

# Human Rights

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This document describes the criteria DNB expect companies to meet regarding human rights.

## Objective

The DNB Group's Standard for Responsible Investments shall ensure that DNB does not contribute to the infringement of human or labour rights violations, corruption, serious environmental harm or other actions which may be perceived to be unethical and/or unsustainable. <sup>1</sup> They shall also ensure that assessments of risks and opportunities arising from Environmental, Social and Governance (ESG) factors are integrated into the investment decision-making process. At DAM we exercise our ownership rights in line with international norms and standards, including the UN Global Compact, UN Guiding Principles on Business and Human Rights, the G20/OECD Principles of Corporate Governance, and the OECD Guidelines for Multinational Enterprises.

We practice active ownership using tools such as screening, dialogue, engagement and voting. Risk management, standard setting and ESG integration are also important in our investment approach. Companies may be excluded from the investment universe if there is an unacceptable risk that a company contributes to, or is responsible for, serious or systematic violations of human or labour rights, the worst types of child labour (ILO Convention No.182)<sup>2</sup> or other exploitation of children. The purpose of this document is to define our expectations and criteria towards companies in terms of their obligation to respect human rights in general. We expect companies to demonstrate particular attention to vulnerable groups with an emphasis on children's rights, labour rights and the rights of indigenous people. This document is a description of our interpretation of the Standard for Responsible Investments and defines our expectations towards companies we invest in or plan to invest in, and further, describes how DAM assesses companies once an issue has occurred.

## Definition of human rights

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, their right to work and education, and more. Everyone is all equally entitled to these rights without discrimination.<sup>3</sup>

## Introduction to Human Rights

The idea of human rights emerged stronger after the World War II. In the decades after the Second World War, a number of global and regional treaties and declarations concerning human rights were established, and the appearance of non-governmental organizations supported their enforcement. The Universal Declaration of Human Rights (UDHR) was adopted by the United National General Assembly in 1948 and is generally understood to be the foundation of international human rights law and is mandatory for a state's membership in the UN.<sup>4</sup> Since the UDHR was adopted in 1948, nine core international human rights instruments, together with the labour rights conventions and several other instruments have entered into force together with an establishment of an international human right regime.<sup>5</sup> See attached list for information regarding conventions and principles applied to our work on human rights.

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<sup>1</sup> [WWW.DNB.no](https://www.dnb.no), Standard for Responsible Investments, <https://www.dnb.no/portalfont/nedlast/no/om-oss/samfunnsansvar/2020/Standard-Responsible-Investment-KL-approved-September-2019.pdf>

<sup>2</sup> International Labour Organization, "C182-Worst Forms of Child Labour Conventions, 199 (No.182), [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182)

<sup>3</sup> United Nations (1948), *Universal Declaration of Human Rights*, *United Nations General Assembly resolution 217 A (III), article 23.* ) <https://www.un.org/en/universal-declaration-human-rights/>

[www.UN.org](http://www.UN.org), United Nations, *Human rights*, <https://www.un.org/en/sections/issues-depth/human-rights/>

<sup>4</sup> United Nations, "Universal Declaration of Human Rights", <http://www.un.org/en/universal-declaration-human-rights/>

<sup>5</sup> International conventions are treaties or agreements between states entered into force by international law. A treaty is a formally concluded and ratified agreement between States. The term treaty refers to instruments binding under international law, concluded by international entities, sovereign states or international organizations. Covenant is used synonymously with convention and treaty.

The term declaration is used for various international instruments. Declarations are not always legally binding. Declarations are weaker than conventions, as conventions are legally binding for governments that have signed them, but declarations may reflect customary international law and may gain binding character as customary law at a later stage. Such was the case with the Universal Declaration of Human Rights, 1948

### **International humanitarian law**

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict with aim to mitigate human suffering. <sup>6</sup> It lays out the responsibilities of states and non-state armed groups during armed conflicts and occupation. <sup>7</sup> International humanitarian law applies to armed conflicts and does not cover internal tensions or disturbance such as isolated acts of violence. Therefore, international humanitarian law is also known as “the law of armed conflict” or “the laws of war”. A major part of international humanitarian law is contained in the four Geneva conventions of 1949.<sup>8</sup> Companies operating in unstable environments or areas affected by armed conflict should identify and assess their risks in direct operations and supply chain. Companies should comply with international humanitarian law and thus not supply arms and weapon systems, military transport systems, and other military goods to repressive regimes, fragile states, and non- state actors.

