

RESPONSIBLE INVESTING

Community Impact Benchmarking in the Extractives

Prepared by Student Authors:

Yuchan Chang

Chengbo Hao

Laurel Yuejia Jiang

Mariana Riquelme

Tianxing Shen

Boyu Zhang

Ruiying Zhao



COLUMBIA | SIPA

School of International and Public Affairs

Executive Summary

This student report is prepared by a team of graduate students, as part of the capstone program at the School of International and Public Affairs, Columbia University. The views, recommendations, analysis and assessments are solely those of the student authors, and not of any other individual, organization or entity. The report was produced as part of the capstone program, which is a group project program in consultation with an outside organization, with the goal to provide innovative analysis and practical recommendations. The following is an abridged version of the semester long project undertaken by a student team consisting of Mariana Riquelme, Laurel Yuejia Jiang, Ruiying Zhao, Tianxing Shen, Boyu Zhang, Chengbo Hao and Yuchan Chang, that was prepared in consultation with *Nordea Asset Management* as the client organization.

Extractives operations can have negative and damaging impacts on the communities where they operate. These can include social disruption, safety incidents, lack of proper consultation, land resettlement, supply chain management, environmental damage, among others. The occurrence of these impacts can lead to various controversies which can seriously impair the business value of the company. As such, poor management of community impacts can conflict with the companies' interest in promoting corporate social responsibility.

In the extractive industries, controversies related to community impacts could result from inefficient human right policies, grievance mechanisms, remediation procedures or inadequate Board-level accountability, which do not meet best practices and industry standards. Therefore, in the context of investment evaluation and due diligence, it is prudent to identify the most significant indicators explaining why those controversies occur and reoccur. Our research aims at providing a framework for assessing an extractive company's risk of triggering negative community impacts and controversies. Please note that this report has focused on highlighting the gaps with best practices indicators and good industry standards. As such, while we have noted in places where companies have met such indicators and standards, the purpose of this report has been to focus on the gaps, in order to illustrate how community impact management can be improved, and occurrence of controversies can be reduced.

This report focuses on three companies, as case studies, to examine their management of community impacts: BHP, Iberdrola, and LUKOIL. BHP is an Anglo-Australian multinational resources company which extracts and processes minerals, oil and gas, with more than 72,000 employees and contractors primarily in Australia and the Americas. Iberdrola is one of the leading electricity companies in the world with major operations in Spain, United Kingdom, United States of America, Brazil and Mexico. LUKOIL is the second largest Oil & Gas company headquartered in Russia, with operations in Russia, Mid-Asia, Africa (Egypt, Ghana, Cameroon), and Latin America (Mexico), accounting for more than 2% of world oil production and 1% of the world proven hydrocarbon reserves.

Our case studies adapted a two-step methodology. First, the report presents a "Policy and Controversy Analysis," which serves as an evaluation of the companies' community impact performance based on benchmarking standards and performance indicators. These are

divided into three categories: Policies, Controversies, and Project Level Implementation and Management. Within each category, there are indicators informed by relevant standards such as the [Corporate Human Rights Benchmark](#), [UN Global Compact Principles](#), [UN Guiding Principles on Business and Human Rights](#), the [IFC Performance Standards](#) and *Nordea's Community Benchmark*. Within each indicator, the context includes a description of its statement, implementation, and an analysis of its performance compared to international norms and standards. Second, the report presents a “Gap and Trend Analysis,” which serves as a deeper analysis of the three companies’ recurring trends and gap analysis between company and industry standards to illustrate how these gaps may lead to further controversies. Recommendations are based on the abovementioned standards.

Our case studies have shown that each of the three companies should improve in community impact management performance, which consequently will reduce occurrence of continued major controversies. For instance in the recent decades, BHP has faced controversies including: El Cerrejón (the largest coal mine in Latin America) in Colombia, a dam collapse accident with heavy casualties at Samarco in Brazil, and criticism of damaging water ecosystem at Escondida (the largest copper mine in the world) in Chile; Iberdrola has faced the Belo Monte Dam project controversy; and LUKOIL has faced controversies relating to pollution, biodiversity impacts and impacts on the livelihood of indigenous people in Nenets Autonomous Area (NAA) in Russia.

