



DISPLACEMENT SOLUTIONS

# **Housing, Land, and Property (HLP) Rights and Corporate Success in the 21<sup>st</sup> Century:**

## **The Missing Link to Enhanced Reputation and Increased Profits:**

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## EXECUTIVE SUMMARY

Across the world, the 21<sup>st</sup> century represents a dynamic, challenging landscape to companies engaged in development and extractive industries. The DS briefing paper discusses a **formula for success for companies** devoted to development and extractive industry pursuits.

The thrust of the briefing paper focuses on the recognition, respect, and protection of housing, land and property (HLP) rights, and how DS can assist your company through the life of your project to **create and implement effective HLP policies**.

Across the world, international organizations are taking the initiative to develop frameworks for best practices with regard to HLP rights. **MANY COMPANIES THAT ARE NOW COMMITTED TO PROTECTING HLP RIGHTS ARE ENHANCING THEIR REPUTATIONS AND REALIZING RECORD PROFITS!** Such companies have secured a competitive advantage in their industry, are becoming the standard bearers of best practices in their industry, are increasing consumer trust, and reaching their goals for sustainability and profits.

This briefing paper focuses on how complying with HLP rights makes for exemplary business practices in the 21<sup>st</sup> century, and discusses areas where DS can assist your company in putting its best foot forward in the combined quest of reputation enhancement and better profits.

## INTRODUCTION

“You don’t do CSR [corporate social responsibility] for the sake of CSR. You do CSR as part of your reputation management strategy to drive business growth, customer loyalty, and employee alignment.”

– Rudolf Ulf Nielsen, Executive Director, Reputation Institute, 2013.

The 21<sup>st</sup> century represents a dynamic, challenging global landscape to companies engaged in development and extractive industries. This is due to:

- **an intensified competition for access to land and natural resources;**
- **increasing international recognition** – by regional and international organizations and states – of the fundamental human rights of native and local populations who occupy such lands.



**Figure 1. Best Practices Pyramid**

As indicated in Figure 1, corporate success in the 21<sup>st</sup> century requires the development of strategies that not only account for these two factors, but are underpinned with a long-term commitment to action that weaves together responsible planning, sustainable management, human rights protection, and profit.

### **Box 1: Best Practices: What Are the Experts Saying?**

“A system of strong HLP rights will enhance and protect the reputation of the country and the international and domestic businesses that operate there. In effect, it enhances the brand value of the nation and its products in a world that is increasingly aware of and concerned with the human and environmental impact of business practices.” (Displacement Solutions 2012).

“To promote the full realization of adequate housing as a component of the right to an adequate standard of living [and ] identify best practices as well as challenges and obstacles to the full realization of the right to adequate housing, and identify protection gaps in this regard.” (UN Human Rights Council, Resolution 6/27).

“Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities.” (ICMM Principle No. 3).

“Emerging good practice emphasizes the importance of establishing a relationship that endures throughout the life of the project.” (IPIECA, Indigenous Peoples and the Oil and Gas Industry).

“To promote and provide means for adequate engagement with Affected Communities throughout the project cycle on issues that could potentially affect them and to ensure that relevant environmental and social information is discussed and disseminated.” (IFC Performance Standard 1).

“An operational structure that implements best practices facilitates the relationship with the communities and creates appropriate conditions for agreements between the actors while building trust among foreign investors.” (FOCAL 2007).

“The business community has a responsibility to respect human rights, that is, not to infringe human rights. Operating context, company activities and relationships can pose risks that the company might negatively impact human rights, but they also present opportunities to support or promote the enjoyment of human rights while also advancing one’s business.” (from Principle 1 of the U.N. Global Compact).

Companies that design and implement their development projects according to these standards not only greatly reduce the risk of project delays, permit revocations, and often lengthy and acrimonious lawsuits, but gain a competitive advantage in a world where the number of prime development locations are shrinking every day.

***AND REPUTATION IS THE TRUE DRIVER OF VALUE.***

## **Box 2: How important are good practices to a company reputation?**

### **CONSUMERS ARE AWARE, AND THEY CARE!**

According to the 2014 Global CSR RepTrak 100 Report from the Reputation Institute, which listed the top performing companies in terms of best practices, **89%** of the more than 100,000 consumers queried were willing to recommend companies perceived to be engaged in best practices.

The high level of support is contrasted sharply by companies on the other end of the spectrum. **Only 6%** of consumers were willing to recommend a company perceived as not engaging in best practices.<sup>1</sup>

## **HLP RIGHTS: WHAT ARE THEY?**

### **I. HLP Rights**

HLP rights are a suite of human rights that relate to the fundamental principle that **everyone should be allowed an adequate standard of living for himself and his family, including adequate housing and the continuous improvement of living conditions.**

Housing rights should be seen as rights to live somewhere in security, peace, and dignity.

A home is a space where individuals establish territory by changing and modifying the space, thus giving it unique meaning. A home is a complex network of symbols; it is a bastion of security and a buffer to have the right to own and use land and property, and not to have lands or property taken from them without just compensation.

## **Box 3: What are HLP Rights?**

### **HLP law constitutes a composite of the following integrated rights:**

- The right to adequate housing and rights in housing
- The right to security of tenure
- The right not to be arbitrarily evicted
- The right to land and rights in land
- The right to property and the peaceful enjoyment of possession
- The right to privacy and respect of the home
- The right to HLP restitution/compensation following forced displacement

The right to freedom of movement and to choose one's residence The right to political participation The right to information The right to be free from discrimination The right to energy The right to water The right to equality of treatment and access
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The importance of HLP rights cannot be overstated.<sup>2</sup> The loss of HLP rights results in the inability to access the protections afforded under law by such rights. Appropriate forms of reparation and restitution must be accorded to those who have lost access to the use of or ownership over housing, land, or property.

International legal norms recognize that residents of every country have direct and sustained access to the full spectrum of HLP rights. **Governments must take seriously** their obligations to respect, protect, promote, and fulfill HLP rights. **Companies and corporations are obliged to adhere to legal mandates** of the states in which they operate, which means that companies must also accept the responsibility of respecting and protecting HLP rights.