### **Norms and standards on human rights**

The legal obligation to protect the human rights of individuals or groups rests with governments under international law. However, it is expected that business enterprises acknowledge their responsibility to respect human rights in their business, including in their supply chain. The UN Global Compact, the OECD guidelines for Multinational Enterprises, and the UN Guiding Principles for Business and Human Rights provide a basis for what is expected of business enterprises as part of good business practice and risk management. The international standards expect that companies at a minimum respect the core human rights contained in the international Bill of Human Rights. <sup>9</sup>

The UDHR is recognized internationally. Universal human rights may be expressed and guaranteed by law, in the form of treaties, customary law, general principles or other sources of international law. The obligation to respect, protect and fulfil the human rights of individuals or groups under international law rests on the government, but corporations are indirectly committed to ensure compliance with human rights through their operation, and states are required to take measures to ensure that other actors, including companies, violate human rights. This responsibility extends beyond the company’s employees and includes affected members of communities, contract workers, workers in supply chains, families, customers and other stakeholders.

### **DNB’s expectation towards companies**

DNB’s engagement with companies and the exercise of DNB’s ownership rights are based on the OECD Guidelines for Multinational Enterprises and on the UN Global Compact and shall be consistent with the United Nations Guiding Principles on Business and Human Rights (UNGPs). The UNDHR, operationalized through UN and ILO conventions, forms the foundation for both the OECD Guidelines for Multinational Enterprises and the UN Global Compact and is the framework for DNB’s screening and analysis of any violation of human rights. DNB’s engagement with companies is based on the UNGPs and we expect companies to respect all human rights as described in the UNGPs.

We expect companies to understand their responsibility and risks regarding the social consequences of their business operations, including their supply chain and contracts with subcontractors.

Companies should have:

- a publicly available policy commitment to meet the responsibility to respect human rights as described in the UNGPs.
- policies and processes appropriate to their size and circumstances in place.
- a due diligence process to identify, prevent, mitigate and account for how they address impacts on human rights. The due diligence process should cover their supply chain and contracts with subcontractors and be in accordance with principles laid down in the UN Guiding Principles Reporting Framework. <sup>10</sup>
- processes to enable access to remedy that ensure that those affected by business-related human rights abuses within their territory and/or jurisdiction "have access to effective remedy".

Human rights considerations should be integrated into companies’ business strategies, policies, procurement and risk management, and companies should disclose material information and engage with stakeholders on human rights issues.

<sup>6</sup> [www.icrc.org](https://www.icrc.org), What is International Humanitarian Law?, [https://www.icrc.org/en/doc/assets/files/other/what\\_is\\_ihl.pdf](https://www.icrc.org/en/doc/assets/files/other/what_is_ihl.pdf)

<sup>7</sup> International Justice Resource Center, *International law*, <https://ijrcenter.org/international-humanitarian-law/> (2019)

<sup>8</sup> [www.ICRC.org](https://www.icrc.org), *Geneva Conventions of 1949 and Additional Protocols, and their Commentaries*, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreaties1949.xsp>

<sup>9</sup> The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols.

<sup>10</sup> Guiding principles on business and human rights, [https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf)

### Assessment criteria

In cases where a company might be in breach with our standard, our assessment criteria are based on, among other things, the Council on Ethics considerations below:<sup>11</sup>

- *Is there a clear connection between the company's activities and the breaches of norms?*
- *Has the company contributed to the breaches of standards, or has the company known of the breaches but failed to seek to prevent them?*
- *Are the breaches of standards continuing, or is it likely that breaches will be committed in future?*

### The OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises are recommendations addressed by governments to multinational enterprises, aimed at encouraging responsible business behavior around the world. They provide voluntary principles and standards for responsible business conduct in a global context. OECD and the signatory governments are required to ensure that the guidelines are implemented and observed.