Based on our analysis of the three companies’ policies on community impact management against the benchmarking standards and performance indicators, we propose six applicable indicators which we believe to be most important in explaining and assessing the occurrence of controversies related to community impacts: Land Resettlement, Impact Management in Joint Venture-Business Partnerships, Indigenous Peoples, Community Consultation, Remediation, and Grievance Mechanisms. In order to prevent reoccurrence of controversies, we recommend that investors and companies assess community impact, by focusing on those indicators.

Disclaimer: The views and opinions expressed herein are those of the student authors and do not represent the views of and are not endorsed by SIPA, Columbia University, an institute at Columbia University or by faculty or staff as a representative of SIPA, Columbia University or on an individual basis, or any other organization. This document contains copyrighted material used for educational purposes. These materials are included under the fair use exemption of U.S. Copyright Law and are restricted from further use. Please note that this document has been prepared on an “All Care and No Responsibility” basis. Neither the student authors nor SIPA, Columbia University or any faculty, staff or representatives thereof, make any express or implied representation or warranty as to the currency, accuracy, or completeness of the information contained herein. Examples of analysis provided within this document are only examples and should not unto themselves be used for real-world analytic products as they are based only on very limited and open source information. Nothing contained herein shall be construed as legal advice, nor should such content be regarded as a substitute for legal advice.

High Level Trends and Recommendations

Through the analysis of the three companies - **BHP, Iberdrola and LUKOIL** - our assessment has identified six cross-cutting trends and applicable indicators, as listed below. Please note that our observations and recommendations are solely based on the trends across these three companies, and any assessments made are based on publicly available information on these companies and their select projects. Our assessment does not include an analysis of community impact policies and implementation of any other companies. Recommendations made herein are those of the authors, and are meant to be mere suggestions and not prescriptive. These recommendations are not attributed to SIPA Columbia University, or the staff or faculty of the University.

Land Resettlement

Our research has shown that there is a trend across the three companies that shows a lack of framework or standard when it comes to land acquisition and resettlement policy and implementation. These include the relocation of several communities without adequate and proper compensation. To date, some of these communities are still waiting to receive compensation. This shows a lack of prior evaluation and monitoring to mitigate negative impact. Along these lines, another recurring trend is that of insufficient stakeholder involvement before and after impacts take place, which has resulted in the persistent reoccurrence of social and environmental impacts on affected communities. Lastly, there is not sufficient public disclosure regarding monitoring, evaluation and reporting of their resettlement action plans. It is unclear whether the companies' response to resettlement has followed their policy commitment.

We recommend companies to generally tailor best industry practices in the [IFC PS 5](#) and its [guidance note](#), to their projects, and implement resettlement action plans and conduct thorough monitoring and evaluation for any projects onward as noted in the.

When evaluating a company's community impact performance, it would be recommended that financial institutions conduct due diligence on whether impact management and land resettlement agreements with communities exist, as well as sufficient data on project level performance.

Joint Venture - Business Partnerships

Our research indicates that in the case of BHP and Iberdrola, there exists a lack of clear accountability indicating where responsibilities lie in terms of human rights and community impact management, amongst partners in joint venture and other business partnership relations. BHP has [six joint ventures](#), three operations, two projects and one foundation. For Iberdrola, the Belo Monte and the Tapajos

projects in Brazil, present a complex situation, where too many business partners are involved in the development of these assets, without clear guidance on where the responsibilities lie in terms of impact management. Ineffective impact management and human rights policy implementation, suggests potential unclear delineation of responsibilities between these companies and their joint ventures. Further, the company's statement on respecting human rights usually does not indicate whether Iberdrola and its business partners have agreements on how to assess and manage community impacts. This gap in impact management increases risks in controversies because the operators of the joint ventures may not adhere to best industry practices for community impact management.