Regardless of the country or specific context of a company's operations, reference should be made at a minimum to the internationally recognized human rights expressed in the International Bill of Human Rights, consisting of the Universal Declaration of Human Rights<sup>3</sup> and the main instruments through which it has been codified: the International Covenant on Civil and Political Rights<sup>4</sup> and the International Covenant on Economic, Social and Cultural Rights,<sup>5</sup> and to the principles concerning fundamental rights set out in the 1998 International Labour Organisation Declaration on Fundamental Principles and Rights at Work.<sup>6</sup>

**INTERNATIONAL ORGANIZATIONS**, such as the United Nations, the Organization of American States, the Organization of African States, the World Bank, the International Finance Corporation, and the Organization for Economic Cooperation and Development (OECD) and have established principles and operational guidelines for

companies and corporations to follow with regard to the protection of human rights.

**NATIONAL ENTITIES**, such as the Australian Human Rights Commission, the Human Rights Compliance Assessment, the Danish International Development Assistance Agency, and the Spanish Agency for International Development Cooperation, are committed to promoting corporate responsibility of protection of human rights.

**COALITIONS OF GOVERNMENTS, COMPANIES, CIVIL ORGANIZATIONS, AND INVESTORS**, such as the International Council on Mining and Metals (ICMM), the Extractive Industries Transparency Initiative (EITI), and the Global Oil and Gas Industry Association for Environmental and Social Issues (IPIECA), have developed standards and guidelines that seek to promote good practices and respect for the rights of all stakeholders.

Recently, John Ruggie, U.N. Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, has developed a framework for corporate responsibility that is founded on the **principles of “protect, respect, and remedy.”**<sup>7</sup>

PROTECT obliges the State to protect against human rights abuses by third parties.

RESPECT is the corporate responsibility to respect human rights, meaning that companies should act with due diligence to avoid infringing on the rights of others and to address adverse impacts to human rights when they occur.

REMEDY is the need for victims to have greater access to effective remedies, both judicial and non-judicial.

#### **Box 4. Standards for Corporate Responsibility: Key Themes**

“Protect, Respect, Remedy” Framework – making HLP rights a project priority throughout the life of the project

International Standards – understanding of and adherence to international human rights instruments

State-Corporate Relationship – working with government to ensure recognition and protections of HLP rights

Corporate Culture – creation and maintenance of a vision of exemplary governance throughout the life of a project

Due Diligence and Best Practices – implementation of policies to ensure the protection and recognition of HLP rights throughout the life of a project

## **II. The DS Solution**

DS can assist in ensuring that any operation in which you are involved is designed from the outset to protect HLP rights using principles of best practices and corporate social responsibility.

We also assist in **actively promoting the HLP rights** of people and communities living in project areas through committed stakeholder engagement, fair and just dispute resolution mechanisms, profit-sharing and long-term local investment, and other best practices. DS’s areas of expertise include:

- Project analysis and HLP compliance monitoring
- On-site compliance assistance
- Online HLP compliance assistance
- Building reputation through HLP certification – The HLP Commitment
- HLP training and experience

## **BUSINESS ENTERPRISE, DUE DILIGENCE, AND HLP RIGHTS**

A key component of best practices for companies engaged in development or extractive industry is due diligence. The term refers to the process of identifying, preventing, mitigating and accounting for how the company addresses its impacts on human rights. Due diligence is a central principle of the U.N. Global Compact, emphasizing the assessment of human rights impacts, integrating human rights policies throughout a company, and tracking and reporting performance.

### **Box 5: The Major Component of Due Diligence**

1. **ADDRESSING IMPACTS TO HLP RIGHTS:** Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships.
2. **VARY ACCORDING TO SIZE OF PROJECT:** Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations.
3. **ONGOING AND CONTINUOUS:** Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve.<sup>8</sup>

### ***HUMAN RIGHTS DUE DILIGENCE IS ALL ABOUT ANTICIPATING, PREVENTING, AND MITIGATING RISK.***

Although a due diligence program may be included in a larger risk-management system, it must adequately identify risks not just to company personnel but to all rights-holders. It should be implemented at the earliest stages of a project and maintained throughout the life of the project.

**Importantly**, a properly implemented plan of due diligence should help companies address the risk of legal claims against them by showing that they took **every reasonable step to avoid involvement in human rights abuses.**

### **Box 6: The Corporate Responsibility to Respect Human Rights**

The corporate responsibility to respect human rights exists independently of States' ability or willingness to fulfil their own human rights obligations, and it exists over and above compliance with national laws and regulations protecting human rights. Businesses must carry out due diligence to ensure that their activities do not infringe or contribute to the infringement of the rights of indigenous peoples that are internationally recognized, regardless of the reach of domestic laws.<sup>9</sup>

### **Box 7: The Seven Best Practices for Development Project**

- Set Measurable Goals – simple steps, like minimizing waste and resource use
- Stakeholder Engagement – articulate values, mission, strategy, and implementation to stakeholders.
- Sustainability Issues Mapping – A means of prioritizing and narrowing down key issues
- Sustainability Management – developing a plan so that environmental, economic, and HLP issues are in tandem with decision-making throughout the life of the project
- Lifecycle Assessment – assessing the entire project, including after the project has been completed
- Sustainability Reporting – important that your consumer base is provided with accurate information about your project
- Sustainability Branding – ensure the reporting of your project through transparency<sup>10</sup>

*If your company cannot check all of these boxes, DS can help you.*

STAKEHOLDER ENGAGEMENT IS CRITICAL! Stakeholders in a development project are integral actors and may include local and regional populations, investors, unions, government agencies, international organizations, non-governmental organizations, research and policy institutes, industry-initiated organizations, and other interested, involved parties.