### The UN Global Compact

The UN Global Compact is a voluntary United Nations initiative with an aim to encourage businesses to adopt sustainable and socially responsible strategies and operations. It is the world's largest corporate sustainability initiative. The UN Global Compact is a framework based on ten principles that are derived from the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development and the United Nations Convention Against Corruption. The UN Global Compact is not a regulatory or legally binding instrument, but principles that companies are expected to follow. DNB supports the UN Global Compact.

### The UN Guiding Principles on Business and Human Rights

In June 2011, the UN Guiding Principles on Business and Human Rights (UNGPs) was proposed and endorsed by the UN Human Rights Council. The guiding principles, a set of guidelines that apply to all states and companies to prevent, address and remedy human rights abuses committed in business operations: The guidelines were developed by John Ruggie, UN Special representative on business and human rights, as a result of the UN "Protect, Respect and Remedy" Framework for Business and Human Rights, in 2008.<sup>12</sup> The framework is built on three pillars where states have obligations to protect human rights, business enterprises have a responsibility to respect human rights and where the human rights of individuals have been infringed, remedy should be available. In the latter case, both states and enterprises have a responsibility to provide access to remedy. We expect companies to comply with these guidelines.

### Specific criteria on children's rights

Children are entitled to the same human rights and fundamental freedoms as all individuals but have been given special status and protection within the United Nations framework which recognizes their special needs and vulnerabilities. The UN Convention on the Rights of the Child (1990), in addition to human rights and labour rights treaties, describes children's rights and is ratified by 194 countries. The UN Convention on the Rights of the Child with protocols and the relevant ILO conventions (ILO No.182 and ILO No. 138) are international legally binding instruments that incorporate the full range of children's rights.<sup>13</sup> Companies should understand their risks and responsibilities regarding children's rights related to their business operations, this also applies to their supply chain and contracts with subcontractors by carrying out due diligence and be compliant with international norms and standards. Companies should demonstrate their responsibilities in their strategies, policies, procurement, risk management and reporting.

### Specific criteria on labour rights

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<sup>11</sup> The assessment criteria are in line with the Council on Ethics assessment criteria for exclusion of companies for breach of the criterion of human rights.

Etikkraadet.no, *Recommendation to exclude Thae Resources inc. from the investment universe of the Government Pension fund Global*, [https://etikkradet.no/files/2017/02/Tilr%C3%A5dning\\_Tahoe-Resources\\_endelig\\_engelsk-26-4-2014\\_pv.pdf](https://etikkradet.no/files/2017/02/Tilr%C3%A5dning_Tahoe-Resources_endelig_engelsk-26-4-2014_pv.pdf)

<sup>12</sup> Business & Human Rights Resource Centre, "Background and history of the UN Guiding Principles", <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/background-history-of-guiding-principles/>

<sup>13</sup> ILO, "ILO Conventions and Recommendations on child labour", <https://www.ilo.org/ipec/facts/ILOconventionsonchildlabour/lang--en/index.htm>

## RESPONSIBLE INVESTMENT

International labour standards are legal instruments drawn up by the ILO's constituents and provide a global recognized set of basic principles and rights at work.<sup>14</sup> The ILO declaration on fundamental principles and Rights at work, adopted in 1998, commits Member States to respect, promote and realise the principles concerning the fundamental rights covered in the eight ILO core conventions. Companies should understand their risks and responsibilities regarding basic labour rights in their business operations, this also applies to their supply chain and contracts with subcontractors by carrying out due diligence and be compliant with international norms and standards. By basic labour rights, we mean in accordance with the ILO conventions.

