

Not Fit-for-Purpose

The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance

MSI Integrity

JULY 2020



About MSI Integrity



The Institute for Multi-Stakeholder Initiative Integrity (MSI Integrity) aims to reduce the harms and human rights abuses caused or exacerbated by the private sector. For the past decade, MSI Integrity has investigated whether, when and how multi-stakeholder initiatives protect and promote human rights. The culmination of this research is available in this report: *Not Fit-for-Purpose*.

We are now embarking on a new direction: applying lessons learned from the grand experiment in multi-stakeholderism to promote business models that center worker and communities in their governance and ownership.

See our new work: [Beyond Corporations](#).

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For more information, please email us at info@msi-integrity.org.

FIND OUT MORE

Find out about our new direction at www.msi-integrity.org/beyond-corporations/

Look out for our upcoming blog series, “Rethinking MSIs.”

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Preface

The business and human rights field is at a critical juncture. The global pandemic has prompted important and long-overdue conversations within the human rights community, as elsewhere, about how we might “build back better.” Doing so requires evaluating whether our existing tools, frameworks, and strategies have proved effective at protecting against corporate human rights abuses. Which interventions should accompany us—and might propel us—into a more equitable and just future?

This report, therefore, comes at a timely moment. It distills our insights from a decade of exploring and researching the effectiveness of a prominent human rights intervention: the multi-stakeholder initiative. It is the pinnacle of a long and careful journey, looking back at the knowledge collected and absorbed since our inception, and bringing together the ideas, lived experience, and research of so many in the field, including rights holders on the frontlines of business-related human rights abuses. Our hope is that these insights will encourage policymakers, donors, civil society organizations, and beyond to more clearly recognize the significant limits of, and appropriate roles for, voluntary regulation—even if multi-stakeholder in nature—when designing, funding, or building future responses.

But more than this, we hope that the analysis contained in these 246 pages ignites discussions about the qualities of the interventions or the types of changes that are needed if the human rights movement is to create a pathway to a better future: to shift from *endlessly* responding to corporate abuses, to instead *changing* the incentives and decision-making structures that cause those abuses. What are the underlying systems that drive corporate-related human rights abuse, and how can we transform them? Should corporations continue to be given the opportunity to design solutions to the problems they cause, as multi-stakeholderism encourages? What might a progressive vision for the future of corporate accountability look like?

We have been asking those hard questions within our own organization, prompted by recognizing that no single human rights intervention—whether voluntary or binding, local or global, multi-stakeholder or not—has proved sufficient to curtail profit-driven abuses. The release of this report is therefore momentous not just because it presents the culmination of a decade of work, illustrates the dedication of our brilliant staff, and lifts up the research and views of so many others. It is significant because it also marks the launch of a new organizational focus: challenging and changing the corporate form.

We have come to understand that it is the fundamental building block of our economy, the corporation itself, that needs to be redesigned. Until our economic enterprises are governed and owned by, or on behalf of, workers and communities, we will never meaningfully prevent companies from abusing rights or address the untenable levels of economic inequality that characterize both our globalized and localized economies. Such change requires reaching beyond the human rights community to support the work of those in the solidarity economy, labor, racial, and climate justice, and wider social movements who are proposing and advocating for such transformations.

The grand experiment in multi-stakeholderism has taught us much about governance, power, and the importance of centering rights holders in the solutions that aim to improve their lives and livelihoods. Now it is time to apply those lessons to a new experiment: promoting alternative business models that can grow to scale, challenge corporate power, and deliver a vibrant economy that rewards and respects workers and communities.



Amelia Evans
Executive Director

Executive Summary

When MSIs first emerged in the 1990s, they appeared to offer a transformative and exciting proposition. For years human rights and advocacy organizations had been investigating and naming-and-shaming companies for their connections to sweatshop labor, deforestation, corruption, and other abusive behavior. As this advocacy grew louder—and as government regulation of corporations remained elusive—a new experiment began. Rather than being barred from boardrooms, some large civil society organizations began working alongside businesses to draft codes of conduct, create industry oversight mechanisms, and design novel systems of multi-stakeholder governance that aimed to protect rights holders and benefit communities.

These international standard-setting MSIs rapidly proliferated. By the 2000s, they had become a “gold standard” of voluntary business and human rights initiatives, encompassing everything from freedom of expression on the internet to the certification of palm oil as “sustainable.” Within two decades—and with minimal critical examination into its effectiveness or wider impacts—multi-stakeholderism had evolved from a new and untested experiment in global governance into a widely accepted solution to international human rights abuses.

But have MSIs delivered on their promise to protect human rights?

After reflecting on a decade of research and analysis, our assessment is that this grand experiment has failed. **MSIs are not effective tools for holding corporations accountable for abuses, protecting rights holders against human rights violations, or providing survivors and victims with access to remedy.** While MSIs can be important and necessary venues for learning, dialogue, and trust-building between corporations and other stakeholders—which can sometimes lead to positive rights outcomes—they should not be relied upon for the protection of human rights. They are simply not fit for this purpose.

It is time to rethink the role of MSIs. The presence of an MSI should not be a substitute for public regulation. MSIs do not eliminate the need to protect rights holders from corporate abuses through effective regulation and enforcement. To the contrary, the existence of an MSI should put governments—as well as MSIs and their supporters—on notice that a governance gap exists, and that they need to supplement the voluntary efforts of that MSI with mandatory measures at local, national, and international levels.

Arriving at these conclusions did not come suddenly. They are the culmination of research and analysis that began in 2010 at Harvard Law School’s International Human Rights Clinic. Our engagement began with an observation: as MSIs became a default response to governance gaps, the question of their effectiveness was not only going unanswered, it was often going unasked. This led to a process of systematically exploring questions about the effectiveness of standard-setting MSIs from a human rights perspective, ultimately resulting in the incubation of MSI Integrity. Since independently launching our organization, we have sought to understand the human rights impact and value of MSIs, developing evaluative tools and resources to foster debate and learning about MSIs, and conducting research into underexamined issues. In the course of our work, we have interviewed hundreds of stakeholders, from MSI staff and members, to individual rights holders; conducted and collated research into pressing issues, including analyzing more than 1,500 pages of MSI procedures and policies; observed the meetings and assessed the practices of individual MSIs; and hosted or participated in almost 50 learning events, from panels on the effectiveness of MSIs at the United Nations Forum on Business and Human Rights to small hands-on workshops to design robust accountability mechanisms in MSIs.

This report is a collection of the key insights into MSIs we have gained over the past decade. Central to our approach is the understanding of standard-setting MSIs as a field. While each MSI is unique in its history and context, the MSIs that we have examined—and that are in our MSI Database—are a set of institutions that share a common architecture: (1) governance by a multi-stakeholder body; (2) the creation of transnational standards that include or affect human rights; and (3) the establishment of mechanisms designed to offer assurances that their members are complying with their standards (e.g., monitoring, reporting, or grievance mechanisms).

The report identifies six cross-cutting insights, as summarized on page 9. While they are broad conclusions and may not apply equally to every MSI, in combination they paint a clear picture: MSIs have not been operating or designed to ensure that corporations respect human rights, companies (or governments) are held accountable for abuses, or rights holders have adequate access to remedy for abuses. The results have left the aspiration of rights protection unfulfilled, as seen in the continuation of major human rights abuses—including, for example, child labor and forced labor—in industries and by companies covered by MSIs. MSIs have not closed the governance gaps that provide companies with a permissive environment for abusive conduct.

This is not to say that MSIs cannot play a role in the promotion of human rights, or that they have not had successes. Many participants in MSIs have reported the positive opportunities that MSIs present for learning, relationship-building, and experimentation, all of which represent functions that MSIs are well-suited to serve. But as robust rights protection or accountability institutions, MSIs have failed. Instead, MSIs have increasingly evolved to replicate traditional power structures, which has meant that they better serve corporate interests than those of rights holders. Ultimately, the hopes and expectation of governments, MSIs, consumers, businesses, civil society organizations, or others that this grand experiment in voluntarism would actually close governance gaps, have proved unfounded.

Two features have intrinsically limited the capacities of MSIs to protect rights. **First, MSIs are not rights holder-centric.** In general, MSIs employ a top-down approach to addressing human rights concerns, which fails to center the needs, desires, or voices of rights holders: the people whose living and working conditions are the ultimate focus of MSIs, whether they are farm workers, communities living near resource extraction sites, or internet users. Our research and experiences have shown that there is little meaningful emphasis in MSIs on empowering rights holders to know and exercise their rights, or to directly engage in the governance or implementation of initiatives. Centering rights holders is essential, however, for the efficacy of any initiative that purports to address human rights. Rights holders hold critical information for ensuring that standard-setting and implementation processes respond to their lived experiences. For example, what rights issues and remedies are of greatest importance to be addressed? What sort of whistleblower protections or oversight systems are needed for people to feel safe reporting alleged abuse? Are interventions actually working? Top-down approaches risk failing to harness the knowledge or trust of those whose lives or rights are at stake.

Second, MSIs have not fundamentally restricted corporate power or addressed the power imbalances that drive abuse. Companies have preserved their autonomy and safeguarded their interests throughout the design, governance, and implementation of MSIs. The mechanisms most central to rights protection, such as systems for detecting or remediating abuses, have been structurally weak. This has meant that MSIs are capable of achieving positive outcomes where there is genuine commitment on the part of corporate members to change; however, when that goodwill breaks down—as it often has—MSIs have been able to do little to protect human rights.

To us, these insights underscore the need for two major steps to be taken in order to provide meaningful rights protection and address corporate-related abuses.

1 Rethink the role of MSIs

A. Recognize that MSIs are tools for corporate-engagement rather than instruments of human rights protection.

The appropriate role for, and limitations of, MSIs need to be more accurately articulated and understood. MSIs should be recognized for what they have been equipped to do well: to be forums for building trust, experimentation, and learning. To the extent that MSIs set standards and adopt practices that are human rights-maximizing (which is not always the case; see **Insight 3: Standards & Scope**), they can also potentially have a positive role in norm creation and policy reform. However, MSIs should no longer be viewed as institutions that robustly ensure that their corporate members respect rights, provide access to remedy, or hold corporations accountable for abuses. They are simply not sufficiently resourced or structured to carry out these difficult functions. Regulation is needed for these purposes.

To the extent that any form of private governance can be effective in these protection or accountability realms (which is an issue that requires more exploration) such mechanisms need to overcome the current failings of MSIs. This means they need to be rights holder-centric and address corporate power such that the regulated entity is not controlling the institution, neither formally nor informally. We note that this is possible, as these are the bedrock principles of [Worker-driven Social Responsibility](#) (WSR) initiatives that have emerged as counterpoints to MSIs. WSR initiatives are designed by and for workers and include legally enforceable standards.

What are appropriate roles for MSIs?



- Protecting human rights
- Providing access to effective remedy
- Closing governance gaps
- Holding corporations accountable for abuse
- Norm creation and diffusion *
- Policy reform *
- Building trust and relationships
- Learning and knowledge exchange
- Experimentation
- Engaging corporations

* Care needs to be taken to ensure that the standards MSIs adopt and/or advocate for appropriately reflect the views and needs of rights holders and are rights-maximizing. Otherwise, there is a risk that MSIs will only promote positions that are profit-aligned, or that reflect the views and interests of corporations and the other stakeholders who are sufficiently resourced and empowered to participate in MSIs.