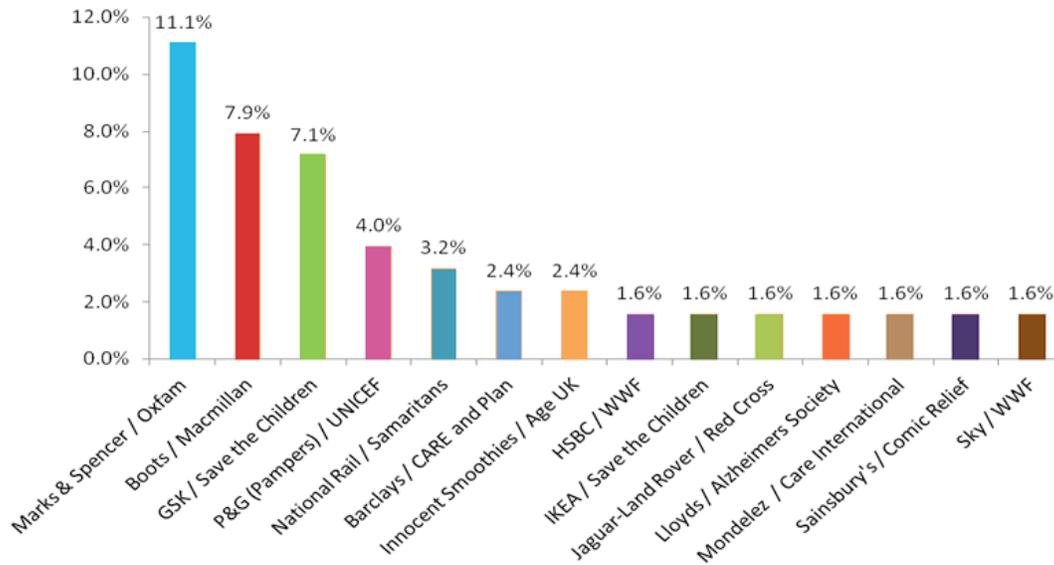
The identification and respectful recognition of all stakeholders during the earliest stages of a development project constitutes a significant step toward **creating stakeholder engagement** and the **assurance of transparency**.

Stakeholders can be empowered through direct involvement in the decision-making process at multiple levels, maintenance of open and effective channels of communication with them, and the adjustment of strategies and goals as per their responses and recommendations at each stage of the project. In short, in order for a company to articulate its values, missions, strategy, and implementation in the creation of your CSR plan, it is important for everyone to be on the same page.

**Stakeholders play vitally important roles in all stages and phases of a project.** For example, non-governmental organizations (NGOs) may have specialists with experience in interacting productively with local and regional populations, with understanding how to design and implement grievance mechanisms, and to provide consultation ensuring that standards of human rights protection set by the U.N. and other organizations are recognized, respected, and protected.

Partnering with stakeholders can be extremely advantageous to a company's reputation, as illustrated in Figure 2.

## Plenty to learn from the Most admired partnerships



M&S-Oxfam hold top spot for 5th year. Boots-Macmillan cement 2nd place. GSK-Save the Children consolidate 3rd place.

### Figure 2. Partnering with NGOs is Reputation Enhancing

The importance of recognizing local populations in the stakeholder calculus cannot be emphasized enough. Although these people may not, under the law of their country, actually own the resources to be developed or extracted, they grant access to such resources while not seeking the alternative of developing or extracting the resources themselves at some point in the future.

Rather than seeking to displace such people, companies should be embracing their presence for the knowledge of the region that they bring, respecting their right to make their homes and livelihoods on the land in question, and their willingness to work with companies in a collaborative, mutually beneficial manner. In effect, they themselves are a **valuable resource in the entire process**. As former U.N. Special Rapporteur James Anaya has noted:

Indeed, direct negotiations between companies and indigenous peoples may be the most efficient and desirable way of arriving at agreed-upon arrangements for

extraction of natural resources within indigenous territories that are fully respectful of indigenous peoples' right and they may provide indigenous peoples opportunities to pursue their own development priorities.<sup>11</sup>

### **Box 8. Tools for the Protection of HLP Rights**

***REMEMBER: the LOCAL POPULATION is one of the most important stakeholder in any development/resource extraction project!***

1. Identifying all stakeholders
2. Empowering stakeholders
3. Stakeholder engagement
4. Implementing preventative tools
  - a. Need for grievance mechanisms
  - b. Understanding grievance mechanisms
  - c. Implementing grievance mechanisms<sup>12</sup>
5. Using conflict management tools in socio-environmental conflicts
  - a. Define scope and determine goals
  - b. Design, implement, and operate
  - c. Monitor, report and LEARN

**“If you’re serious about protecting HLP rights, these are the steps you need to take. DS can help you get there.”**

## THE DRAWBACKS TO AN INADEQUATE POLICY OF HLP RIGHTS

Companies must recognize two foundational realities about the region where the project is located: 1) that local populations have a legitimate claim to the lands on which they live and therefore are stakeholders in the project who must be recognized; and 2) the HLP rights of these people are not protected.

**When the company is more focused on finding ways to displace these people than embracing their presence and seeking a fruitful collaboration with them, human rights violations happen.**

**This frequently leads to devastating consequences**, such as:

- loss of homes (displacement)
- loss of family and community structures (cultural and ethnic disruption)
- loss of traditional lands
- loss of essential resources, such as agricultural fields and waterways (health risks)
- loss of livelihoods (extreme poverty).

The box below describes what can happen when HLP rights are not properly recognized, respected, and protected.

### **Box 9. Less Than Best Practices Are Costly!**

<b>Company</b>	<b>Project</b>	<b>HLP Rights Issues Not Addressed</b>
Chevron	Oil development in Amazonian Ecuador	<b>Multiple and Long-Term Human Rights Violations.</b> Chevron Oil, after acquiring Texaco in 2001, found itself in litigation in the Ecuadorian Amazon for gross human rights abuses that included devastation to the local environment, destruction of native villages, displacement of local indigenous peoples, and multiple forms of threats, violence, and intimidation toward anyone opposing their activities in the region. Where once powerful multinational corporations could engage in such behavior without

