

Corporate response to indigenous rights' risks: An EIRIS/CAER Review'

Duncan Paterson and Julia Leske, 17 June 2009



Indigenous rights – the context

- Human rights research (2001)
 - ILO, UDHR, UNGC, OECD Guidelines, VPs
 - Resource companies: rights-based indigenous policy
- Convention Watch (2004)
 - Allegations of breaches of international norms
 - Egregious: forced relocation of indigenous peoples
- Indigenous rights criteria (2008)

Indigenous rights – international norms

- ILO Indigenous and Tribal Peoples Convention 169 (1989): binding; ratified by 20 countries
- UN Declaration on the Rights of Indigenous Peoples (2007): non-binding; 143 votes (+ Australia in 2009); moral force; could become customary law like UDHR; goes beyond 169
- Article 27 right to culture, ICCPR (1976): Saami reindeer herders. Also ICESCR – economic rights
- CERD (1965): lack of consultation regarding oil in Nigeria

Indigenous rights research – which companies are exposed to risks?

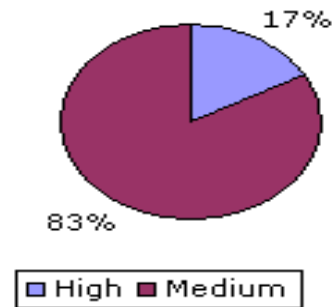
- Exposure to indigenous rights risks:
 - High risk sectors (Mining, Oil & Gas, Agricultural producers and Forestry and Paper)
 - Operations in high risk countries (these include United States, Australia, Canada, New Zealand, Sweden, Norway, Argentina, Brazil and Indonesia)
 - NGOs allegation levelled against the company

HIGH EXPOSURE	HIGH RISK SECTOR + HIGH RISK COUNTRIES + ALLEGATION
MEDIUM EXPOSURE	HIGH RISK SECTOR + HIGH RISK COUNTRIES

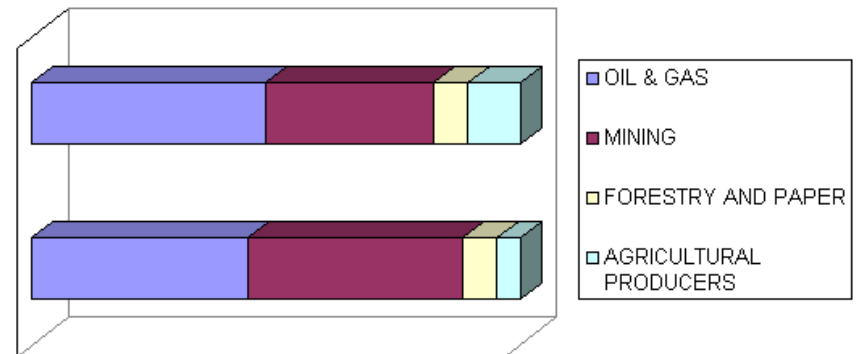
Companies exposed to indigenous rights risks

- Research on FTSE All World Developed: 250 companies identified as having an exposure to indigenous rights
- High risk: 44% oil & gas; 44% mining, 5% forestry and paper; 7% agricultural producers
- Medium risk: 49% oil & gas; 34% mining; 7% forestry and paper; 10% agricultural producers

Companies exposure to indigenous rights' risks



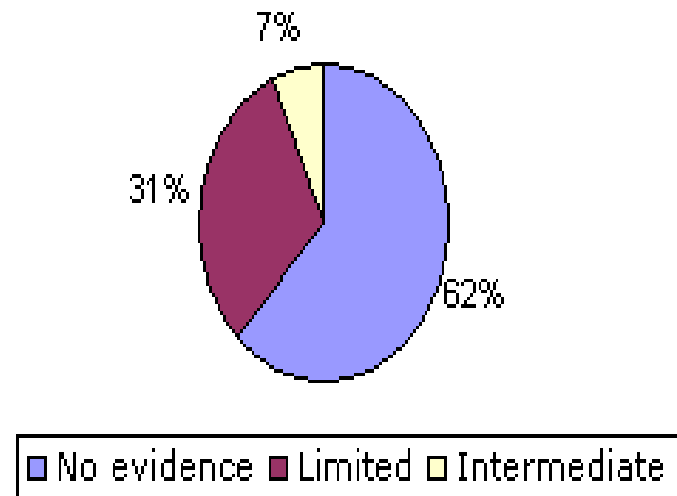
Companies exposure - sectors



How can companies manage risks associated with indigenous rights?

- Companies assessed on 16 indicators: strategy, engagement, employment and performance elements
- Only 7% reach intermediate level
- No company reaches good grade
- Best performing sector: mining

Companies management response to indigenous rights issues



Snapshot of companies' performance

COMPANY NAME	RISK EXPOSURE	COMPANY MANAGEMENT RESPONSE ASSESSMENT	NUMBER OF INDICATORS MET	INDICATORS UNMET FOR HIGHER GRADE
BEST PERFORMING COMPANIES				
BHP BILLITON	HIGH EXPOSURE	INTERMEDIATE	10	NO COMMITMENT TO TRAINING; POLICY ON FPIC ^{Consent} ; FACILITATION OF INFORMED CONSULTATION/ CONSENT; ENGAGEMENT REPORTING;
E.R.A	HIGH EXPOSURE	INTERMEDIATE	13	ENGAGEMENT REPORTING
TRANSCANADA	HIGH EXPOSURE	INTERMEDIATE	10	SNR RESPONSIBILITY; RESETTLEMENT POLICY; POLICY ON FPIC ^{Consent}
LEAST PERFORMING COMPANIES				
TALISMAN ENERGY	HIGH EXPOSURE	LIMITED	4	(FOR INTERMEDIATE) POLICY; COMMITMENT TO FPIC [*]
BUNGE	HIGH EXPOSURE	NO EVIDENCE	NONE	N/A
CHEVRON	HIGH EXPOSURE	NO EVIDENCE	NONE	N/A

* FPIC = FREE PRIOR INFORMED CONSULTATION

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