B. Recognize that MSIs must be supplemented with public regulation.

The presence of an MSI, or any form of private governance, should not be a substitute for public regulation. To the contrary, the existence of MSIs should signal to stakeholders that there are governance gaps that need to be filled.

The presence of an MSI within an industry or an issue field does not, by itself, satisfy the state duty to protect rights holders from corporate abuses. Rather, the existence of an MSI should put governments on notice—particularly governments whose companies participate in MSIs, or governments in whose jurisdictions MSIs are operating—that a governance gap exists and that they need to act alongside the voluntary efforts of that MSI with mandatory measures at local, national, and international levels. Such measures should establish the legal liability of companies for human rights violations, ensure rights holders have access to an effective remedy, and provide incentives and robust frameworks to prevent abuses. Importantly, given their structural weaknesses, neither participating in MSIs nor following their monitoring, reporting, or related processes should necessarily be appropriate evidence of sufficient due diligence.

This is what it means in the United Nations Guiding Principles on Business and Human Rights to have a “smart mix” of measures: not that voluntary efforts, such as MSIs, can replace mandatory efforts, or vice-versa, but rather that the two must work alongside each other.¹ This is not to say that hard law should always be viewed as a panacea or the singular approach. An evolving web of human rights protections, built from a strong foundation of public regulation and supplemented by voluntary efforts that aim to raise the floor of regulation, will offer greater protections for rights holders.

2 Challenge the Corporate Form

Center workers and affected communities in corporate governance and ownership.

We believe that the failure of MSIs is inextricably linked to the corporate form itself. Major corporations avoid sharing power with other stakeholders—such as rights holders and affected communities—because to do so threatens their obligations to shareholders and their accumulation and management of profit. As long as corporations are primarily beholden to investors, not only will companies fail to adequately center vulnerable workers or communities in their business decisions, but they will also resist human rights initiatives that threaten their profits or power, and continue to run the unacceptable risk of making decisions that harm people and the planet.

Companies are run and controlled by a board of directors, executive management, and shareholders, who do not directly experience the on-the-ground consequences of the company’s decisions. They are not the people who live near or work in the mine sites, farmland, or factories where the repercussions of business practices reverberate. Those with power in companies are normally not the rights holders, about whom human rights initiatives are most concerned. This, combined with the fact that boards are legally prohibited from making decisions that prioritize community or societal interests above the financial interests of shareholders, means that decision makers in a corporation are neither structurally situated nor primarily motivated to consider human rights impacts. Instead, companies

1. Office of the United Nations High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, Principle 3, commentary (Geneva: United Nations, 2011), 5, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

are incentivized—and often obligated—to make whatever decisions will maximize shareholder profits, without sharing those returns with workers or affected communities. This has caused extreme economic inequality between those who own or run companies and those who do not.

Therefore, perhaps the most significant and transformative human rights project is one that has received little attention within the human rights domain: challenging the corporation itself and reimagining our economic enterprises. To us, this means developing and promoting business models and policy transformations whereby:

(1) Workers and/or affected communities are at the center of decision-making.

What if businesses were legally and operationally accountable not to shareholders, but to the workers and/or the communities affected by their decisions? What if workplace democracy was a universally recognized human right? What if affected communities and workers determined who governed an organization or how that organization was run?

(2) Benefits and ownership accrue to the workers who generate value for a business and/or to the communities and rights holders who are impacted by its behavior.

What if the primary economic beneficiaries of enterprises were the workers or wider communities impacted by those businesses? What if businesses who contribute a net harm to society lose their legal license to operate?

These are important human rights questions that need urgent attention. There is much to learn from the workers, movements, and individuals who have long been creating and promoting resilient alternatives to the corporation and those fighting for a just, sustainable, and [new economy](#). The lessons learned from the grand experiment of MSIs can also provide important insights: from understanding the conditions under which co-governance between multiple types of stakeholders can—or cannot—function effectively, to ensuring that workers, rights holders, and communities have meaningful decision-making power and do not face barriers to participation within governance structures.

We invite the readers of this report to think critically about the limitations of voluntary regulation and what these insights mean for the future protection of human rights. To us, the failure of the grand experiment in multi-stakeholderism not only underscores that it is time to rethink MSIs and to demand more effective regulation of corporations, but that even the most well-intentioned and carefully-designed interventions will have limitations. The wider human rights movement must now tackle the root cause of business-related human rights abuse: the corporate form.

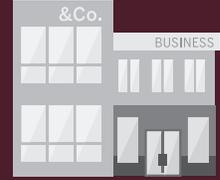
What do the lessons from this grand experiment mean for you?

SUMMARY OF INSIGHTS ON MULTI-STAKEHOLDER INITIATIVES

INSIGHT 1

Influence

MSIs have been influential as human rights tools, but that influence, along with their credibility, is waning.



INSIGHT 2

Stakeholder Participation

MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change.



INSIGHT 3

Standards & Scope

Many MSIs adopt weak or narrow standards which risk creating a misperception that abuses are being effectively addressed or that overlook the root causes of abuse.



INSIGHT 4

Monitoring & Compliance

MSIs employ inadequate methods to detect human rights abuses and uphold standards.



INSIGHT 5

Remedy

MSIs are not designed to provide rights holders with access to effective remedy.



INSIGHT 6

Impact

There is little evidence that MSIs are meaningfully protecting rights holders or closing governance gaps.





Introduction



Background and Aims of this Report

A Grand Experiment: the rise of international standard-setting multi-stakeholder initiatives in human rights

During the 1990s and 2000s, the growing role of multinational corporations in major human rights or environmental harms came to the forefront of public awareness. This period included many high-profile exposés of corporate misconduct, from sweatshop scandals to deforestation of indigenous peoples' lands and internet giants breaching user privacy at the behest of repressive governments. The governments that host these companies' operations could not—or would not—create or enforce laws to hold them accountable for contributing to such harms. Nor did the home governments of multinational corporations create sufficient incentives or legal regimes to protect against, or hold companies accountable for, human rights abuses that occurred abroad. In the absence of any adequate domestic or international accountability mechanisms, civil society teamed up with companies, and some governments, to establish voluntary frameworks to fill these governance gaps.¹

A grand experiment in global governance had begun. While corporations have long claimed to be effective at self-regulation, and certain civil society organizations (CSOs)—specifically trade unions and faith-based organizations—had some experience participating in private governance, never before had corporations and civil society so formally stepped into the legal lacuna that governments were expected to fulfill: protecting citizens from human rights abuses.² Many MSIs were created at the specific behest of governments, or with their explicit support; indeed, some governments even became members of MSIs, in which civil society and corporations have decision-making power over the nature and quality of governmental reforms.³ Although an abundance of different types of multi-stakeholderism emerged throughout the 1990s, ranging in function and formality (see **Defining the Key Concepts**), the most prominent initiatives adopted a regulatory flavor: setting standards that member companies (and sometimes governments) promised to follow, establishing collaborative governance systems premised on including actors with different stakes in the issues, and creating mechanisms to oversee or monitor compliance with their standards.

Without much understanding of or critical examination into their effectiveness, these standard-setting MSIs quietly grew into widely accepted responses to multinational corporations' contributions to human rights abuses. By 2010, almost 40 “international standard-setting MSIs”—a governance arrangement that was unheard of less than two decades before—had been launched.⁴ Although the MSI is far from a household concept, many people around the world now rely on or interact with them in their daily lives: from factory workers and local communities negatively affected by corporate behavior, to consumers looking at labels on chocolate bars, bags of coffee, and tins of tuna that claim the products are made “sustainably,” “fairly,” or “ethically.” Governments or consumers often equate membership in or certification by MSIs with good practice or evidence that a company is taking reasonable steps to safeguard rights holders. This history of MSIs and their ultimate transformation into institutions with tremendous influence over the norms, policies, resourcing decisions, and overall trajectory of the business and human rights fields are discussed further in **Insight 1: Influence**.

A Critical Inquiry: Have MSIs delivered on their promise to protect human rights?

Despite the growth and prevalence of MSIs, there has been little public examination of whether these experiments in private governance have worked for rights holders. As standard-setters for their industry members, MSIs created a private form of regulation—a new category of regulatory institution—that wields significant influence in the public domain. Yet, unlike governments, they are not appointed by or accountable to the wider public. Nor are they as heavily scrutinized as government bodies, whose decisions and functioning are subject to formal processes of review, transparency, and public debate in democratic societies.

Key questions about MSIs have remained largely unanswered: have these MSIs delivered on their promise to protect human rights? Are MSIs fit to prevent abuses, provide remedies to adversely impacted communities, and hold companies accountable?

Drawing on a decade of research and work around MSIs, this report puts forward our answers to these questions (see **Knowledge Base**). It critically examines MSIs across a range of elements—their influence, governance, standards, member monitoring and accountability procedures, grievance mechanisms, and impact. While individual MSIs may vary in their characteristics and performance, the report highlights common trends that apply broadly to MSIs as a *field* to determine whether these grand experiments in private governance are, in fact, delivering human rights protections to rights holders.

“What does this experiment with MSIs tell us about what role corporations should play—if any—in the efforts to regulate their conduct?”

To promote a more informed discussion about the often cryptic field, this report clarifies what MSIs actually do, what they have failed to do, and what they must do to undertake the critical task of mitigating business-related human rights abuses. We also hope to spur policymakers, journalists, activists, concerned businesspeople, and CSOs to examine the lessons learned from these experiments in multi-stakeholder governance, and to consider what they mean for the ever-increasing involvement of corporations in other forms of national and global governance: from the inclusion of corporations in global negotiations around climate change, to the growth of public-private partnerships to fulfill functions formerly undertaken by governments.⁵ What does this experiment with MSIs tell us about what role corporations should play—if any—in the efforts to regulate their conduct?

There is a lot at stake in these lines of inquiry. Given MSIs' significant influence in and relevance to the human rights field, their ability to close governance gaps is critical to the lives and livelihoods of rights holders across the globe, who desperately need effective solutions to the negative impacts of corporate conduct. Nearly three decades after the emergence of the first international standard-setting MSIs, it is now time to consider whether this new category of regulatory institution ultimately works for rights holders.

Knowledge Base: How did we identify these insights?

This report is the culmination of our learning and insights since 2010, when the Institute for Multi-Stakeholder Initiative Integrity (MSI Integrity) first began as a project of the International Human Rights Clinic (IHRC) at Harvard Law School.

We founded MSI Integrity because we noticed that—while there was often discussion about the effectiveness of individual MSIs, such as debates around the merits of Fairtrade International or the Roundtable on Sustainable Palm Oil—there was little understanding of MSIs as a field or form of human rights intervention. The knowledge that existed was often fragmented, siloed, or difficult to disentangle from the agendas of those who had been involved in—or perhaps staunchly opposed to—a particular MSI. We thus set out to promote learning and debate about a single fundamental question: *are MSIs effective at protecting human rights?* We centered our work around three pillars: (1) developing tools to evaluate initiatives from a human rights perspective; (2) facilitating debate and learning in the field; and (3) conducting meticulous research into key questions surrounding the effectiveness of MSIs.

After a decade of analysis and involvement in the field, we felt it important to take stock of our research and experience, and to collect our insights and conclusions about MSIs. The insights presented in this

report are thus derived from years of observing, talking, and thinking exhaustively about MSIs, as well as listening to their participants, staff, and critics. They represent the key trends that we have identified as both applicable to and relevant for the field of international standard-setting MSIs (see **Defining the Key Concepts**) when considering whether they are effective as tools for human rights protection.