		accountability, the litigation in Ecuador proved otherwise, with damages of over \$18 billion awarded to the local populations of the region, accorded by the Supreme Court of Ecuador. <sup>13</sup>
Shell Oil	Oil development, Niger Delta, West Africa	<b>Multiple and Long-Term Human Rights Violations, Particularly with Regard to Housing, Land, and Property Rights.</b> Shell Oil has been operating in the Niger Delta region of Nigeria for more than five decades, and has failed, despite decades of protests both locally and internationally, to implement a human rights-based approach to its oil exploration and refining activities. The result has been constant violence, repeated acts of sabotage on pipelines, refineries, and other facilities, increasing legal action against Shell, staggering costs for security, and years of reputation damaging from negative media worldwide. <sup>14</sup>
Unocal	Yanada Pipeline, Myanmar	<b>Failure to Respect and Protect Housing, Land, and Property Rights.</b> By working in complicity with the Myanmar government and military, Unocal forcibly displaced hundreds of local residents along the route of one of its pipeline. <sup>15</sup>
Kinross Gold Corp.	Tasiast Mine, Mauritania, West Africa	<b>Lack of Disclosure, Failure to Respect and Protect Housing, Land, and Property Rights..</b> Corporations are obliged under the securities laws of most countries to provide prospective, as well as existing, investors and shareholders with accurate information regarding the subject of the investment. Inaccurate or misleading information, particularly if done intentionally, can and often does lead to class-action lawsuits by investors or shareholders victimized by such inadequate disclosure. Kinross Gold Corp. is now facing at least two major class-action lawsuits for providing misleading information on one of its gold mines, and its share are down 20 percent as a result. <sup>16</sup>
Goldcorp	Penasquito Mine, Mexico.	<b>Lack of Respect for Local Landowner Rights and Failure to Honor Contracts with Landowners:</b> Goldcorp's failure to properly respect the land ownership rights of local farmers in the municipality of Mazapil has resulted in fines and a new agreement that will provide greater financial benefit to the local population. The resulting action taken against Goldcorp cause the company to take a huge writedown on the mine, resulting in a \$1.9 billion dollar loss for the second quarter of 2013. <sup>17</sup>
Newmont Mining	Minas Conga Gold Mine, Peru	<b>Lack of Adequate Planning.</b> Inadequate planning has led to a revocation of the mining concession and suspension of mining activities. As a result, the mining company has suffered significant loss in the value of its stock, and is having to formulate significantly new plans in an effort to regain its

		concessions. <sup>18</sup>
Barrick Gold	Porgera Gold Mine, Papua New Guinea	<b>Failure to respect Housing, Land, and Property Rights.</b> This disregard by Barrick Gold has led to forced eviction and displacement of village people living near the Porgera Gold Mine. Local villages have been burned to the ground by Barrick security forces and local police. Health impacts are legion due to tailings dumping. Violence is rife in the region, with multiple reports of rape of local women by private security forces and government police. <sup>19</sup>
Sime Darby	Palm oil development in Liberia, West Africa	<b>Disregard for Housing, Land, and Property Rights.</b> Local farmers and plantation owners had their lands taken without consultation or compensation, or a resettlement plan. Members of local communities have been stripped of all rights to use lands taken from them, and are viewed as “tolerated trespassers” at best. Farmers must seek permission from Sime Darby and the state to farm land, and only then it must be for non-commercial purposes. <sup>20</sup>
Neumann Kaffee Group	Coffee plantation development in Uganda, East Africa	<b>Disregard for Housing, Land, and Property Rights.</b> Villages were destroyed, including houses, churches, and medical clinics, to force displacement so that the land could be cleared for coffee development. In 2013 a Ugandan court ordered Neumann to pay US\$18 million to 2,014 evictees. <i>Interestingly, the Ugandan government conducted the evictions, yet was acquitted by the court, with all responsibility put on Neumann.</i> <sup>21</sup>
Total Oil	Oil exploration and transportation in Myanmar	<b>Violence, Forced Labor, and Displacement of Local Populations.</b> The French corporation has employed the army of Myanmar to provide security since the project began in 1994. For 20 years, the army has engaged in a series of violent acts against local communities, including extrajudicial killings and torture, forced slave labor, confiscation of property, and wide-scale community displacement. <sup>22</sup>

- **DS with its combined expertise of more than 100 years of international experience in developing and implementing HLP policies and programs, can provide crucial guidance to companies at all stages of their development projects.**

**Remember: it does not have to happen this way!**

## EMBRACING HLP RIGHTS

### I. Recent International Initiatives

Many international institutions and organizations have now developed principles and goals for creating sustainable development that seeks both sound environmental practices and healthy engagement with local peoples. These initiatives emphasize the development and establishment of good practices, identification of risks and impacts, and ways to avoid, mitigate, and manage such risks and impacts. The initiatives signal a trend toward a **new appraisal of corporate responsibility** that includes greater transparency and accountability.

#### *The United Nations Principles of Responsible Investment Initiative (PRI)*

The United Nations Principles of Responsible Investment Initiative (PRI) is a network of international investors working together to promote and implement the six principles of responsible investment developed by the U.N.<sup>23</sup> The principles focus on environmental, social, and corporate governance (ESG), and deal with incorporating ESG issues into decision-making, ownership policies, disclosure, effective implementation of the principles, enhancing implementation, and reporting on progress toward implementation. Signatories to the PRI are investment firms, not States. According to the U.N., the “Principles provide a voluntary framework by which all investors can incorporate ESG issues into their decision-making and ownership practices and so better align their objectives with those of society at large.” As of December 2014, 1,333 firms from over 50 countries have signed onto the PRI. This includes 285 asset owners, 865 investment managers, and 183 professional service partners.<sup>24</sup>

#### *The World Bank*

The World Bank has created operational policies, finalized in 2005, which describe conditions under which it will provide funds for a developmental project. The operational policies are designed to ensure that a project is economically, socially, financially, and

environmentally sound. The Bank's *Operational Manual* provides guidelines for borrowers for implementing the policies.<sup>25</sup>

*The International Finance Corporation (IFC)*

The International Finance Corporation (IFC), which is part of the World Bank group, has created a set of Performance Standards that applies to its borrowers. The Performance Standards and accompanying Guidance Notes were rolled out in 2007 to define clients' roles and responsibilities for managing their projects and the requirements for receiving and retaining IFC support. The standards provide guidance to clients on how to identify risks and impacts, and are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way. This includes strategies such as stakeholder engagement and disclosure obligations of the client.<sup>26</sup>