While there is no particular international standard which includes an indicator addressing joint ventures, there are several guidelines and principles which aim to describe how businesses should operate through various business partnerships. The UN Guiding Principles describe and suggest that business enterprises should make commitments and expectations clear to their personnel and business partners. [UNGP 16](#) offers a clear statement on how businesses should ensure high standards for protecting and respecting human rights through any business in which they may be involved, whether they are operators or not. When looking into a company's response to controversies, the level of public disclosure might be an indicator to take into consideration.

Indigenous Peoples/FPIC

Companies have not reached consensus on how to implement Free, Prior, and Informed Consent. As evidenced by BHP's El Cerrejón asset in Colombia, Iberdrola's Belo Monte Dam case in Brazil and Lukoil's Nenets Autonomous Area case, companies have not consulted with indigenous people before the commencement of the project. Actions were taken after the initiation of the project, when environmental and social impacts had already affected the communities.

As noted in [IFC PS 7](#), FPIC should be established through good faith negotiation between the companies and the affected communities of Indigenous Peoples. Companies should document the mutually accepted process and be able to provide evidence of agreement between the parties as the outcome of the discussions. As such financial institutions may take into consideration how companies are implementing FPIC and stakeholder consultation, because missing or inadequate consultation procedures are a high indicator of future controversies.

Community Consultation

In the case of BHP's El Cerrejón, Colombia, the local community was not invited to community consultations; Iberdrola, in the process of its Belo Monte Dam construction in Brazil, did not participate in consultations led by local NGOs and government and as in the , Lukoil's Nenets Autonomous Area project, companies did not conduct community consultations prior to the construction phase of the project.

Untimely and ineffective consultation, can lead to the reoccurrence of controversies, which as is indicated in [IFC PS1](#), should be conducted before the construction of the project, and as per [IFC PS7](#), consultation is necessary and that each stakeholders should be included. As such it is companies to establish a clear and complete consultation framework, mapping and plans to clarify the stages of the whole process, thus ensuring that the consultation is implemented accurately and effectively.

Financial institutions in their due diligence may investigate how companies deal with community consultation and whether they have established a clear and comprehensive framework of community consultation which indicates the mapping, timeline and specific methods to be used and what are the stakeholders that the company aims to get involved with.

Remediation

As seen in LUKOIL's Nenets Autonomous Area case, Iberdrola's Belo Monte case, and BHP's El Cerrejón case, there are several common trends among companies' management of remediation mechanisms. First, these companies do not initiate remediation plan preparation, until the occurrence of negative impacts. Second, local communities and indigenous people are not well-represented in determining remedy plans. International best industry practice such as [Free, Prior and Informed Consent of Indigenous Peoples](#), recommends that at the project level, companies discuss remediation plans before the initiation of projects according to the , and the impacted people's concerns should be appropriately represented and resolved in remedy negotiation according to [IFC PS 1](#).

Financial institutions can conduct due diligence by assessing whether a company has established a mechanism to negotiate preventive remediation plans in response to grievances, and whether there are adequate procedures to address that concerns of indigenous people in such discussions.

Grievance

Our analysis of BHP's Samarco project, LUKOIL's Nenets Autonomous Area controversy, and Iberdrola's Belo Monte project has helped identify that grievance mechanisms at the project level are lacking for indigenous people and local community and that companies usually could not provide timely and accessible response to the impacted peoples' complaints.

According to [UN Guiding Principle 31](#), companies should make grievance mechanism accessible, predictable, equitable, transparent, and increase engagement and dialogue. Those companies haven't established a convenient access to the grievance which ensure the complaints of indigenous people effectively reach the company. There was also not enough timely engagement on the company side to completely understand the appeals of the people. Financial institutions can conduct due diligence on the accessibility of project level company grievance mechanism, as well as assessing whether such mechanisms capture the need of impacted people through dialogue.

We believe that it is in the companies' best interest to ensure compliance with international standards on human rights. Properly addressing ESG matters has a variety of benefits. For starters, it minimizes environmental and social risks which, if unattended, could disrupt business operations or lead to occurrence and reoccurrence of controversies. Moreover, strong ESG performance can in fact help companies attract and retain quality employees and increase productivity. Responsible operations can also help achieve reduced costs, create revenue-generating opportunities and enhance long-term sustainability.