1 Our Underlying Knowledge Base

Although not an exhaustive listing of our work from the last decade, presented below are the key research, activities, and experiences that have shaped our views and insights.

A. The development of analytical frameworks and tools to evaluate the effectiveness of MSIs from a human rights perspective

From 2010–2017, we and IHRC collaboratively developed the *MSI Evaluation Tool* and the *Essential Elements of MSI Design*, with its associated evaluation methodology.⁶ These tools provide a comprehensive framework to objectively evaluate the effectiveness of an MSI's institutional design, structure, and operational procedures from a human rights perspective. They also serve as a collation of good practices for MSIs and identify the key MSI design features—such as good governance and robust accountability mechanisms—that influence an initiative's effectiveness and potential to achieve positive impacts. In total, there are over 400 indicators in the *MSI Evaluation Tool*.

In developing the tools, we collated existing research and scholarship into MSIs, held targeted consultations with practitioners and experts, and conducted preliminary pilot testing of the *MSI Evaluation Tool* on 10 MSIs. All 10 MSIs were global standard-setting initiatives that were considered prominent in the business and human rights field.⁷ The MSIs were selected to test the *MSI Evaluation Tool* against a variety of considerations, such as whether the *Tool* could be applied to MSIs addressing different industries, regions, and human rights issues, as well as whether it could effectively evaluate MSIs at different stages of development and maturity.

The process of collecting data and verifying its accuracy for these 10 pilots involved approximately 100–150 hours per MSI, resulting in almost 1,500 hours of research. Out of these 10 MSIs, 5 were then selected for a full piloting of the evaluation methodology. This included drafting detailed long-form evaluation reports ranging from 40–60 pages per MSI. The reports were subject to two rounds of independent expert review before IHRC and MSI Integrity engaged with each MSI to discuss the draft report, resulting in several iterations and refinements of the *Tool*. Taken together, each full pilot evaluation involved a team of evaluators conducting several months of research and review, resulting in an intensive piloting of the methodological approach over the course of two years.

We then subjected the framework to a global consultation process that involved in-person meetings in Asia, Africa, Europe, North America, South America, and Oceania, and a public comment period that lasted four months, leading to input from over 100 participants. An advisory group of experts on business and human rights revised these comments and made recommendations before the *Tool* was finalized and launched in 2017. We also launched the *Essential Elements of MSI Design*, a document which provides a collated summary of the most critical indicators of MSI effectiveness identified in the *MSI Evaluation Tool*.⁸ The tools have since been used by MSI staff and boards, researchers and academics, and CSOs to evaluate or review specific components of MSIs, as well as to inform the development of new policies or mechanisms in them.

A full description of the development of the *MSI Evaluation Tool* and the *Essential Elements of MSI Design* is available on our website,⁹ as are some of the pilot evaluations that employed the framework.¹⁰

B. Promoting learning and debate about the effectiveness of MSIs

By facilitating learning and capacity-building in the field, we have developed a strong understanding of the pressing issues and concerns for both researchers and practitioners. Over the last decade, we have organized or participated in more than 40 conferences, workshops, panels, and public conversations. These range from hosting design-based workshops for CSOs to craft stronger and more robust accountability mechanisms in MSIs, to organizing panels on the effectiveness of voluntary standard-setting initiatives at the United Nations Forum on Business and Human Rights or OECD Global Forum on Responsible Business Conduct.¹¹ These activities have brought us into contact with many researchers and donors of MSIs, deepened our expertise, and ensured a steady exchange of research and observations.

We also partnered with the John Parke Young Initiative on the Global Economy at Occidental College and the Albert Hirschman Centre on Democracy at the Graduate Institute, Geneva to launch a Global Research Network on MSIs. The Research Network brings together academics, applied researchers, and MSI practitioners from both the Global South and Global North to facilitate collaboration over research agendas, deepen academic engagement with MSIs, and support robust empirical research on the politics, impacts, and evolution of MSIs.¹²

In addition to fostering learning outside of MSIs, we have also shared learning within and between MSIs or their members and staff. We have provided technical support and advice to prospective MSIs, including exploratory conversations with actors looking to establish new initiatives, as well as to existing MSIs looking to improve their practices. We have also engaged with staff and members of different MSIs to understand their challenges, or to share lessons and good practices from other contexts.

C. Conducting critical research into MSIs, including through direct dialogue with rights holders and MSI members

When we identified critical, underexamined research questions that were not being addressed by other actors, we have sought to close those knowledge gaps ourselves. This has included in-country interviews with hundreds of stakeholders participating in or directly affected by MSIs. Key projects include:

- **Listening to community perspectives on MSIs.** We conducted a pilot research project into rights holders' experiences of transnational standard-setting MSIs. The project included 129 interviews with rights holders in Cameroon and the Philippines at worksites or in communities that are monitored or otherwise covered by an MSI (Worldwide Responsible Accredited Production, Forest Stewardship Council, Fair Labor Association, or Fairtrade International). In addition to direct interviews, the project also included a workshop with rights holders in Nigeria regarding their experiences with UTZ and the Voluntary Principles on Security and Human Rights.¹³ MSI Integrity staff conducted the research from January 2017–February 2018, in partnership with the Network for the Fight Against Hunger in Cameroon, Social Action and We the People in Nigeria, and the Alternative Law Groups in the Philippines.
- **Development of the MSI Database and analysis of MSIs.** In partnership with the Duke Human Rights Center at the Kenan Institute for Ethics and Miller & Chevalier, we created the MSI Database, a searchable online resource for information about multi-stakeholder initiatives. The public database catalogues information about the scope, governance, and operations of 40 international standard-setting MSIs. The full project methodology is available on our website.¹⁴ In partnership with Duke Human Rights Center at the Kenan Institute for Ethics, we also analyzed the MSI Database to distill key findings about the landscape and state of MSIs in *The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives*.¹⁵

- **Assessing the governance of multi-stakeholder groups.** In 2014–2015 we conducted the most comprehensive study into multi-stakeholder group practices and procedures that, to our knowledge, has ever been completed.¹⁶ The study examined the governance practices of multi-stakeholder groups in 15 countries implementing EITI Standard, through a combination of discussions with MSI members and in-country visits to five countries: Azerbaijan, Cameroon, the Democratic Republic of the Congo, the Philippines, and Tanzania. In total, over 60 multi-stakeholder group (MSG) governance documents were reviewed and analyzed for compliance with the EITI Standard and other relevant guidance materials; more than 80 interviews were conducted with MSG members, as well as community members and CSOs outside of the MSGs; and this was supplemented by observing seven in-country MSG or civil society meetings.

2 Turning this knowledge base into the key insights in this report

Throughout our work over the last decade, we began to observe major trends that appeared to be true for the field of international standard-setting MSIs (see **Defining the Key Concepts**). Recognizing that few organizations engage in the type of cross-sector and cross-issue MSI engagement that we do, we decided it would be helpful to formally reflect on these trends and to examine the insights that they provide for the field.

The genesis of each of the six insights in this report is thus the accumulated experience of our decade of work. However, recognizing that our views on MSIs may be skewed by the specific MSIs, individuals, or human rights issues we have worked most closely on or with, we adopted the approach outlined in this section to ensure our insights are broadly applicable across a range of international standard-setting MSIs, and are supported by the experience or research of other stakeholders. As explained in **Defining the Key Concepts**, the universe of MSIs we are interested in are *international standard-setting MSIs*: the ones we have identified in our MSI Database and that are listed in Figure C below, and in Appendix 1.

KEY STEPS IN DEVELOPING THE INSIGHTS

1. Internal reflection and analysis of the key insights, trends, and lessons learned from our cumulative research and knowledge

The entry point was an internal reflection and analysis into our experiences and knowledge to identify potentially cross-cutting trends, patterns, or themes across MSIs.

2. Determining the applicability of the key insights across the wider field of MSIs

Each insight invokes a different issue and set of considerations. Thus, the approach and evidence base differed depending on the context and implications of a given insight. In each chapter, we include a brief description of the approach we took to researching and compiling the analysis of our insight.

The interrogation of each of our insights began with a survey of the research and literature on the issues they raised. From there, the approach was tailored to the context. For example, for **Insights 3–6**, each of which implicate the operations or actions of an MSI, there was some type of analysis of the policies of or public materials relating to a selection of MSIs: we examined the monitoring and accountability processes of the 10 oldest and 10 newest MSIs

for **Insight 4: Monitoring & Compliance**; the grievance procedures for all 40 of the MSIs in our Database for **Insight 5: Remedy**; and whether or how the oldest 20 MSIs measure or discuss their impacts for **Insight 6: Impact**. By comparison, **Insight 1: Influence** and **Insight 2: Stakeholder Participation**, naturally draw more heavily on our interactions, observations, and analysis over the last decade, supplemented with references to earlier documentation and research by ourselves and others. Finally, **Insight 3: Standards & Scope**, which is focused on how many MSIs fail to address root causes or can create a misperception that key human rights issues are being effectively addressed, also utilized a different approach. There, we observed how such failures and misperceptions differ from MSI-to-MSI, and thus we examined whether and how they occurred over a range of different types of MSIs.

We compiled the results of our analysis of MSI policies and public materials into a series of datasets covering MSIs' standards, monitoring, accountability and complaint procedures, and recent impact assessments (the URL for these datasets is in the fourth key step in developing the insights).

Throughout this process, if an insight did not broadly apply to a significant number of different MSIs, it was either abandoned or refined. An insight needed to be sufficiently universal, addressing different sectors, issues or actors, be rooted and true to our experiences, and most importantly, offer a significant insight into the potential impact or effectiveness of MSIs.

The research in this step was completed in part with assistance from IHRC.

3. Expert and MSI review

Following the conclusion of our initial analysis, each of the individual insight sections of the report went through an external review by at least one, but often two or three, experts knowledgeable in the field or issues that it addressed. The entire report was also reviewed by three experts on human rights and/or multi-stakeholder governance. The individuals are listed in the Acknowledgements at the end of this report.

In addition, the 40 MSIs in our MSI Database were invited to review the datasets and case studies we created relating to their initiative,¹⁷ as well as to provide any other feedback or engagement. In total, 21 out of the 40 MSIs responded. These MSIs are denoted with an asterisk in Appendix 1 and are also highlighted in the datasets.¹⁸

4. Integration of feedback, finalization of the report, and release of the finalized datasets

After receiving the feedback, the report was further refined and reviewed, again with assistance from IHRC. The datasets used to conduct the analysis of the MSIs are available on our website (<https://www.msi-integrity.org/datasets>) and were also used to update our publicly searchable MSI Database.¹⁹

Our Perspective and Analytical Framework

As with all research institutions, the expertise we have developed and activities we have undertaken are shaped by our values and perspectives, as well as the normative and analytical framework that underpins our work on MSIs.

1 Human rights perspective: centering rights holders and affected communities

A. Human rights as the touchstone

As a human rights organization, we apply a human rights-based approach to our analysis of MSIs, inquiring about their real or potential impacts and their effectiveness in respecting, protecting, or promoting human rights. This has informed the development of our normative framework, which examines the key qualities that make an MSI effective as a human rights instrument (see further in this section). References are thus made to international human rights law and wider human rights principles throughout the report.

We see the international human rights framework as a broad ecosystem of rights and responsibilities. We are part of a growing number of organizations that recognize there is an inextricable link between human rights and the environment, on the basis that “a safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation.”²⁰ Therefore, our human rights analysis moves fluidly between different international sources of human rights—spanning civil, political, economic, cultural, social and environmental rights—depending on the context of a particular MSI, industry, or issue at hand.