*The Extractive Industries Transparency Initiative (EITI)*

The Extractive Industries Transparency Initiative (EITI) is a coalition of governments, companies, civil society groups, investors and international organizations. Its mission is to promote greater transparency and accountability in the extractive industries sector. In 2003, EITI adopted its Principles and its Criteria, which emphasize that transparency by governments and companies in the extractive industries is critical to overall accountability, sustainable development, investment, and the enhancement of public financial management.<sup>27</sup>

*The International Council on Mining and Metals (ICMM)*

The International Council on Mining and Metals (ICMM) was established in 2001 with the goal of improving sustainable development performance in the mining and metals industry. It described itself as a CEO-led collaborative of companies that employs over 750,000 people in 60 countries on every continent. In 2010 it produced the *Good Practice Guide on Mining and*

*Indigenous Peoples*, which is a well-intentioned effort to include the rights of indigenous peoples in all phases of project development and implementation.<sup>28</sup>

### ***The IPICEA***

The IPICEA was established following the development of the United Nations Environment Programme (UNEP) and its membership covers more than half of the world oil's production. In June 2014, IPIECA published *Human Rights Training Tool*, a guide for oil and gas companies to develop a better understanding of the corporate responsibility to respect human rights and key human rights issues relevant for the industry.<sup>29</sup>

## **II. The Best Corporate Practices**

A growing number of corporations that operate in the area of development and extractive industries have demonstrated a **willingness to work cooperatively and collaboratively with local peoples** to protect and respect these peoples' HLP rights. In 2003, for example, BP [through consultation with DS founder and CEO Scott Leckie] took the initiative to develop an innovative resettlement plan designed to protect the HLP rights of local populations.<sup>30</sup>

Companies must become cognizant of such local coalitions and declarations and incorporate them into their strategy for sustainable management and respect and protection of HLP rights. SUSTAINABLE MANAGEMENT IS PROFITABLE, as Figure 3 indicates.

**High sustainability companies perform better over time**  
 The evolution of \$1 invested in the stock market in value-weighted portfolios

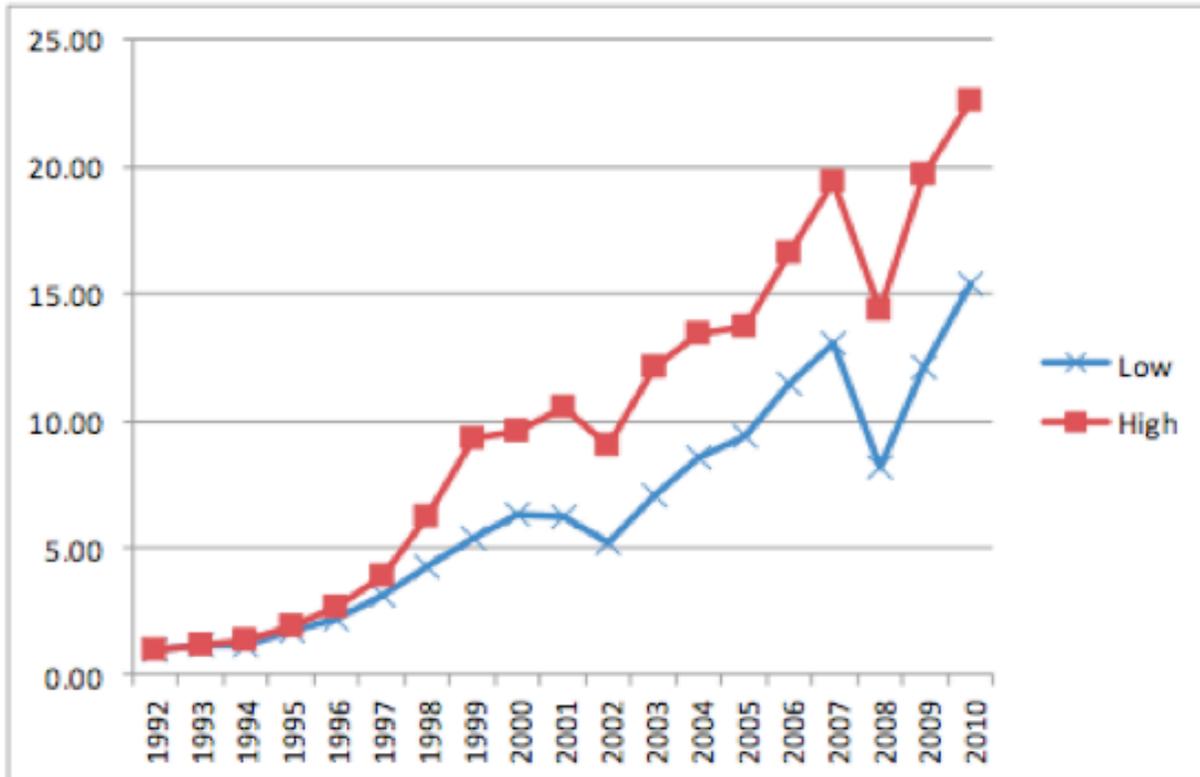


Figure 3. The Value of Sustainability to Investment

**Box 10: Best Practices at Work**

Company	Project	HLP Rights Compliance
Coca-Cola	Zero Tolerance on Land Grabbing	In 2013, Oxfam published a media briefing papers challenging some of the world’s largest food and beverage companies to stop using sugar suppliers that have engaged in land grabbing. <sup>31</sup> Coca-Cola responded formidably to the challenge, adopting a zero-tolerance policy on land grabbing and vowing to adhere to the principle of free, prior, and informed consent of people impacted by sugar development. Coca-Cola will require its suppliers to adhere to this principle as well, and is committed to 100% sustainable sourcing of sugar by 2020. <sup>32</sup>
Pepsi-Cola	Zero Tolerance on Land Grabbing	Pepsi-Cola has likewise responded to Oxfam’s challenge. Focusing its efforts on its sugar suppliers in Brazil and Thailand, Pepsi-Cola is committed to 100% sustainable sourcing of

