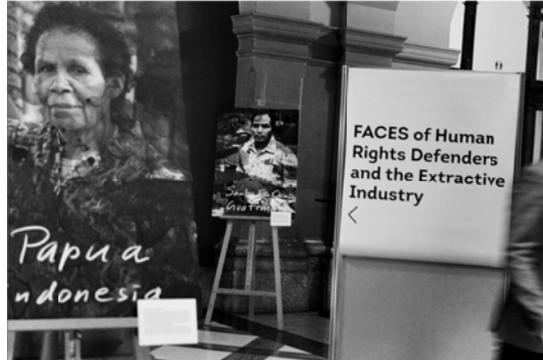




HUMAN RIGHTS: A KEY CHALLENGE FOR THE EXTRACTIVE INDUSTRY



This Vigeo Infoclash aims to give an insight on the exposure of the Extractive Industry (Energy & Mining sector) to human rights allegations. Data are based on Vigeo's Controversy Database.

CONTEXT

The extractive industries, and more specifically the mining sector is one of the sectors which are most exposed to human rights violations. The extraction of minerals or raw materials by mining companies has exacerbated conflict in numerous countries around the world. Academic studies point to a **strong correlation between dependence on natural resources and increased risk of conflict in developing countries**. One World Bank study found that if 25% or more of GDP is derived from primary commodity exports, the risk of civil war jumps to around 30%¹. The World Bank's Extractive Industries Review found that "the large economic rents generated by extractive industries may help provoke or prolong civil conflict. **Indigenous people are particularly vulnerable.**"².

In his interim report of February 2006, Professor John Ruggie, UN special representative on human rights and transnational corporations (TNCs), presented an overview of the 65 cases of corporate human rights abuse he had examined from 27 countries around the world. Ruggie noted: "The extractive sector – oil, gas and mining – utterly dominates this sample of reported abuses with two thirds of the total... The extractive industries also account for most allegations of the worst abuses, up to and including complicity in crimes against humanity."³

UNCTAD's World Investment Report for 2007 also examined the particular challenges posed by multinationals from the extractive industries. The report draws attention to the **threat of human rights violations at the hands of both public and private security forces protecting company assets**. While UNCTAD notes that there have been many reported abuses by private security forces, including those guarding mining installations, it also highlights the issue of corporate complicity when companies rely on state forces to provide security⁴. Alleged human rights abuses include the disappearance of people, arbitrary detention and torture, loss of land and livelihoods without negotiation and without adequate compensation, forced resettlement, the destruction of ritually or culturally significant sites without consultation or compensation and labour rights violations. In other instances, the dislocation of local populations has been linked to crimes against humanity".

¹ P Collier and I Bannon, 'Natural resources and violent conflict: options and actions', World Bank, 2003

² 'Striking a better balance': Vol. I - World Bank Group and extractive industries, World Bank, December 2003

³ Interim report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, UN document E/CN.4/2006/97, 22 February 2006

⁴ World Investment Report 2007: 'Transnational Corporations, Extractive Industries and Development, UNCTAD, October 2007

BRUSSELS

Rue du Progrès 333 / B7
1030 Brussels – Belgium
contact@vigeo-
belgium.com

CASABLANCA

Technopark –
Nouacer Road
6th Floor – Office 601
Casablanca –
Morocco
contact@vigeo.com

MILAN

Via Settala 6
20124 Milano - Italia
italia@vigeo.com

PARIS

Les Mercuriales
40 rue Jean Jaurès
93170 Bagnolet –
France
contact@vigeo.com

LONDON

Broad Street House
55 Old Broad Street
London, EC2M 1RX-
UK
contact@vigeo.com

TOKYO

2-8-8 Nakamachi
Meguro-ku 153-
0065 Tokyo
contact@vigeo.com

SANTIAGO DE CHILE

General Flores 83
Santiago – Chili
contact@vigeo.com



As a consequence of intense scrutiny and pressure from stakeholder organisations (local and international NGOs, human rights organisations, investors and sector initiatives such as the EITI, the Voluntary Principles on Business and Human Rights and the International Council on Mining and Metals), Energy and Mining companies increasingly tend to take these risk factors into account in their management processes and CSR policies. This is also confirmed by the Vigeo data.

The levels of commitments and due diligence measures of the extractive industry companies on key issues such as Community Involvement, Human Rights and Anti-Corruption are in general more advanced than in other sectors. This is linked to what we could call the “**Mining-paradox**”: intensive stakeholder pressure and the occurrence of controversies that have affected companies’ reputation in the past appear to have shifted their management practices towards the integration of these key issues in their management processes.

The Mining and Minerals Sustainable Development (MMSD) Project, initiated by the World Business Council for Sustainable Development (WBCSD) and supported by the Global Mining Initiative (GMI), recognised that **campaigning by environmental and civil society groups has played an important role as a catalyst for major changes** in the standards pursued by the extractive industry in the past and that these groups would continue to be major drivers of change.