All the MSIs in our MSI Database have standards that address or affect human rights (see **Defining the Key Concepts**). Indeed, many of these MSIs explicitly champion human rights or describe themselves as human rights instruments, and thus assessing them against their ability to deliver human rights-consistent outcomes is obvious and uncontroversial. For others, human rights may only be one part of their wider mandate, or they may not use the “language” of human rights because of perceived political sensitivities, in which case they may not immediately see the usefulness of being assessed through a human rights lens. For those MSIs, while we should be clear that our insights are *focused on the human rights aspects of their operations, we believe that much of our general analysis can be widely applied to other aspects of their operation*, and also that they provide important insights about MSIs as tools of global governance more broadly. We therefore encourage these MSIs—as well as those beyond the remit of our study, such as those that do not set standards, or those that operate nationally, rather than internationally—to critically consider whether and how these insights and wider findings apply across their operations.

B. Centering rights holders and affected communities

As an organization, we take a particular interest in how MSIs include, empower, and impact affected communities. This commitment to valuing rights holders is central not only to our mission, but to our analysis and evaluation of MSIs’ effectiveness. Throughout our organizational history, we have consistently raised concerns about the extent to which MSIs include rights holders’ perspectives and serve their needs. This report is therefore centered on an analysis of MSIs that assesses whether they are effectively protecting or benefiting rights holders.

“Ultimately, it is our view that if MSIs are not working to protect or benefit rights holders, then they cannot be relied upon to close governance gaps.”

Ultimately, it is our view that if MSIs are not working to protect or benefit rights holders, then they cannot be relied upon to close governance gaps. MSIs' interventions in ecosystems, industries, and economies are fundamentally connected to the people who live and work in them. It is rights holders' workplaces, homes, and communities that are at stake. This is true of all the MSIs included in this report: from those focused on transparency of revenue flows to those that regulate farms and factories. They all affect rights holders in some way (see **Defining the Key Concepts**). The value and importance of rights holders to MSIs is outlined further in **Insight 2: Stakeholder Participation**.

We recognize that the task of some MSIs in identifying or conceptualizing their rights holders or affected communities may be more difficult than for other MSIs. Some MSIs address issues that touch immense populations, such as freedom of expression on the internet or the governance of a country's natural resources, and these MSIs have generally been less directly engaged with rights holders. In such contexts, the most manageable approach—which is central to our normative framework—may be to focus on “especially affected communities” (see **Defining the Key Concepts**). For example, rather than focusing on all internet users, an MSI may instead focus on individuals in repressive regimes who may face significant repercussions if their email accounts are shared with the government; or rather than focus on an entire national population who theoretically stands to benefit from natural resource management, an MSI may instead focus on the communities who live near mines or other sites of extraction. In our analysis of MSIs, we strive to be cognizant of especially affected communities and to remain aware of the diversity and plurality of rights holders that are potentially affected by an MSI.

This is not to suggest that we speak for or on behalf of rights holders. We do not. Rather, our analysis, insights, and critiques come from the perspective of considering the effects of MSIs on rights holders, and whether MSIs are designed to benefit the communities and individuals affected by the businesses governed by MSIs.

2 Analytical framework: evaluating MSIs against a standard expected of global governance initiatives that address or affect human rights

A. MSI Evaluation Tool as a guiding analytical framework

Our normative and analytical framework for analyzing MSIs has been deeply informed by the development of the criteria for MSI effectiveness that were identified in the development of the *MSI Evaluation Tool*. We pay particular attention in our research to whether MSIs exhibit the *Essential Elements of MSI Design*, which are the key qualities relating to the structure of an international standard-setting MSI that are necessary, but not sufficient, for an initiative to have the potential to be effective as a human rights instrument.²¹ The absence of one of these elements undermines an MSI's potential to be effective.

The *Essential Elements* can be categorized into seven core areas, as illustrated in Figure A. Some of these core areas, or the essential elements within them, directly correspond to the six key insights in this report. For example, the analysis in **Insight 5: Remedy** and **Insight 4: Monitoring & Compliance** each respectively evaluates whether MSIs are meeting the Essential Elements found in the “Grievance Mechanism” and “Monitoring” sections of the *MSI Evaluation Tool*. However, the report is not a strict assessment of all the MSIs against all the indicators in the *Tools*, which is well beyond the resourcing of our organization (see the discussion of the time and resources involved in conducting comprehensive evaluations of MSIs earlier in this section). Rather, the *Tools* have been used as a framework for examining areas where we have observed consistent patterns or trends. Indeed, some of the insights in this report address issues that extend beyond the design of MSIs—and thus the scope of the MSI Evaluation Tool—such as the insights examining the waning credibility of MSIs or the impacts of MSIs on rights holders (see **Insight 1: Influence** and **Insight 6: Impact**).

Overview of the **SEVEN CORE AREAS** of the **MSI EVALUATION TOOL**

The MSI Evaluation Tool was developed to assess the capacity of a multi-stakeholder initiative (MSI) to protect and promote human rights. The Tool asks objective questions about an MSI's design, processes, and policies. The questions are categorized according to the following seven core areas:



4

FIGURE A. The seven core areas of effective MSI design that underpin MSI Integrity's analytical framework.

Source: MSI Integrity, [Essential Elements](#), 4

B. Broad comparability of international standard-setting MSIs that address human rights

Underlying the development of the *MSI Evaluation Tool* was the question of whether there are any indicators of effectiveness that applied universally to MSIs. Answering that question involved extensive multi-year examination of the different types of MSIs, as well as global consultations with MSI members, staff, researchers, policymakers, businesses, CSOs, and affected community members (see **Knowledge Base** for more details). During this process, and the testing and refinement of the *MSI Evaluation Tool*, it became clear that many MSI participants and commentators perceived their initiative, or certain types of MSIs in general, as “exceptional” due to the specific complexities of the industry, or the history or operating context of the initiative. Thus, they thought their initiative was unsuitable for assessment against any universal criteria.

However, when analyzed as a field, there is a common architecture that is shared between standard-setting MSIs (as opposed to MSIs that do not set standards, such as those with learning or policy reform objectives). It is this common architecture that enables standard-setting MSIs to be evaluated against a limited set of indicators, as prescribed in the *MSI Evaluation Tool*. The shared architecture of standard-setting MSIs includes: (1) governance by a multi-stakeholder body; (2) the creation of global standards that members must follow and that include or affect human rights; and (3) the establishment of mechanisms designed to offer assurances that their members are complying with their standards (e.g. monitoring, reporting, or grievance mechanisms).

All the MSIs in our MSI Database, and examined in this report, share this architecture. This is true regardless of the industry, the type of standards, or form of an MSI: from those certifying products to those setting good practices for governments. This is not to suggest that understanding the context, history, or mandate of an MSI is not important (indeed, this is the first step in the *MSI Evaluation Tool* and methodology), or that there are not any useful considerations for different types of standard-setting MSIs. Rather, we consider that the common architecture that the MSIs in this report employ around governance, standard-setting, and assurance allows for those components—and thus those MSIs—to be broadly evaluated against the same criteria.

C. Transparency and public disclosures

Underpinning the methodology in the *MSI Evaluation Tool* is the view that MSIs can and should be evaluated against the information that they publicly disclose about their operations, implementation, and performance. This stems from MSI Integrity’s perspective that—because standard-setting MSIs are ultimately tools of global governance operating in domains that are traditionally occupied by public entities, and specifically offering some assurances to the public that their members follow their standards—MSIs must disclose sufficient information for external actors to assess if they are adequately fulfilling those functions. If they do not, they risk contributing to a form of whitewashing: offering assurances without evidence that issues are being addressed when in reality they are not.

Similarly, because many MSIs operate mechanisms that allow public engagement by, for example, reporting violations or seeking remedies, it is critical that individuals and their advocates can make an informed assessment about the risks and consequences of engagement, as well as track the outcomes that follow. For this reason, “Transparency and Accessibility” is one of the seven core areas of effective design (see Figure A). This means that MSIs necessarily require significant resources to fulfill these transparency expectations and remain accessible, which may create fundamental constraints on the capacity of private initiatives to operate as effective global governance tools; this is explored throughout the report.

To be clear, this is not to suggest that an analysis of the architecture of MSIs, or their public materials, is more valuable than understanding their on-the-ground impacts—or that one should disregard the internal workings or other qualitative aspects of MSIs, such as the trust that can be built, the unexpected or unintended consequences they may produce, or the industry practices that may change. These qualitative aspects are critical sources of information, and we encourage MSIs to provide more access and visibility into their practices and impacts. However, documenting the qualitative effects and impacts of MSIs is a highly resource-intensive and difficult task, and it is well beyond our capacities to do so for 40 MSIs. Nonetheless, wherever possible and relevant throughout the report, we also cite sources and reflect on our experiences that shed light on these fronts. As mentioned earlier in this section, we also invited all MSIs to review our data, and some MSIs used this as an opportunity to share information that was not in the public domain.

Limitations and Constraints

As with all cross-cutting analyses, there are necessarily limitations to our approach. The broad trends we present here should be understood as general patterns that we have observed, rather than findings that apply equally to all MSIs. Given the breadth of MSIs that we review and discuss in this report, there are most certainly exceptions to each of our observations.

In addition, our analysis is a snapshot in time. MSIs are dynamic entities, with evolving governing boards, membership, standards, and procedures; some have emerged or merged since we first developed our Database, while others have folded.

We also recognize that our analysis sometimes focuses on MSIs' written materials, rather than what is carried out in practice. We acknowledge that an MSI might perform better than its procedures would suggest, and that even the best procedures might fail through poor implementation.

Defining the Key Concepts

1 What do we mean by “multi-stakeholder initiatives (MSIs)” and which MSIs are examined in this report?

In general, and at their most expansive, MSIs are understood as a collaboration among various public and private actors—such as corporations, governments, CSOs, and rights holders—that have a stake in an issue. Under this broad definition, the term can mean anything from public-private partnerships for the building of an infrastructure project, to forums for collective learning or dialogue. Given this, it can be useful to view MSIs as existing along a spectrum of formalities, functions, and forms,²² and to recognize that many of these phenomena also go by different names, each often with their own specificity or meaning: “multi-stakeholder partnerships,” “multi-stakeholder networks,” “private standard initiatives,” “societal learning and change initiatives,” “nonstate market-drive governance systems,” “trisectional networks,” “global public policy networks,” and “global action networks,” to name a few.

With some modification and contextualization, the insights in this report will likely translate to many different types of MSIs. However, our work, and this report, focus on a particular type of MSI: those that address or affect human rights by setting transnational standards for corporations or governments. We have long been interested in international standard-setting MSIs because of their regulatory and formalized nature, the resources and influence they have accrued, and thus their intersection with global governance and international human rights law and practice.

Specifically, we use the term “MSI” in this report to mean initiatives that have the following characteristics:

- **Multi-stakeholder governance:** The initiative either requires more than one stakeholder group (i.e., industry, civil society, government, or rights holders) to be represented in its primary decision-making body; or it describes itself as multi-stakeholder, and in actual practice, has more than one group represented in its primary decision-making body.