		sugar and soy by 2020. <sup>33</sup>
Hunt Oil	LNG Gas Pipeline, Peru	Hunt Oil operates the Peru LNG Project, a 408-km natural gas pipeline through southern Peru. Within the pipeline area of influence are 34 rural Andean communities that depend largely on subsistence agriculture. At the onset of the project, Hunt Oil implemented a series of strategies designed to minimize impacts to the communities' agricultural lands so that their traditional way of life would not be disrupted. In addition, Hunt Oil developed grievance mechanisms to ensure that members of local communities would have recourse to appropriate remedies should adverse impacts to their land and property occur. Hunt Oil used the information provided by local people to develop both their impact response strategies and their grievance mechanism. This basic respect for the local communities' rights to land and property resulted in minimal impacts to agricultural efficiency and access to natural resources. <sup>34</sup>
Rio Tinto	Argyle Diamond Mine, Western Australia	When Rio Tinto first proposed its Argyle Diamond Mine in the early 1980s, it was met with great opposition by local aboriginal populations. Of particular concern was a sacred site, Barramundi Gap, where traditional rituals were periodically performed and which was said to be a dwelling place of the ancestors. The mine plan indicated that the site would be destroyed. In 2001, Argyle began a formal consultation process with the Traditional Owners, and developed a Land Use Agreement that guaranteed the complete protection of all aboriginal sites within the mine area of influence. In doing so, Argyle acknowledged land ownership by the local aboriginal communities and became committed to working with the Traditional Owners to ensure that access to important sacred sites was not impeded. <sup>35</sup>

### **III. Local Movements: The Inuit Declaration and First Peoples Worldwide**

In 2011, the Inuit Circumpolar Council adopted a Resource Development Principles Declaration that highlights a plan for sustaining health Inuit communities and a healthy Arctic environment through responsible resource use and development. The emphasis is on striking a balance between the pace of development and adverse effects to the environment that result from development that is too rapid. Such development must go hand-in-hand with social and cultural development, and Inuit economic and social development is critical to the realization of self-determination. Any state, corporation, or company interested in engaging in a resource development project on Inuit traditional lands and territories must be able to demonstrate that the undertaking will be sustainable, and planning and execution of the project must utilize both scientific and Inuit knowledge.

Proponents of development projects must obtain the consent of Inuit communities that will likely be directly affected by the project. Design of projects must respect and protect the location and layout of Inuit communities, as well as those traditional lands determined by the Inuit to be essential to their survival. Development projects must also have strategies in place for dealing with anticipated and unanticipated impacts.<sup>36</sup>

First Peoples Worldwide is an indigenous organization dedicated to strengthening Indigenous communities through the restoration of their authority and control over their assets. The organization's corporate engagement plan includes the development of business practices and socially responsible investing. In 1999, it created a partnership with Business for Social Responsibility to form the Resource/Extractive Company and Indigenous Peoples Engagement (RECIPE). RECIPE is a resource and training tool to help corporations develop their relationships with indigenous peoples.<sup>37</sup>

Importantly, **these indigenous movements are *NOT* anti-development or anti-extractive industry.** They are not designed to prevent, but to integrate.

The focus is not on preventing companies from entering traditional aboriginal lands for purposes of development of resource extraction, but to assert status as stakeholders in the process. By doing so these movements are proclaiming the visibility of the local population to the company as a stakeholder that must be consulted at the earliest stages of planning and throughout the lifetime of the project.

Simultaneously, these movements encourage companies to collaborate and partner with the local population through recognition, respect, and protection of HLP rights. An increasing number of states, as well as international and regional bodies, have recognized the legal legitimacy of aboriginal land tenure. Australia, New Zealand, Nicaragua, and Belize are among the states that have done so; most recently the Supreme Court of Canada, in the 2014 case *Tsilhqot'in Nation v. British Columbia*, for the first time has recognized aboriginal land tenure.

These trends reflect the critical importance of engaging local peoples as legitimate stakeholders at the earliest stages of the project and maintaining and evolving that relationship throughout the life of the project.

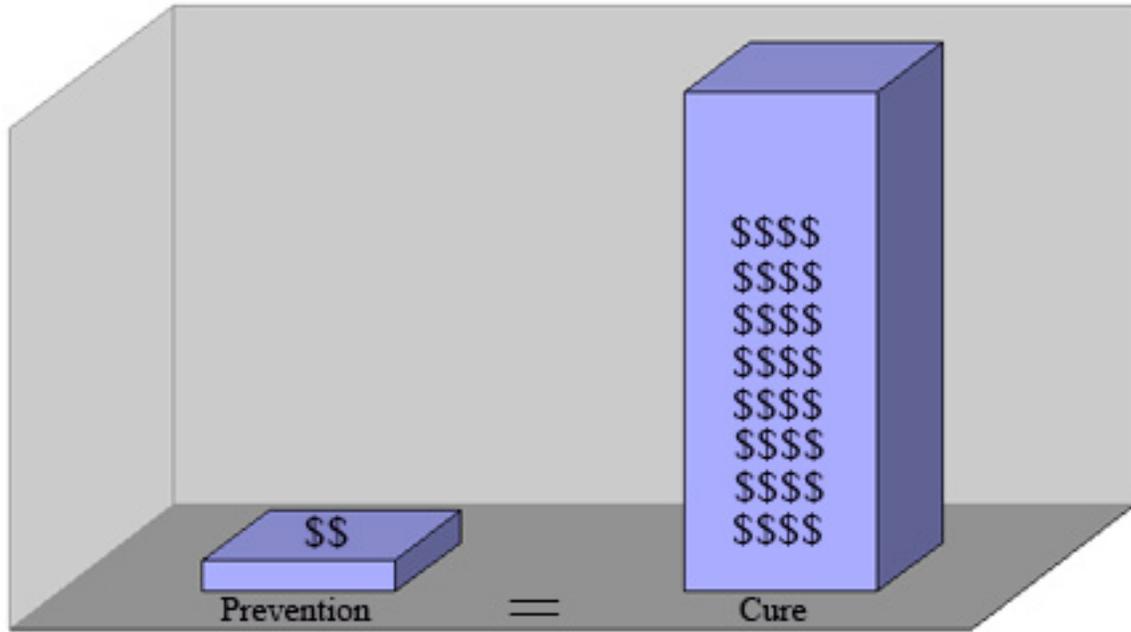
## **SUMMING UP: DELIVERING ON CSR IN THE 21<sup>ST</sup> CENTURY**

**Delivering on CSR leads to an improved reputation within the industry and among consumers.** Use the checklist in the box below to ensure that your strategy for implementing a plan of HLP rights protections is a blueprint for success!