However, as mining (and energy) companies are facing in general a rather ‘hostile’ environment, marked by increased resource nationalism; political and social instability in weak-governance zones and increasing stakeholder expectations, these companies remain involved in persistent controversies which are a challenge to their license to operate. This is also illustrated by Vigeo’s findings over the years.

VIGEO FINDINGS

Overall, the companies composing Vigeo’s Mining & Metals and Energy sector universe, faced 943 ESG allegations/controversies between January 15, 2010 and October 7, 2015. **Allegations directly linked to Human Rights violations** (fundamental human rights; labour rights; non-discrimination and human rights in the supply chain) amounted to **116** during this period. The majority of these cases (70 or 60%) were on account of the Mining companies. **Compared with other sectors in Vigeo’s universe, the Mining and Energy sectors were amongst the five most exposed sectors to human rights allegations**, together with Food, Specialized Retail and Diversified Banks.

Severity of the cases; company responsiveness and risk mitigation of these allegations:

Of the 116 human rights allegations identified, 13 (11%) of them are of critical severity, and 53 (46%) of high severity. On 29 of these cases, companies totally failed to communicate to stakeholders in a clear way, while only in 16% of the cases remediative measures were implemented in response to the case.

Where do most human rights allegations occur?

The main countries where the extractive industry companies are facing human rights allegations are Australia (13 cases), Colombia (11), Nigeria (10), South-Africa (7), Canada (5), Indonesia (5) and the USA (5). According to Vigeo’s assessment of Worldwide Human Rights Vulnerabilities Nigeria is classified as a country where the Stakeholder’s vulnerability to human rights violations is High; Colombia as Medium and South-Africa and Indonesia as Limited.

Which human rights allegations?

Overall, 77% of the Human Rights allegations were related to Fundamental Human rights; 24% related to labour rights and 10% to non-discrimination. The most recurrent Fundamental Human rights allegations related to ‘Violations of property rights’ (23%), ‘Involvement in cruel, inhuman or degrading treatment’ (27%) and ‘Violations of human rights linked to the environment’ (25%)

Overall Human Rights performance by region

The European Mining sector and Energy sector are showing the strongest – and very similar - average human rights performance, with a score of 45.4/100 and 44.8/100 respectively. Also the Asia Pacific Mining and Energy companies are showing – at a lower level - similar performances, with a score of 34.4/100 and 35.6/100 respectively. The same can be observed for the Emerging market companies (31.3/100 for Energy;

BRUSSELS

Rue du Progrès 333 / B7
1030 Brussels – Belgium
contact@vigeo-belgium.com

CASABLANCA

Technopark –
Nouacer Road
6th Floor – Office 601
Casablanca –
Morocco
contact@vigeo.com

MILAN

Via Settala 6
20124 Milano - Italia
italia@vigeo.com

PARIS

Les Mercuriales
40 rue Jean Jaurès
93170 Bagnolet –
France
contact@vigeo.com

LONDON

Broad Street House
55 Old Broad Street
London, EC2M 1RX-
UK
contact@vigeo.com

TOKYO

2-8-8 Nakamachi
Meguro-ku 153-
0065 Tokyo
contact@vigeo.com

SANTIAGO DE CHILE

General Flores 83
Santiago – Chili
contact@vigeo.com



28.6/100 for Mining). A big discrepancy in performances can however be observed between the North-American Mining companies (41.9/100) and the North-American Energy companies (29/100).

KEY TAKEAWAYS

- 57% of the allegations extractive companies are facing are of critical or high severity; in 20% of the cases these companies have responded in a pro-active or remediative way to the case (stakeholder cooperation); in 87% of the cases, the company demonstrates a weak or limited risk mitigation of these allegations.
- Most of the allegations are concentrated in a few countries, marked by the presence of indigenous communities (Australia, Canada, Colombia, USA) or a complex socio-economic environment or (political) violence (South-Africa, Colombia, Nigeria)
- 3 of The 5 'big majors' of the mining industry are also those who are exposed to the highest number of human rights allegations. They are however, also the most 'responsive' in their reaction to allegations.
- 66% of the cases relate to violations of fundamental human rights, mainly linked to property rights and the environment.
- In terms of overall human rights performance (score), the European Mining and Energy companies show the strongest performances. North American Energy companies and Emerging Market Mining companies are lagging far behind.

Author



Jordi Lesaffer

Research Manager Basic Resources
Human Rights Domain Group
jordi.lesaffer@vigeo.com

BRUSSELS

Rue du Progrès 333 / B7
1030 Brussels – Belgium
contact@vigeo-belgium.com

CASABLANCA

Technopark –
Nouacer Road
6th Floor – Office 601
Casablanca –
Morocco
contact@vigeo.com

MILAN

Via Settala 6
20124 Milano - Italia
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PARIS

Les Mercuriales
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France
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LONDON

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55 Old Broad Street
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TOKYO

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0065 Tokyo
contact@vigeo.com

SANTIAGO DE CHILE

General Flores 83
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