- **Standard setting:** The initiative sets standards for its members to follow.
- **Global:** The initiative's standards apply in more than one country.
- **Address or affect human rights:** The initiative focuses on addressing business or government conduct relating to issues of public concern (human rights, environmental sustainability, government transparency and corruption, etc.), and has standards that address or affect human rights. Note that this determination is made from a human rights analysis of an MSI's standards, rather than how it describes or identifies itself.²³

This section contains a list of the 40 MSIs that we have identified that meet these criteria, and which are referred to throughout this report. They include well-known examples, such as Fairtrade International, Rainforest Alliance, and the UN Global Compact, alongside perhaps lesser-known initiatives, such as the Alliance on Responsible Mining and Florverde Sustainable Flowers. These MSIs are all in our MSI Database.²⁴ Appendix 1 details the founding years of each of these MSIs, which cover a wide range of different industries, issues, and approaches: some certify factories, farms, or other production sites as meeting their standards; others may be focused on changing government behavior as it intersects with corporate practice; some may set standards for large brands or companies about a specific human rights issue, while others may try to address a wide range of adverse impacts linked to an industry. Although the MSIs are diverse and each is unique in its context and form, as explained further in **Our Perspective and Analytical Framework** they share a common architecture that enables them to be broadly compared and critiqued.

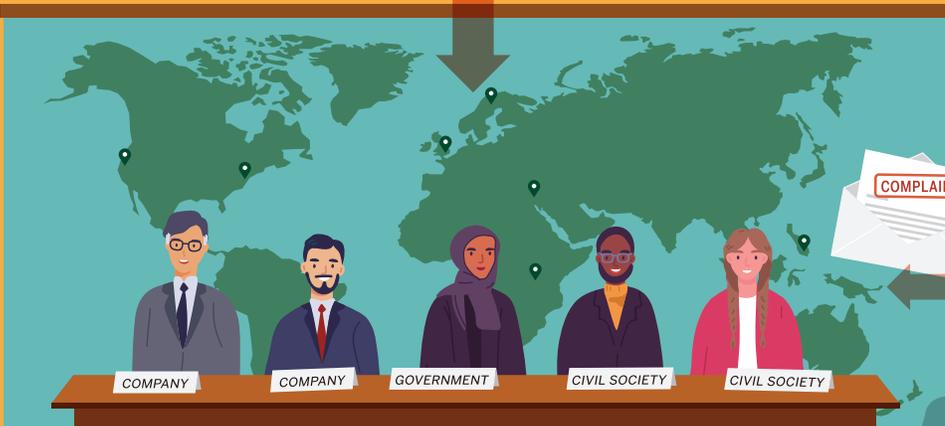
WHAT IS A STANDARD-SETTING MULTISTAKEHOLDER INITIATIVE?



STAKEHOLDERS GATHER TO ADDRESS HUMAN RIGHTS OR ENVIRONMENTAL HARMS LINKED TO BUSINESS ACTIVITY

WHICH IMPACT RIGHTS HOLDERS

Sometimes rights holders can **raise complaints or report violations** of an MSI's standards.



MSI BOARD



SETS STANDARDS

NON-COMPLIANCE = AUDITOR OR BOARD MAY SANCTION

USUALLY AUDITORS MONITOR THE COMPANY (OR SOMETIMES GOVERNMENT) FOR COMPLIANCE WITH STANDARDS



COMPLIANCE = CERTIFICATION OR MEMBERSHIP



FIGURE B. Graphic depiction of a standard-setting MSI

This report looks at 40 international standard-setting MSIs

AGRICULTURE, FORESTRY + FISHING

Better Cotton Initiative
Bonsucro
Equitable Food Initiative
Fairtrade International*
Florverde Sustainable Flowers
Food Alliance
Forest Stewardship Council
Global Coffee Platform
Marine Stewardship Council
Program for Endorsement of Forest Certification
Rainforest Alliance
Roundtable on Responsible Soy
Roundtable on Sustainable Palm Oil
Sustainable Forestry Initiative
UTZ Certified

CONSUMER GOODS

Ethical Trading Initiative***
Fair Labor Association***
Fair Wear Foundation
GoodWeave International
ICTI Ethical Toy Program
Social Accountability International
Worldwide Responsible Accredited Production

CONSUMER SERVICES

Global Sustainable Tourism Council

INDUSTRIALS

Infrastructure Transparency Initiative
International Code of Conduct for Private Security Providers

MINING + ENERGY

Alliance for Responsible Mining
Better Biomass
Diamond Development Initiative
Equitable Origin
Extractive Industries Transparency Initiative (EITI)
Fair Stone
Hydropower Sustainability Assessment Protocol
International Sustainability and Carbon Certification**
Initiative for Responsible Mining Assurance
Roundtable on Sustainable Biomaterials
Voluntary Principles on Security and Human Rights

TECHNOLOGY

Global Network Initiative

ALL INDUSTRY / OTHER

Alliance for Water Stewardship
Global Reporting Initiative
UN Global Compact

FIGURE C. A list of the MSIs in our MSI Database and examined in this report

* Also operates in the Consumer Goods industry.

** Also operates in the Industrials and the Agriculture, Forestry and Fishing industries.

***Also operates in the Agriculture, Forestry and Fishing industries.

2 What do we mean by “MSI members” and “MSI participants”?

When we refer to an MSI member, we mean those entities that have committed to the MSI's standards and that are therefore subject to the its regulation, such as companies or governments. There are several ways that MSIs interact with the entities that they seek to regulate, and thus which actors are members will vary depending on the MSI and the actors that are expected to conform to its standards. In some MSIs, companies and governments commit to upholding the MSI's standards, and in exchange, can hold themselves as members in good standing. In other cases, MSIs might certify an operation (such as a specific production facility or mining site) or a specific product as complying with its standards, and in some cases, this comes with the right to use the MSI's logo or a consumer-facing label.

By comparison, when we refer to an MSI participant, we mean those entities that are not subject to MSI regulations or standards, but nonetheless participate in the MSI's governance or implementation activities. CSOs, for example, may participate on an MSI's board or governing body, and therefore may be expected to follow the rules of internal governance, but they are not generally expected to comply with the actual standards set by the MSI, as these apply to governments or companies.

3 What do we mean by “rights holders”?

Rights holders are the people whose lives, livelihoods, or rights are affected by the business activities that an MSI seeks to address, such as farmers, factory workers, internet users, or forest dwellers. The MSIs included in this report—from those focused on technology companies to those that regulate farms and factories—all have standards that address or affect human rights. Nearly all of the 40 MSIs included in this report have a mission statement that refers to the benefits to rights holders.²⁵ Thus, they all affect rights holders in some way. As explained in **Our Perspective and Analytical Framework**, this report is centered on an analysis of MSIs that assesses whether they are effectively protecting or benefiting rights holders.

Although we refer to rights holders collectively, they are not a homogenous group of people. Rather, they include individuals with different vulnerabilities, privileges, powers, and needs. For example, agricultural workers as a group might include migrant laborers, women, ethnic minorities, employees at large-scale plantations, as well as day laborers on family farms. Some of these groups may face greater discrimination, marginalization, or adverse socio-economic circumstances in the industry or activities covered by the MSI. These groups may therefore be especially vulnerable to a range of human rights violations, or potentially affected by an MSI's operation, and therefore might be of particular importance to an MSI. Female workers, for example, may be targets of gender discrimination, sexual harassment, and gender-based violence; citizens and internet users in repressive regimes face far greater risks than their counterparts in countries with protections for civic engagement. Who these especially affected rights holders are may vary across different geographies, industries, or other factors.

4 What is a “governance gap”?

In the context of this report, a governance gap exists in situations where a state either cannot, or will not, fulfill its duty to protect its citizens against human rights violations by companies. They are essentially the gap “. . . between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences.”²⁶ Governance gaps thus contribute to business-related human rights abuses by providing companies with a permissive environment for abusive conduct without an adequate framework to define or enforce human rights standards or provide effective remedy for rights holders if abuses occur.²⁷ This might be because a state has insufficient laws and regulations to protect rights, or it could be that existing regulations are not enforced due to limited resources, lack of political will, corruption, or some other reason. Because of the territorial legal sovereignty of states, even if the home countries where multinational corporations have their headquarters have more robust regulations and enforcement than the host states, they do not apply to companies’ overseas operations or to the activities of the separate entities that make up their supply chains.

As explained in **Insight 1: Influence**, many MSIs were formed in response to the exposure of major industry-wide human rights abuses, which prompted demands to address the underlying governance gap that enabled the abuse. Whether MSIs, in fact, effectively close governance gaps, is the focus of this report.

Endnotes

- 1 See Spotlight 1.1. in **Insight 1: Influence**, which links underlying human rights crises in different industries to the creation of specific MSIs in response.
- 2 Peter Utting, "Regulating business via multi-stakeholder initiatives: a preliminary Assessment" in UNRISD, [Voluntary Approaches to Corporate Responsibility: Readings and a Resource Guide](#) (Geneva: NGLS, 2002).
- 3 See **Insight 1: Influence** for a discussion of the rise of MSIs, including government-focused ones such as the Extractive Industries Transparency Initiative (EITI) and the Voluntary Principles on Security and Human Rights (VPs).
- 4 MSI Integrity and the Duke Human Rights Center at the Kenan Institute for Ethics, [The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives](#) (Berkeley: MSI Integrity and the Duke Human Rights Center at the Kenan Institute for Ethics, 2017), 5.
- 5 See UN General Assembly, [Report of the Special Rapporteur on extreme poverty and human rights](#), UN Doc. A/73/396, (New York: UN, 2018), paras. 2, 4, 56.
- 6 MSI Integrity and the International Human Rights Clinic at Harvard Law, [MSI Evaluation Tool](#), vers. 1.1, (Berkeley: MSI Integrity and IHRC, 2017); MSI Integrity, [MSI Integrity Development of the MSI Evaluation Tool and Evaluation Methodology](#) (Berkeley: MSI Integrity, 2017).
- 7 The 10 MSIs selected for pilot-testing were: Better Cotton Initiative, Common Code for the Coffee Community, EITI, Fair Labor Association, Fairtrade International, Global Network Initiative, the Kimberley Process, Roundtable on Sustainable Palm Oil, Roundtable on Responsible Soy, and VPs.
- 8 MSI Integrity, [The Essential Elements of MSI Design](#) (Berkeley: MSI Integrity, 2017).
- 9 MSI Integrity, *Development*.
- 10 "[Pilot MSI Evaluations](#)," MSI Integrity, accessed March 6, 2020.
- 11 "[Events and Public Discussions](#)," MSI Integrity, accessed April 15, 2020.
- 12 See "[Global Research Network](#)," MSI Integrity, accessed April 15, 2020.
- 13 MSI Integrity and Social Action, [Understanding Community Experiences of Cocoa Farming and Extractive Site Security: A Workshop to Explore Community Engagement in the Voluntary Principles on Security and Human Rights and UTZ Certified](#), Summary report, (Berkeley: MSI Integrity, 2017).
- 14 See "[The Multi-Stakeholder Initiative Database](#)," MSI Integrity, accessed February 24, 2020. The Database was released in June 2017.
- 15 MSI Integrity and the Duke Human Rights Center at the Kenan Institute for Ethics, *The New Regulators?*.
- 16 MSI Integrity, [Protecting the Cornerstone: Assessing the Governance of Extractive Industries Transparency Initiative Multi-Stakeholder Groups](#) (Berkeley: MSI Integrity, 2015).
- 17 In addition, the case study on civil society participation in EITI in **Insight 2: Stakeholder Participation** was also shared with Publish What You Pay, the civil society organization that was involved in the creation of the initiative and continues to remain engaged in it.
- 18 These are available from our website with information current as of June 30, 2019: <https://www.msi-integrity.org/datasets>.
- 19 See "Database," MSI Integrity.
- 20 United Nations Office of the High Commissioner for Human Rights, "[Special Rapporteur on Human Rights and the Environment](#)," accessed April 15, 2020.
- 21 MSI Integrity, *Essential Elements*, 1.
- 22 For a brief introduction to efforts to typologize MSIs, see Lucy Koechlin and Richard Calland, "Standard setting at the cutting edge: an evidence-based typology for multi-stakeholder initiatives", in Anne Peters et al., *Non-State Actors as Standard-Setters* (Cambridge: CUP, 2009), 84, 85.