### **Box 11. Checklist for Preparing a Successful HLP Rights Strategy**

- Think before Acting – establish roles, duties, and channels of communication at the outset
- Plan Ahead – consult and incorporate knowledge of stakeholders into your plan
- Be Open and Up Front – Transparency goes a long, long way toward success
- Free Flow of Information – communicate, communicate, communicate!
- Anticipate Problems – careful planning eliminates many, mitigation will handle the rest
- Never Lose Sight – monitor and evaluate your strategy regularly
- Reputation and Profit – the rewards of a successful HLP rights strategy!

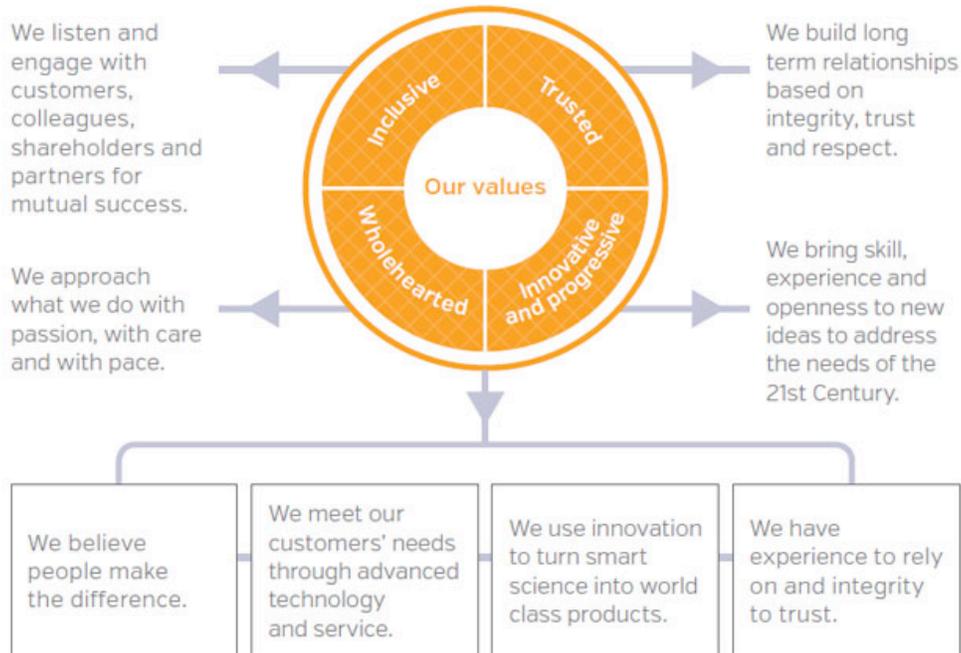
**DS is with you at every stage of planning and implementation to ensure success with your HLP rights strategy.**



**Figure 4. An Ounce of Prevention...Still a Great Approach!**

**\* Reputation Enhancement Leads to Greater Profitability: Tell the Story of Success \***

The companies that finished atop the 2014 RepTrak 100 study, such as Microsoft, Google, The Walt Disney Company, BMW, Sony, Apple, and Samsung, have all realized record of near-record profits with the ascent of their reputation as trusted by and relevant to consumers.<sup>38</sup> *Reputation truly IS the driver of value.*



**Figure 5. Corporate Values in Implementing HLP Rights Protection**

Reporting with transparency is crucial to delivery of CSR and enhancement of reputation.

**TELL YOUR STORY!** Extensive research shows that stories often sell when facts do not.

Companies should reach out to investors, consumers, and others by sharing the story of their success, emphasizing the human factors, the various stakeholders that have participated since day one of the project and have benefited, the good for all involved that the project has created. Great value can be derived by such reporting, which can translate into outstanding profits and competitive advantage.

- **ILPC is here to assist and provide expert guidance on all matters relating to HLP rights. Our combined 100 years of experience in HLP problem-solving give us a competitive advantage and demonstrate our long-term commitment to the protection, recognition, and respect of HLP rights.**

## **ANNEX: INTERNATIONAL STANDARDS FOR HELP RIGHTS**

UN Universal Declaration of Human Rights (1948; articles 1, 2, 25)

UN International Covenant on Economic, Social, and Cultural Rights (1966; articles 2, 3, 11)

UN Committee on Economic, Social, and Cultural Rights (General Comments 4, 5, 6, 7, 14)

ILO Convention No. 97 on Migration for Employment (1946; article 6iii)

UN Convention Relating to the Status of Refugees (1951; article 21)

UN Convention on the Elimination of All Forms of Racial Discrimination (1965; article 5e)

UN Declaration on the Rights of Disabled Persons (1975; article 9)

ILO Recommendation No. 162 concerning Older Workers (1980; section 2, para. 5(g))

UN Convention on the Elimination of All Forms of Discrimination Against Women (1979, article 14)

UN Declaration on the Right to Development (1986; article 8.1)

UN Convention on the Rights of the Child (1989; article 27)

UN International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families (1990; article 43)

UN Declaration on the Rights of Indigenous Peoples (2008; article 22)

ILO Recommendation No. 115 on Workers' Housing (1961)

Vancouver Declaration on Human Settlement (1976; section I(8))

Beijing Declaration and Platform for Action of the Fourth World Conference on Women (1995; article 49, 60(n), 94 and 255(k))

Copenhagen Declaration on Social Development and Programme for Action (1995: articles 19, 34(c), 34(e), 35(b), 39(h), and 59(b))

Habitat Agenda and Plan for Action (1996)

Istanbul Declaration on Human Settlements (1996)

UN Declaration on Cities and Other Human Settlements in the New Millennium (2001)

Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2000; article 16)

European Social Charter (1961; Part I, article 31; Part II, articles 15(3), 16, 19(4), 23, 30, 31)

European Convention on Establishment (1965; article 2)

European Convention on the Legal Status of Migrant Workers (1977; articles 6(1), 13)

Charter of the Organization of American States (1948; article 34k)

Helsinki Final Act (1975)<sup>39</sup>

## ENDNOTES

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<sup>1</sup> <http://www.reputationinstitute.com/thought-leadership/csr-retrak-100?/thought-leadership/2012-corporate-social-responsibility>.

