 4 There is an exciting and growing body of literature around attributing CO<sub>2</sub> emissions levels to particular actors in society, which could potentially include business. But the science and international agreement are too embryonic to propose a remedy approach whereby particular companies should be responsible for providing remedy to high-risk communities based on how much carbon they have emitted.
- 5 [http://ap.ohchr.org/documents/e/hrc/resolutions/a\\_hrc\\_res\\_7\\_23.pdf](http://ap.ohchr.org/documents/e/hrc/resolutions/a_hrc_res_7_23.pdf)
- 6 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/103/44/PDF/G0910344.pdf?OpenElement>
- 7 Europe's 2003 heat wave was the hottest since 1500, with temperatures in the UK exceeding 100°F for the first time since record-keeping began in the 1870s. As many as 50,000 people died of heat-related causes. Vector-borne diseases such as malaria, dengue, and yellow fever are sensitive to temperature, humidity, and rainfall patterns. As temperature and precipitation patterns change, these diseases will spread to areas traditionally outside the disease vectors. At present, approximately 40 percent of the world's population is at risk from malaria, but this number is projected to rise to 80 percent by 2080. Source: *The Climate War: True Believers, Power Brokers, and the Fight to Save the Earth* (Hachette Book Group 2010) by Eric Pooley.
- 8 [https://repository.uchastings.edu/cgi/view-content.cgi?article=1179&context=hastings\\_environmental\\_law\\_journal](https://repository.uchastings.edu/cgi/view-content.cgi?article=1179&context=hastings_environmental_law_journal)
- 9 Each degree of warming is expected to decrease renewable water resources by at least 20 percent, for an additional 7 percent of the global population (Cameron, 2014). The landmark *Economics of Climate Change* study prepared by Lord Nicholas Stern projected that temperature rises of 2°C will lead to as many as 4 billion people experiencing more severe water shortages, with immediate impacts on safe drinking water, agriculture, and urban water systems. [http://mudancas-climaticas.cptec.inpe.br/~rmclima/pdfs/destaques/sternreview\\_report\\_complete.pdf](http://mudancas-climaticas.cptec.inpe.br/~rmclima/pdfs/destaques/sternreview_report_complete.pdf)
- 10 <https://www.millenniumassessment.org/documents/document.356.aspx.pdf>
- 11 [https://www.ipcc.ch/pdf/assessment-report/ar4/wg2/ar4\\_wg2\\_full\\_report.pdf](https://www.ipcc.ch/pdf/assessment-report/ar4/wg2/ar4_wg2_full_report.pdf)
- 12 [https://www.researchgate.net/publication/285976656\\_Coral\\_reefs\\_and\\_global\\_climate\\_change\\_Potential\\_contributions\\_of\\_climate\\_change\\_to\\_stresses\\_on\\_coral\\_reef\\_ecosystems](https://www.researchgate.net/publication/285976656_Coral_reefs_and_global_climate_change_Potential_contributions_of_climate_change_to_stresses_on_coral_reef_ecosystems)
- 13 The IPCC defines resilience as “the ability of a system and its component parts to anticipate, absorb, accommodate, or recover from the effects of a hazardous event in a timely and efficient manner, including through ensuring the preservation, restoration, or improvement of its essential basic structures and functions.”
- 14 High variability in the price of raw materials driven by exposure to climate hazards may dramatically change inputs vital to production. Reputational damage may result from a perceived failure to account for climate risk. This has implications for revenue, as customers and suppliers become hesitant to associate with a discredited brand. Large accounts may be at risk if significant procurers of goods and services begin to focus their purchasing on climate-friendly suppliers.
- 15 <http://www.eco-business.com/news/companies-in-climate-probe-could-lose-investors-philippine-human-rights-commission/>
- 16 <https://www.wsj.com/articles/city-sues-oil-companies-over-climate-change-1515607107>
- 17 <https://www.economist.com/news/international/21730881-global-warming-increasingly-being-fought-courtroom-climate-change-lawsuits>
- 18 Risks related to asset and commodity prices are particularly strong because of the impact of climate change on ecosystem services, food production, and real estate. Increasingly, central banks are looking closely at systemic risk—specifically, the danger that the financial system globally or the financial system of one particularly vulnerable system could suffer severe harm because of cascading climate risks.
- 19 The fact that today's businesses are global is not news, but the extent of the globalization of trade and commerce is far from understood. Foreign direct investment inflows have increased a staggering 25-fold since 1980, rising from US\$54 billion to US\$1.23 trillion in 2014, as marked by shifts from manufacturing to services, and from developed to developing and emerging markets. Indeed, South-South investments (that is, investments from one developing economy to another) have intensified, growing by two thirds, from US\$1.7 trillion in 2009 to US\$2.9 trillion in 2013. [http://www3.weforum.org/docs/GRR/WEF\\_GRR16.pdf](http://www3.weforum.org/docs/GRR/WEF_GRR16.pdf)
- 20 [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)
- 21 [https://unfccc.int/sites/default/files/english\\_paris\\_agreement.pdf](https://unfccc.int/sites/default/files/english_paris_agreement.pdf)
- 22 Moreover, most companies have failed to map the full spectrum of risks across their full supply chain, across temporal and spatial scales, and in the ways climate intersects with other trends and issues that affect business and society, including availability of natural resources, changing disease vectors, and migration patterns. As a result, most companies are working with approaches to risk management that are flawed and therefore could be very costly to their business, their suppliers, and society.
- 23 <https://sustainabledevelopment.un.org/index.php?page=view&nr=374&type=400&menu=35>
- 24 <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/126069/rethinking-disasters-human-failure-010408-en.pdf;jsessionid=631C5DB8F8FF0CA-F9E55E77C50E85A7F?sequence=1>
- 25 [http://www.ilo.org/wcmsp5/groups/public/@ed\\_dialogue/@sector/documents/publication/wcms\\_300463.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@sector/documents/publication/wcms_300463.pdf)



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