23 For example, we note that in some meetings with staff and board members from EITI, they have been reluctant to use the language of “human rights” because of the geopolitical ramifications of the term, and prefer instead to use more general terms, such as “civic space.” However, EITI is nonetheless included because its standards address human rights. See EITI, *EITI Protocol: Participation of civil society* (Oslo: EITI Secretariat, 2015), para. 2.2, referring to “freedom of expression” and “freedom of movement.” The United Nations also recognizes that the EITI and similar initiatives affect human rights to the extent that they “seek to close regulatory gaps that contribute to human rights abuses.” See UN General Assembly, Human Rights Council, *Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts*, UN Doc. A/HRC/4/035, (New York: UN, 2007), para. 53.

24 “Database,” MSI Integrity.

25 The mission statements of all 40 MSIs in this study are available on our website at, which contains information current as of June 30, 2019: <https://www.msi-integrity.org/datasets>.

26 UN Human Rights Council, *Protect, Respect and Remedy: A Framework for Business and Human Rights*, A/HRC/8/5 (New York: UN, 2008), para. 3.

27 UN Human Rights Council, *Protect, Respect and Remedy*, at para. 3.



INSIGHT 1

Influence:

MSIs have been influential as human rights tools, but that influence, along with their credibility, is waning



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In this chapter: This chapter documents the emergence of MSIs as one of the most widespread voluntary tools for addressing business-related human rights abuses. We trace their evolution over time and their growth in power and influence within business and human rights. While MSIs have never been without controversy, this chapter also provides evidence of growing criticism of standard-setting MSIs and outlines why their influence appears to have peaked in the mid-2010s.

Summary of our insights: Our analysis of the growth, establishment, and impact of the MSI field has led us to the conclusion that the influence of MSIs has peaked. The stamp of legitimacy conferred upon MSIs by powerful international institutions, governments, and civil society organizations (CSOs), epitomized by their inclusion in the United Nations Guiding Principles on Business and Human Rights (UNGPs), gave MSIs significant influence in the field of business and human rights as prominent responses to major governance gaps. Over the past decade, however, growing skepticism among some civil society actors about the effectiveness of MSIs has resulted in their retreat from initiatives, allowing corporate interests to increasingly dominate the field. Instead of being a response to advocacy campaigns, MSIs are now often the targets of civil society advocacy for their specific failings and concerning practices. This suggests that the influence of MSIs is eroding. In its place is a resurgence in advocacy for public regulation and more accountable private mechanisms, such as the Worker-driven Social Responsibility model, that are displacing MSIs as the “gold standard,” and which may better bridge the governance gaps that MSIs had promised to fill.

Key findings and observations:

- **MSIs emerged as a default response in the Global North to many of the major global business-related human rights crises in the 1990s and 2000s.** They were often developed with support from Global North governments or large international non-governmental organizations (INGOs) and were often seen as a compromise between no regulation and mandatory public regulation.
- **MSIs have enjoyed broad influence in the business and human rights landscape.** The support of powerful governments, multinational corporations, and CSOs legitimized MSIs as good practice. Prominent CSOs called for the creation of MSIs and helped found them in many industries. Subsequently, the inclusion of MSIs in the remedial pillar of the UNGPs crystalized them as a “field” that became increasingly institutionalized and well-resourced.
 - **MSIs have influenced government action and policy.** MSIs are positively mentioned in at least 16 of the 23 National Action Plans (NAPs) that countries have published as part of their efforts to implement the UNGPs.
 - **MSIs have become part of corporate engagement with human rights.** For example, of the top 20 largest companies in the world by revenue, 13 are direct participants in MSIs themselves or have major subsidiaries that are participants.
 - **MSIs are part of international frameworks and governance.** For example, MSIs have been endorsed by international finance institutions and are key reference points for company human rights rating agencies.

- **MSIs can play an influential role in the advocacy strategies of CSOs seeking to change corporate behavior or push for domestic reforms.**
- **MSIs influence public behavior and perceptions about the ethical practices of corporate actors.** For example, many consumers rely on the certifications or labels bestowed by MSIs to make ethical consumption decisions.
- **Over the last few years, growing questions and concerns by those who have closely monitored or participated in MSIs, have bolstered long-standing civil society criticisms of MSIs.** In particular:
 - A number of CSOs have withdrawn from individual MSIs over concerns about inaction, ineffectiveness, and the amount of time and resources that they were consuming relative to their benefits.
 - There are now well-documented instances in which MSIs have failed to detect or remedy human rights abuses.
 - MSIs are the subject of at least two complaints to National Contact Points for the Organization for Economic Co-operation and Development's (OECD) Guidelines for Multinational Enterprises (OECD Guidelines).
 - The term "MSIs," which did not have a negative connotation when it was used in the UNGPs, has become increasingly connotative of a corporate-oriented model or a model that is not focused on accountability. Other models of private governance, which use terms such as "worker-driven," have emerged and specifically contrast themselves with MSIs. Such models are growing and may displace MSIs in the medium to long term.
- **There is growing recognition of the need for government regulation in a "smart mix" of tools to promote business respect for human rights, rather than an overreliance on voluntary measures.** There has been a resurgence in advocacy for public regulation both domestically and internationally, on the premise that voluntary initiatives are not sufficient.

Background: Context and Approach

The insights of this chapter track MSIs' influence on the business and human rights field since they first emerged in the early 1990s and rose to global prominence by the early 2010s with their inclusion in the UNGPs. We examine how MSIs' standards and approaches have been endorsed or operationalized by Global North governments, large multinational corporations, and international organizations, as well as many CSOs, and how they have influenced consumer behavior. Later chapters will delve more specifically into how MSIs have positively and negatively affected specific policies and corporate behaviors, while this chapter assesses the overall trajectory of MSIs' influence on the field of business and human rights.

Despite the fact that MSIs have long sparked debate and controversy and have been far from universally accepted—particularly in the Global South¹—their trajectory shows a stunning growth in their influence over a 20-plus year period of proliferation. Critically, however, we see a trajectory that indicates their influence has peaked over the past few years. We have identified recent changes that demonstrate their credibility and influence have been diminishing among many, if not most, stakeholders, and particularly among those who are most concerned with accountability and compliance mechanisms that center the protection of rights holders.

1 In the face of major governance gaps caused by the absence of public regulation, MSIs emerged as a central response in the Global North to business-related human rights crises

MSIs have typically been born in the wake of corporate misconduct that highlighted the governance gap between public regulation and adequate human rights protections. The influence MSIs garnered largely stemmed from the promise they presented: to respond to corporate abuses of human rights by bridging that gap.

We have observed that the establishment of many industry-specific or issue-specific MSIs followed a similar historical pattern: they were formed in response to a major human rights issue, with the support of influential actors—Global North governments, INGOs, and/or major multinational corporations—and often following intensive advocacy and awareness-raising by CSOs about the adverse impacts of an industry's business practices.² Examples of this are outlined in Table 1.1. In many instances, MSIs remained the primary response in the Global North to the underlying human rights crisis (typically taking place in the Global South) that prompted its creation. Not all MSIs share this pattern, but its prevalence is striking.³

Although MSIs themselves may not always claim to fill the governance gaps that prompted their formation, they have often been perceived or treated as such by a range of stakeholders. Indeed, some commentators have gone as far as to describe MSIs as the “default response” to governance gaps in the business and human rights landscape.⁴ We explore the histories of a few prominent MSIs to demonstrate their remarkable rise in influence.

“... some commentators have gone as far as to describe MSIs as the ‘default response’ to governance gaps ...”

A. Early beginnings: MSIs formed after governments failed to act

Corporate self-regulation, industry codes of conduct, and other forms of private governance have a long history.⁵ However, the origins of international standard-setting MSIs are often traced to two initiatives that were formed in the early 1990s in response to a failed effort by governments to address business-related rights abuses. The Forest Stewardship Council (FSC) and the Sustainable Forestry Initiative (SFI) formed after a UN deforestation summit in 1992 failed to produce a treaty or other binding international standards.⁶ At the time, deforestation was recognized globally as one of the world's "pressing environmental issues" and was a focal point of several non-governmental organizations' (NGOs) campaigns.⁷ Recognizing the lack of binding international standards, the next year, several large CSOs, including the World Wide Fund for Nature, launched the FSC, which created a set of voluntary international standards to certify wood and forest products as consistent with a specified set of principles.⁸ The creation of SFI, sharing a similar goal, shortly followed.⁹ As there have still not been any binding international agreements that comprehensively address deforestation, these MSIs have remained a central Global North response to deforestation alongside other voluntary initiatives—despite growing evidence that voluntary efforts are insufficient to fully and adequately address the problem.¹⁰

B. MSIs evolved into a default response to business-related human rights crises as a compromise between non-regulation and mandatory regulation

In the late 1990s and early 2000s, MSIs started to develop in the human rights space. Unlike the initial environmental initiatives, their development was not spurred by an immediate and clear failure or inability of governments to close governance gaps. Rather, MSIs began to emerge as something that their proponents saw as a pragmatic alternative or "third way" between industry self-regulation and binding government regulation. Importantly, despite the lack of data about MSIs' impacts—as well as baseline information against which to measure their effectiveness—the MSI model evolved to become a widespread and even default response to serious business-related human rights violations.

In 1996, for example, after the presence of child labor and sweatshop conditions were exposed in the supply chains for major US clothing brands such as Nike and Gap,¹¹ President Bill Clinton established the Apparel Industry Partnership, a presidential task force to focus on the issue. The taskforce, which had a multi-stakeholder composition of businesses, unions, and NGOs, produced a draft voluntary workplace code of conduct and principles for monitoring.¹² At the same time the taskforce was deliberating, legislation was introduced in the US Congress that would make manufacturers and retailers civilly liable for their contractors' violations of labor rights.¹³ The taskforce ultimately led to the creation of an MSI, the Fair Labor Association (FLA), to implement the code and monitoring system (albeit without the support of the unions who had originally been involved in the process).¹⁴

The Global Network Initiative (GNI) offers another example. That initiative was formed after reports began to surface in 2005 that Google, Microsoft, and Cisco had complied with Chinese requests for censorship or surveillance and that Yahoo! had disclosed emails and personal information that were later used to convict four Chinese dissidents.¹⁵ At a US congressional hearing that condemned these actions and detailed the subsequent human rights abuses that arose—torture, political imprisonment, religious persecution, and blacklisting of dissidents—the chair of the House Subcommittee on Africa, Global Human Rights, and International Organizations urged the companies "to develop a code of conduct which would spell out how they could operate in China and other repressive countries like Vietnam while not harming citizens and respecting human rights." He also noted that he would introduce legislation to address the issue.¹⁶ Three of the four companies at the center of the allegations heeded the call and collaborated with NGOs and launched GNI in 2008.¹⁷ After the MSI was

established, the proposed legislation—which included creating a private right of action for information and communications technology users and criminal punishment for violators, including fines up to US\$2 million and five years imprisonment¹⁸—was revised to include a safe-harbor provision that GNI members would be exempt from meeting the reporting requirements set by the Act.¹⁹

Ultimately, the proposed legislation that accompanied the development of both FLA and GNI never passed. While it is difficult to conclude definitively whether these initiatives emerged because that legislation was politically infeasible, or if these efforts forestalled it—and much ink has been spilled arguing about the relationship between MSIs and voluntary initiatives, and whether they foster or forestall regulatory efforts—the critical point for our purposes is that MSIs became an increasingly common, and eventually, a staple approach to governing human rights issues over leaving them completely unregulated or putting binding governmental legislation in place. In the case of FLA, at least one commentator has argued that the Clinton administration “chose to emphasize the setting of voluntary standards in the apparel industry, rather than actively to pursue the passage [of legislation].”²⁰ FLA, alongside other private governance initiatives, has remained a prominent Global North tool for addressing labor issues in the apparel sector, in the absence of any US legislation or multilateral agreements.²¹ The same is true for GNI.