<sup>2</sup> HLP rights lies at the core of many United Nations human rights instruments and related documents. The U.N. Universal Declaration on Human Rights, the International Covenant of Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights, among other treaties, all promote HLP Rights. In addition, General Comments 4 and 7 of the Committee on Economic, Social, and Cultural Rights, the U.N. Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons, as well as other documents, reveal a substantial body of international laws and standards that are currently being used by a government to build legislative frameworks for HLP rights. [Italicize conventions]

<sup>3</sup> <http://www.un.org/en/documents/udhr/>.

<sup>4</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx#>.

<sup>5</sup> <http://www.un-documents.net/icescr.htm>.

<sup>6</sup> <http://www.ilo.org/declaration/lang-en/index.htm>.

<sup>7</sup> John Ruggie, *Guiding Principles on Business and Human Rights: Implementing the United Nations' "Protect, Respect, and Remedy" Framework*, UN Doc. A/HRC/17/31 (21 March 2011).

<sup>8</sup> John Ruggie, *Guiding Principles on Business and Human Rights*, U.N. Doc. A/HRC/17/31, 21 March 2011 at para. 17.

<sup>9</sup> James Anaya, Report of the Special Rapporteur on the Rights of Indigenous Peoples, U.N. Doc. A/HRC/21/47, Para. 83, 6 July 2012.

<sup>10</sup> <http://greeneconomypost.com/csr-best-practices-11001.htm>.

<sup>11</sup> James Anaya, *Extractive Industries and Indigenous Peoples*, U.N. Doc A/HRC/24/41, 1 July 2013 at para. 61.

<sup>12</sup> Source: Office of the Compliance Advisor/Ombudsman (CAO), *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*. Advisory Note, 2008.

<sup>13</sup> <http://amazonwatch.org/documents/ecuador-press-kit/detailed-background.pdf>.

<sup>14</sup> <http://ccrjustice.org/learn-more/faqs/shell%2526%2523039%3Bs-environmental-devastation-nigeria>.

<sup>15</sup> <http://www.wcl.american.edu/hrbrief/13/unocal.pdf>.

<sup>16</sup> [http://www.businesswire.com/news/home/20120216006543/en/Robbins-Geller-Rudman-Dowd-LLP-Files-Class#](http://www.businesswire.com/news/home/20120216006543/en/Robbins-Geller-Rudman-Dowd-LLP-Files-Class#.VI5FwihFok).

<sup>17</sup> <http://business.financialpost.com/2013/07/25/goldcorp-q2-earnings-penasquito-writedown/#>.

<sup>18</sup> <http://www.facing-finance.org/database/cases/newmont-mining-corp-human-rightsenvironmental-violations-cajamarca-peru/>.

<sup>19</sup> <http://www.hrw.org/reports/2011/02/01/gold-s-costly-dividend>.

<sup>20</sup> [http://www.forestpeoples.org/sites/fpp/files/publication/2012/12/liberiacontractanalysisfinaldec2012\\_0.pdf](http://www.forestpeoples.org/sites/fpp/files/publication/2012/12/liberiacontractanalysisfinaldec2012_0.pdf).

<sup>21</sup> <http://farmlandgrab.org/post/view/21928>.

<sup>22</sup> <http://d2zyt4oqqla0dw.cloudfront.net/sites/default/files/publications/total-impact.pdf>.

<sup>23</sup> <http://www.unpri.org/about-pri/the-six-principles/>.

<sup>24</sup> <http://www.unpri.org/signatories/signatories/#>.

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- <sup>25</sup> <http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,menuPK:4564185~pagePK:64719906~piPK:64710996~theSitePK:502184,00.html#>
- <sup>26</sup> [http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbfd1a5d13d27/PS\\_English\\_2012\\_Full-Documents.pdf?MOD=AJPERES](http://www.ifc.org/wps/wcm/connect/115482804a0255db96fbfd1a5d13d27/PS_English_2012_Full-Documents.pdf?MOD=AJPERES).
- <sup>27</sup> <https://eiti.org/document/standard>.
- <sup>28</sup> <http://www.icmm.com/about-us/strategy-and-action-plan>.
- <sup>29</sup> <http://www.ipeca.org/publication/human-rights-training-tool-3rd-edition>.
- <sup>30</sup> Leckie, Scott. 2003. *Resettlement: Aspirations, Expectations, and Guidelines*. Prepared for British Petroleum.
- <sup>31</sup> Oxfam, *Nothing Sweet About It: How Sugar Fuels Land Grabs*. Oxfam Media Briefing, 06/2013.
- <sup>32</sup> *The Coca-Cola Commitment: Land Rights and Sugar*, 2014.
- <sup>33</sup> <http://www.pepsico.com/Purpose/Performance-with-Purpose/Policies>.
- <sup>34</sup> IPECA, *Indigenous Peoples and the Oil and Gas Industry: Context, Issues and Emerging Good Practices* 32-35 (2011).
- <sup>35</sup> David Brereton, et al., *Mining and Indigenous Tourism in Northern Australia* 51-52 (2007).
- <sup>36</sup> A Circumpolar Inuit Declaration on Resource Development Principles in Inuit Nunaat.
- <sup>37</sup> See <http://www.firstpeoplesworldwide.org/about.asp>.
- <sup>38</sup> <http://www.reputationinstitute.com/thought-leadership/global-reptrak-100>.
- <sup>39</sup> Refer to [http://www.hrea.org/index.php?doc\\_id=411](http://www.hrea.org/index.php?doc_id=411) for information on all sources listed in this annex.

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