Our expectations regarding towards companies regarding labour rights are as follows:

- *Companies should uphold the freedom of association and the effective recognition of the right to collective bargaining. We expect companies to comply with ILO 29, forced labour convention, and all forms of forced and compulsory labour are unacceptable, including child labour.*<sup>15</sup>
- *All discrimination in respect of employment and occupation is unacceptable.*
- *Companies should pay a living wage to their employees.*
- *Companies should apply a maximum of working hours.*<sup>16</sup>
- *Companies should have a health and safety policy.*
- *Companies should ensure fair recruitment practices.*<sup>17</sup>
- *Companies should ensure equal treatment and working conditions for persons with disabilities and other marginalized groups including migrant workers.*
- *Companies should have management system in place to monitor and ensure compliance with labour laws.*
- *Companies should have procedures on how to manage employee complaints and grievances and how to solve violations and conflicts, preferably in consultation with the relevant trade union. Employees should be able to reserve the right to make complaints and grievances anonymously and without fear of retaliation.*
- *Companies should integrate labour rights in their procurement and operational policies.*
- *Companies should demonstrate this in their strategies, policies, procurement, risk management and reporting.*

### Specific criteria on Indigenous people's rights

The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly in 2007.<sup>18</sup> The Declaration is the most comprehensive instrument detailing the rights of indigenous peoples in international law and policy, including minimum standards for the recognition, protection and promotion of these rights. Indigenous peoples' rights under international law have developed from international law, including human rights treaties, to address the specific circumstances facing indigenous peoples.<sup>19</sup> Companies should understand their risks and responsibilities regarding indigenous peoples' rights in their business operations, this also applies to their supply chain and contracts with subcontractors by carrying out due diligence and be compliant with international norms and standards. Companies should demonstrate this in their strategies, policies, procurement, risk management and reporting. Companies may be excluded from the investment universe if there is an unacceptable risk that a company contributes to or is responsible for serious or systematic violation of human rights, henceforth referred to as the rights of indigenous peoples<sup>20</sup>.

### Free and Prior Informed Consent

The principle of Free, Prior and Informed Consent (FPIC) is a principle protected by international human rights standards that states -*"all people have the right to self-determinations"*, and linked to the right to self-determination, *"all peoples have the right to freely pursue their economic, social and cultural development"*.<sup>21</sup> The right to self-determination is

<sup>14</sup> ILO, "Conventions and Recommendations", <http://ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>

<sup>15</sup> ILO convention no 182 on Worst forms of child labour. No. 146 Recommendation concerning Minimum Age for Admission to Employment.

<sup>16</sup> ILO Conventions no. 1, 30 and 47 on Hours of work. ILO Convention no. 1 and no. 30 set the general standard at 48 hours of work per week, with a maximum of eight hours per day, <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/working-time/lang--en/index.htm>

<sup>17</sup> ILO, General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs [https://www.ilo.org/global/topics/labour-migration/publications/WCMS\\_536755/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/publications/WCMS_536755/lang--en/index.htm)

<sup>18</sup> United Nations, "United Nations Declaration on the Rights of Indigenous Peoples", <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

<sup>19</sup> United Nations Human Rights, "Indigenous Peoples and the United Nations Human Rights System", <http://www.ohchr.org/Documents/Publications/fs9Rev.2.pdf> p.4

<sup>20</sup> "ILO No. 169 distinguishes between tribal and indigenous people and highlights the importance of self-identification. Despite the lack of an authoritative definition, the main criterion is self-identification", United Nations Human Rights, "Indigenous Peoples and the United Nations Human Rights System", p.2

<sup>21</sup> Wwww.UN.org, Division for social policy and development indigenous peoples, *Free Prior and Informed Consent – An Indigenous Peoples' right and a good practice for local communities – FAO*,

## RESPONSIBLE INVESTMENT

considered to be one of the founding principles of indigenous peoples' rights. FPIC is supported by the United Nations Declaration on the Rights of Indigenous Peoples, the Convention on Biological Diversity and the International Labour Organization Convention no. 169 - These are the most prominent instruments in this context. FPIC has emerged as a key principle in international law and jurisprudence related to indigenous peoples and aims to ensure a level playing field between communities and the government or companies. The right to FPIC allows indigenous people to reach consensus and make decisions according to their customary systems of decision-making.

