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Access to remedy: new options

In today's globally expanded production and supply chains, most companies have a hard time living up to their commitment to operationalize business & human rights principles. Countless multinational companies, State-owned enterprises (SOEs) and small and medium enterprises (SMEs) in different countries, and across all industry sectors, have faced allegations of labor rights violations, human rights abuses and environmental harm. Oil and gas giants regularly find themselves embroiled in community-related conflicts. Export garment factories repeatedly came under fire when stories of appalling working conditions hit the press. The electronics industry has long been under pressure by advocacy groups in the US and Europe for its use of "conflict minerals".



Chain reaction: financial sector due diligence

To address complex issues like those mentioned above, companies have to let go of crisis-driven quick fixes and move towards a more proactive modus operandi, embedding strategic stakeholder engagement (SSE) into business practice. Companies do not operate alone, in a legal and policy vacuum; they can reach out to non-corporate stakeholders to seek help in devising sustainable solutions to sourcing and production challenges. Far from being a lofty exercise aiming at mapping the stakeholders' landscape, SSE is a practical way to forge issue-based, learning-oriented partnerships with key stakeholders and work together to create shared value.

Tax Justice & Human Rights



Non-corporate stakeholders can solve old problems in innovative ways, providing "out-of-the-box" solutions and tailoring them to a specific socio-political context in which they often operate as 'locals' and the company operates as 'external actor'.

Information from the conference organised by L4BB & SAIFAC at University of Johannesburg in November 2013

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The UN Guiding Principles on Business & Human Rights (UNGPs) refer to stakeholder engagement at several key moments of the due diligence process, making the first an integral component of the latter. Companies are required to consult with affected players at the risk assessment stage; at the moment of tracking progress and reporting on risk management strategies; and in order to design adequate grievance mechanisms

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In 2013, I led an IPIS Research *Last Access: 6 January 2015 05:36:50 PM* project analyzing the gaps between theory and practice of stakeholder engagement plans in Chad's oil industry. In an effort to buttress social support for its operations, China National Petroleum Corporation (CNPC - Chad branch) had opened up to multi-stakeholder dialogue through its 2009 'Plan de Consultation Publique'. To date, CNPC's comprehensive plan has only been used in a defensive, passive way rather than as part of a proactive strategy that could lead to SSE and generate shared solutions.

The plan has been conceived in the framework of a communication strategy rather than as an integral component of the company's decision-making process. As the title of the document suggests, 'consultation' does not translate into SSE. It is a first step to tease out stakeholders' needs and concerns, but not enough to guarantee long-term collaboration. CNPC's case highlights a set of common shortcomings on the side of corporations—ranging from the lack of a rigorous stakeholder prioritization strategy to the inability to close the feedback loop. Instead of exploiting the full potential of SSE, CNPC Chad framed any engagement activity in terms of outreach and one-sided communication, and downgraded the Plan to a defensive tool to be used in case of community clashes.

Recent research by Goldman Sachs looking at 190 projects from major oil companies shows that a dangerous mix of resistance from affected communities, occupation of the land by protesters and legal actions against the companies significantly delayed the timeline of most projects. Reaching out to affected stakeholders when public fires have already flared up is often not enough; it will come across as a quick, temporary fix and will not enable the company to understand and address the root cause of the protests.

For engagement to be fruitful, corporate understanding of its theory and practice needs to undergo a major overhaul, from 'necessary nuisance' to be handled with minimum cost and as little effort as possible to SSE, a tool that helps companies operate in line with the UNGPs and tackle multifaceted challenges.

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