In other instances, MSIs were explicitly formed because of the threat of legislation. For example, in the early 2000s when a major investigation revealed the presence of child labor in the cocoa trade in the Ivory Coast, the threat of proposed legislation in the United States prompted the chocolate industry to declare that “we don’t need legislation to deal with the problem.”²² Lawmakers opted to negotiate directly with companies rather than pass legislation, which ultimately spurred the creation of several MSIs.²³

Other MSIs were the governmental response to an industry issue in the Global North and included governments as members. For example, in the early 2000s, the UK Department for International Development convened meetings between the activist groups who had exposed the government’s use of extractive industry revenue to fuel human rights abuses, as well as other mismanagement and corruption, and the companies implicated in the scandals.²⁴ This led to the piloting of the Extractive Industries Transparency Initiative (EITI), with the UK government acting as the secretariat until an independent organization was created in Norway. The standards of EITI were, and continue to be, jointly developed by governments, civil society, and business; however, governments are expected to implement the initiative’s standards. Similarly, following a number of instances that came to light in the 1990s in which private or state security forces linked to oil and mining companies committed human rights abuses—particularly following the allegations of Shell Oil’s complicity in the death of Ken Saro-Wiwa in Nigeria—the UK Foreign Office and US Department of State brought together extractive companies and NGOs for a series of meetings in 2000.²⁵ This ultimately resulted in the two governments announcing the creation of the Voluntary Principles on Security and Human Rights (VPs), of which they are participants.²⁶

As MSIs proliferated and more stakeholders participated in them, they were sometimes seen as compromised positions in the polarized debates underpinning the 1990s and 2000s between proponents of no regulation for corporations with respect to human rights (or at most self-regulation by individual companies or industries) and those seeking mandatory and binding rules.²⁷ Supporters of MSIs saw them as a pragmatic step forward in a context where domestic or international regulatory interventions may be unlikely to pass or succeed, and thus many felt MSIs should be given a chance. Indeed, MSIs were sometimes presented as opportunities to bridge the voluntary-mandatory divide by offering a practical accountability component, represented by the inclusion of CSOs and monitoring mechanisms, that did not rely on government regulation. In this way, MSIs gained attention as “. . . a possible ‘Third Way,’ which overcomes the perceived limitations of both government regulation and corporate self-regulation.”²⁸

This is not to suggest that MSIs emerged without resistance. As the following part of this chapter outlines, while MSIs were embraced as promising by prominent actors in the Global North, they have continued to be actively rejected by many in the Global South. In addition, as discussed further in this part of this chapter, the mid-2010s would see renewed attention on and increasingly concerted efforts to push for mandatory measures at the national level, as well as to establish a legally binding international treaty on business and human rights; some commentators have for years questioned whether MSIs have undermined these efforts and diverted resources away from the push for public regulation. However, notwithstanding the longstanding debate, the proliferation of MSIs across industries and sectors—with almost 40 standard-setting MSIs formed by 2010—coupled with the challenge of achieving public regulation, pushed a number of actors to endorse MSIs as legitimate and practical responses to at least some of the business and human rights challenges.

TABLE 1.1. Examples of MSIs Emerging as Proposed Solutions to Business-Related Human Rights Crises

Industry and Crisis

MSI Created and Mission*

Oil, Gas, and Mineral Resources

1990s: Oil and mining companies were the subject of media coverage and CSO reports on their complicity with host governments in committing human rights abuses in the countries where they operated, as well as in respect of violations committed directly by the private security forces employed at drilling and mining sites.²⁹

Late 1990s–early 2000s: NGOs conducted high-profile campaigns about the link between extractive industry revenue and corruption, human rights abuses, and a lack of development.³⁰ The crises in Angola, where oil revenues were being used to fund a three-decade-long conflict and siphoned for personal gain by officials, and Nigeria, where oil extraction was directly fueling violence in the Niger Delta, received particular attention. This coincided with a proliferation of research about the “resource curse”: a phenomenon describing countries that are rich in natural resources but tend to be materially poorer and worse off in terms of human rights development and quality of life indicators than countries with fewer natural resources.³¹

2000: VPs are designed “to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights.”

2003: EITI aim to become the “internationally accepted standard for transparency in the oil, gas and mining sectors” in order to “reduce corruption . . . poverty, and raise the living standards of entire populations in resource-rich countries.”

Garment Industry

1994–1999+: Civil society campaigns and investigative reporting highlighted sweatshop conditions in the production of clothing for major brands, such as Nike and Gap.³² In 1996, President Clinton convened a meeting of United States apparel and footwear manufacturers, as well as labor unions and civil society, to attempt to resolve these problems that led to the FLA.³³ In 1998, the UK Secretary of State for International Development, Clare Short, did the same with UK companies, unions, and NGOs, which led to the creation of the Ethical Trading Initiative.³⁴ Various other MSIs emerged in this time too.

A number of MSIs are formed in response, including:

1997: Social Accountability International established to “advance human rights at workplaces.”

1998: Ethical Trading Initiative seeks to “improve working conditions in global supply chains by developing effective approaches to implementing the ETI Base Code of labour practice.”

1999: FLA seeks to “combine the efforts of business, civil society organizations, and colleges and universities to promote and protect workers’ rights and to improve working conditions globally through adherence to international standards.”

2000: Worldwide Responsible Accredited Production is dedicated to “promoting safe, lawful, humane and ethical manufacturing around the world through certification and education.”

Internet and Telecommunications

2005–2006: There was widespread criticism of and media attention on the role of internet and communication technology companies, such as Google, Yahoo!, and Microsoft, allegedly aiding and abetting the Chinese government in human rights abuses.³⁵ These included disclosing the email accounts of dissidents,³⁶ providing surveillance and censorship equipment to the government,³⁷ and censoring search results.³⁸

2008: GNI works to “protect and advance freedom of expression and privacy in the ICT industry.”

Private Military and Security Industry

Late 1990s–early 2000s: The use of private military contractors ballooned.³⁹ There were concerns that they were operating in a legal vacuum, with disastrous human rights consequences.⁴⁰ By the mid-2000s, there were calls for regulation⁴¹ along with greater attention to the human rights and destabilizing consequences of regulation gaps in the industry.⁴² In response, the Swiss government and the International Committee of the Red Cross convened 19 States, which developed the Montreux Document on international humanitarian law obligations of private military providers.⁴³

Coffee

2001–2002: The price of coffee collapsed, reaching the lowest real price in 100 years.⁴⁴ For those working on plantations and estates in large-scale coffee production, this led to increased rights abuses, including difficulty unionizing, discriminatory practices against women, and the use of child labor.⁴⁵ For those working on small-scale farms in developing countries (where the majority of the world's coffee is grown), many were unable to continue their livelihood, which led to extreme poverty.

Forestry

1980s–early 1990s: Deforestation was recognized as one of the world's "most intractable environmental problems" and a "chief contributor to the greenhouse effect."⁴⁶ In 1992, international efforts at the Rio Earth Summit failed to yield any binding agreement to stop deforestation and fell well short of meeting the expectations of actors seeking to address problems associated with deforestation.

Palm Oil (Agriculture, Forestry, and Fishing)

1990s: Global production of palm oil skyrocketed, nearly doubling between 1990–2001.⁴⁷ This rapid expansion led to detrimental environmental impacts, such as severe loss of natural forest cover, and to the displacement of communities for the creation of large-scale plantations, both of which began to receive attention from global civil society by the late 1990s and early 2000s.⁴⁸ Wildfires resulting from deforestation and labor abuses within the palm oil industry also began to attract attention.⁴⁹

2009: International Code of Conduct for Private Security Service Providers Association was launched to oversee the implementation of the International Code of Conduct for Private Security Providers (ICoC) (developed as a complement to the Montreux Document) and to "promote the responsible provision of security services and respect for human rights and national and international law in accordance with the Code."

2002: UTZ launched to "create a world where sustainable farming is the norm. Sustainable farming helps farmers, workers and their families to fulfill their ambitions and contributes to safeguarding the world's resources, now and in the future." (It has now merged with the Rainforest Alliance)

2003: Common Code for the Coffee Community (now known as the **Global Coffee Platform**) was launched with a broad mission of improving the economic, social, and environmental conditions of coffee production and processing.

These MSIs joined existing MSIs already in the coffee sector, such as FairTrade and the Rainforest Alliance.

1993: FSC was created in order to "promote environmentally sound, socially beneficial and economically prosperous management of the world's forests."

1994: SFI envisions "a world that values the benefits of sustainably managed forests."

2003: The Roundtable on Sustainable Palm Oil (RSPO) convenes with the goal to "make sustainable palm oil the norm."

* The mission statements of all 40 MSIs examined in this report are available from the "MSI Trends Dataset" on our website and contains information current as of June 30, 2019. See: www.msi-integrity.org/datasets.

2 The support of many powerful actors, including the UN, legitimized MSIs as one of the central responses to business-related human rights abuses in the Global North

Over time, MSIs garnered broad support from prominent global actors. Many of the world's most powerful governments, finance institutions, and intergovernmental organizations support, fund, or participate in MSIs, as do some of the largest corporations and CSOs. The engagement of these key actors provides MSIs with significant legitimacy and a corresponding influence over how corporations address human rights issues.