FPIC is clearly articulated in relation to indigenous peoples' rights. However, international law is unclear about the land and resource rights of other individuals or groups that do not recognize themselves as indigenous. As FPIC is an expression of the right to self-determination, FPIC should apply to all self-identified people who maintain customary relationships with their lands and natural resources. Companies should comply with the principles of FPIC in their development of projects in order to ensure indigenous peoples' and/or communities' rights'. Companies should engage with local communities and obtain FPIC in order to minimise the risk of disputes escalating into conflicts. Further, companies should prevent conflict over land rights and acquire natural resources only with FPIC from people with customary tenure rights. FPIC is highly relevant for extractive industries such as mining, quarrying, dredging, oil and gas and forestry. Companies operating within these industries should carry out human rights due diligence to ensure compliance with the FPIC principles in their business operations and prevent conflicts over land.

### **Summary**

DNB shall not contribute to human or labour rights violations. Screening for the violation of human rights is based on global initiatives including the UN Global Compact, recommendations from governments, the OECD Principles for Multinational Enterprises, and must be consistent with the United Nations Guiding Principles on Business and Human Rights. The UN Guiding Principles on Business and Human Rights have become the prevailing international standard and advises companies on how to avoid causing or contributing to human rights abuses. The most severe violations of human rights are violations of children's rights, labour rights and indigenous peoples' right. DNB's expectations are based on the prerequisite that companies have a responsibility to comply with international norms even though they are not legally bound to. The management of the company should ensure that adequate policies and management principles to protect human rights are in place and integrated into corporate business strategy. This document forms the basis for dialogues with companies on human rights and defines our criteria for companies we invest or might invest in.

**Attachment 1:** In the assessment, violations of Human Rights are linked to the underlying conventions and guidelines. We expect companies to be compliant with the listed conventions, ILO core conventions and guidelines.

UN conventions/declarations	ILO Core Conventions	Other
UN Declaration of Human Rights, 1948	No.87 Freedom of Association and Protection of the Right to Organize	No. 1, 30, 47 Hours of Work
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	No.98 Right to organize and Collective Bargaining	No 95 Protection of Wages
Convention on the Rights of the Child, 1989	No.29 Forced Labour	No. 131 Minimum wage fixing convention
Geneva Convention relative to the Treatment of Prisoners of War, 1949	No.105 Abolition of Forced Labour	No. 155 on Occupational Safety and Health
Geneva Convention relative to the Protection of Civilian Persons in Time of War, 1949	No.138 Minimum Age	No.169 Indigenous and Tribal Peoples Convention, 1989
Convention on the Elimination of all Forms of Racial Discrimination, 1965	No. 182 Worst Forms of Child labour (and recommendation No. 146)	ILO declaration on Fundamental Principles and Rights at Work
Convention on the Elimination of all Forms of Discrimination against Women, 1979	No.100 Equal Remuneration	Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990	No.111 Discrimination (Employment and occupation)	Code of Conduct for Law Enforcement Officials, 1979
UN Convention relating to the Status of Refugees, 1951		Optional Protocol to the Convention on the Rights of the Child on the sale of children, child pornography and child prostitution, 2000
The International Covenant on Civil and Political Rights		General Assembly Resolution 1803 (XVII) of 14 December 1962, "Permanent Sovereignty over Natural Resources"
UN Declaration on the Rights of Indigenous Peoples, 2007		
The Declaration of the United Nations Conference on the Human Environment		
The International Covenant on Economic, Social and Cultural Rights		
Hague Regulations concerning the laws and customs of war on land, 1907		
Declaration on Fundamental Principles and Rights at Work		
Geneva Convention (I) on wounded and sick in Armed Forces in the field, 1949		
Geneva Convention (II) on wounded, sick and shipwrecked of Armed Forces at Sea, 1949		

## RESPONSIBLE INVESTMENT

Geneva Convention (III) on Prisoners of War, 1949		
Geneva Convention (IV) on civilians, 1949		

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