A. Prominent CSOs and companies participate in or were part of the call for MSIs

One of the distinguishing features of MSIs is their inclusion of civil society in their multi-stakeholder approach. Prominent global civil society actors have invested significant resources creating and participating in MSIs. Their support and engagement are often perceived—whether accurately or not—as central to the legitimacy of MSIs.⁵⁰

Many of the large international CSOs that helped expose and raise the profile of violations that prompted companies or governments to form MSIs ultimately became founding participants. For example, Global Witness's work investigating abuses in Angola contributed to the creation of EITI, of which Global Witness has long been a participant.⁵¹ Similarly, Human Rights Watch documented the violence in the Niger Delta in the 1990s, which helped spur the creation of VPs.⁵²

Several notable CSOs listed on *Forbes*'s "100 Largest U.S. Charities"⁵³ are participants in or recognized supporters of MSIs, including CARE USA,⁵⁴ The Nature Conservancy,⁵⁵ the International Rescue Committee,⁵⁶ and others. Some NGOs participate in multiple MSIs, such as World Wide Fund for Nature (13 different MSIs) and Solidaridad (seven MSIs).⁵⁷ Of the "Top 20" NGOs identified in NGO Advisor's 2019 Top NGOs list, at least nine are members of at least one MSI.⁵⁸

However, critics have consistently noted the lack of inclusiveness in MSIs in terms of the geographic diversity of their civil society participants, as well as participating CSOs' lack of connection to rights holders. (See this issue explored further in **Insight 2: Stakeholder Participation**.) Empirical work on prominent MSIs has noted with concern that smaller, less-established, or lesser-known groups representing interests from the developing world are "systematically under-represented," and that MSIs often exclude rights holders.⁵⁹

By 2010, many of the largest global brands and multinational corporations had actively supported the creation of key MSIs, thereby committing in their practices and policies to follow the standards and approaches set by MSIs. Major oil companies such as Shell, BP, and Chevron were all early members of MSIs; Google, Yahoo!, and Microsoft were founders; major companies like Nike and Unilever were also founding members of different initiatives. This trend has persisted. In addition to these companies, Apple, the Coca-Cola Company, the Walt Disney Company, LEGO, Walmart, CVS Health, Kellogg's, AT&T, and numerous others on the *Forbes* "World's Most Valuable Brands" list in 2019 are members of various initiatives.⁶⁰ Indeed, of the top 20 largest companies by revenue, 13 either are direct participants in MSIs themselves or have major subsidiaries that are participants.⁶¹

"Many of the world's most powerful governments, finance institutions, and intergovernmental organizations support, fund, or participate in MSIs, as do some of the largest corporations and CSOs."

B. The UN and other powerful international institutions legitimized MSIs as good practice, completing the crystallization of MSIs as a field within business and human rights and an accepted tool of global governance

International institutions have generally embraced the commitments, policies, and processes that MSIs establish. In particular, the reference to and inclusion of MSIs in the UNGPs, the global standard for preventing and addressing the risk of business-related human rights abuses that were adopted in 2011, crystallized the acceptance of MSIs as a field.⁶²

The UN Special Representative for business and human rights, Professor John Ruggie, who spearheaded the development of the UNGPs—and the more than five years of extensive consultations with business, civil society, and governments that preceded their creation—paid particular attention to MSIs during his mandate. Early on in MSIs' history, he commissioned specific consultations on their role as human rights tools,⁶³ and made reference to MSIs in his 2007 report to the United Nations General Assembly, noting that they “seek to close regulatory gaps that contribute to human rights abuses.”⁶⁴ He promoted the idea that business and human rights problems were issues that were sometimes best addressed collectively and, in this light, that MSIs had merit: “. . . recognizing that some business and human rights challenges require multi-stakeholder responses, [MSIs] allocate shared responsibilities and establish mutual accountability mechanisms within complex collaborative networks.”⁶⁵ In this way, MSIs were presented as part of a “constellation” of helpful tools for addressing business and human rights concerns, further reinforcing the idea that they embodied some other option outside the dichotomy of binding public regulation and corporate self-regulation.⁶⁶

The UNGPs, which were endorsed unanimously by the United Nations Human Rights Council, affirmed and crystallized MSIs as tools in two ways. First, they recognized MSIs as sources of “credible, independent” expertise with which businesses would be “well-advised” to consider consulting when responding to complex contexts.⁶⁷ Second, and more concretely, they recognized MSIs as key sources of access to remedy for those who experience rights abuses. In particular, the UNGPs noted that “multi-stakeholder and other collaborative initiatives that are based on respect for human rights-related standards should ensure that effective grievance mechanisms are available.”⁶⁸ We explore how MSIs have provided access to remedy—or rather, how they have failed to do so—in

Insight 5: Remedy.

Since then, MSIs have continued to be included in key international guidance and discussions on business and human rights. They are included in the OECD's *Due Diligence Guidance for Responsible Business Conduct*,⁶⁹ and both the UN and OECD have programmed numerous meetings and discussions focused on standard-setting MSIs.⁷⁰ Examples of their inclusion in other initiatives and institutions are also addressed in the next part of this chapter.

Indeed, the UN itself has created a standard-setting MSI, the UN Global Compact, and has also strongly encouraged the use of multi-stakeholder approaches in order to achieve the United Nations Sustainable Development Goals by 2030.⁷¹ The goals, which range from “zero hunger” to “affordable and clean energy,”⁷² also encourage “multi-stakeholder partnerships as important vehicles” to achieving the desired outcomes.⁷³ The UN has established a registry for multi-stakeholder partnerships toward that end.⁷⁴ All this signifies just how mainstream and accepted MSIs have become as governance institutions.

International financial institutions have provided considerable funding and technical assistance to MSIs, allowing them to wield significant power in the human rights space. The World Bank, for example, has provided over US\$60 million in grants and technical assistance for the implementation of EITI since 2004.⁷⁵ The World Bank has also contributed part of its portfolio of more than US\$2 billion that is dedicated to development of climate resilient water resources to implementation of the Hydropower Sustainability Assessment Protocol in the Zambezi River Basin.⁷⁶ And it provided support for the implementation of the Infrastructure Transparency Initiative (formerly CoST Initiative) in Guatemala.⁷⁷

Beyond supporting or joining the call for MSI creation, as explored earlier in this chapter, several Global North governments, including Switzerland, the United Kingdom, and the United States, have also provided financial and technical support to establish MSIs and to provide for their ongoing operations.⁷⁸ They have also explicitly adopted or approved MSI policies in their own legislative or regulatory frameworks, as explored further in this chapter.

Thus, aside from rights holders and smaller and less established/known groups from the Global South, MSIs had become a mainstay in the business and human rights landscape by the 2010s.

3 As MSIs grew in prominence and power, they became institutional actors in their own right, and in turn, influenced policy frameworks and the implementation of human rights protection—though not always in positive ways

The legitimacy conferred upon MSIs, along with their institutionalization and significant resourcing, has allowed them to wield influence over a range of business and human rights policies and frameworks across an array of sectors. We see evidence of this influence in the role MSIs play in shaping the policies and practices of corporate and non-corporate actors, from informing

“The legitimacy conferred upon MSIs, along with their institutionalization and significant resourcing, has allowed them to wield influence over a range of business and human rights policies and frameworks across an array of sectors.”

government procurement practices and influencing the content of regulation, to shaping the advocacy strategies of CSOs and informing examples of good practice supported by major international institutions. We note that while MSIs’ funding and decision-making processes are largely dominated by Global North actors, as discussed in this chapter, their influence plays out across the North-South divide, albeit in different ways.

Governments have looked to MSI standards as guidance for legislation or as bases for other public policy. Sweden, for example, requires state-owned companies to report according

to the standards set by the Global Reporting Initiative (GRI), an MSI that governs how businesses communicate their impact on issues such as climate change and human rights, while Brazil, Denmark, France, and South Africa have worked with GRI to shape their sustainability reporting policies.⁷⁹ Mexico and Mozambique have used the Roundtable on Sustainable Biomaterials standard to ensure sustainable biofuel production at the national level, and legislation in Bolivia requires private forest owners to obtain MSI certification in certain situations.⁸⁰

Denmark, Japan, New Zealand, the United Kingdom, the Netherlands, France, and Germany all require that publicly purchased wood-based products must bear a sustainability label.⁸¹ Similarly, the standards set by EITI are attributed to have had a normative influence on the passage of transparency regulations in both the European Union and United States,⁸² and many member countries in the Global South have also implemented aspects of EITI's standards through national legislation.

In addition, many governments have embraced MSIs in their NAPs to help implement the UNGPs. NAPs are the policy frameworks developed by governments to protect against adverse human rights impacts by business enterprises.⁸³ Of the 23 plans published as of December 2019, at least 16 referred to MSIs either as examples of good practice or as policy instruments for governments to use in their plans and activities to implement the UNGPs.⁸⁴ The NAPs of the United States and the United Kingdom are particularly illuminating in terms of the influence of MSIs:

- The United States' plan has five "categories of action," one of which is "collaborating with stakeholders," where it refers to MSIs as "pragmatic and effective responses" to business and human rights issues, and lists the specific MSIs it has helped to launch and continues to support, such as EITI and FLA.⁸⁵ In addition, one of the ten intended outcomes of the NAP is to "Enhance the Value of Multi-Stakeholder Initiatives."⁸⁶
- The United Kingdom lists eight commitments for how it will implement the state duty to protect human rights, and two of these commitments are about promoting specific MSIs: ICoC and VPs.⁸⁷

Governments are also members of MSIs and have sought MSI certification for their own operations. EITI, for example, has over 50 countries as members and requires that they publish financial information and disclosures relating to natural resource revenue in the extractive sector (mainly oil and gas).⁸⁸ At the time of writing, the Infrastructure Transparency Initiative had 19 participating countries and promotes the disclosure, validation, and interpretation of data from public infrastructure projects.⁸⁹ In seven countries, the main applicants for FSC certification are national or regional authorities responsible for public forest management.⁹⁰ Governments have also called on Social Accountability International to carry out labor inspections.⁹¹ These are but a few examples of the policy influence of MSIs across the numerous sectors in which they operate.

In addition, international financial institutions and major development banks have supported EITI, and have endorsed it by incentivizing companies and governments to comply with its principles.⁹² For example, the International Monetary Fund (IMF) recently made Equatorial Guinea's request for a major loan conditional on it applying for membership in EITI.⁹³ Similarly, the world's largest multilateral lending institution,⁹⁴ the European Investment Bank, issued a statement of commitment to promote EITI with governments and encourage them to adopt its principles for reporting extractive industry revenues.⁹⁵ Other financial institutions have issued similar endorsements, including the World Bank, the IMF, the European Bank for Reconstruction and Development, and the African Development Bank.⁹⁶

As a general trend, therefore, we see widespread evidence of the influence of MSIs in government policy arenas. However, it should be noted that this influence plays out differently across the Global North-South divide. While many Global South governments participate in MSIs, they generally participate as actors obligated to implement the standards of those MSIs, whereas Global North governments often have some sort of decision-making power within the MSIs without any concomitant obligations (see **Insight 3: Standards & Scope**). It has also been Global North governments who have supported and funded the creation of these initiatives, even though the

activities they intend to address occur in the Global South. This has also led some developing countries to perceive MSIs as “a neo-colonial bid by western nations to tell poor countries how to behave.”⁹⁷ In addition, the governments of Brazil, Russia, India, China, and South Africa, collectively known as BRICS, are not members of any of the four MSIs featured in this study that include national governments as full members responsible for implementing standards.

MSIs can also play an influential role in the advocacy strategies of CSOs seeking to push for reform or change corporate behavior. A case in point is RSPO, which helped to shape the normative framework of advocacy around land rights in Liberia.⁹⁸ Interviews with representatives from Green Advocates International, a Liberia-based NGO, shed light on how local Liberian CSOs, international organizations, local communities, and indigenous forest peoples campaigning around the enforcement of the *RSPO Principles and Criteria* forced the government to clarify property rights in the country, culminating in the passage of the Land Rights Act in 2018.⁹⁹

The significant reach of MSIs is also exemplified in how they shape some consumer preferences. Some MSIs, like other label and certification initiatives, produce consumer-facing labels intended to communicate that certified products have been, in some way, more ethically produced, and therefore they are attempting to influence consumer behavior. Studies show that consumers are increasingly concerned about the environmental and social impacts of the products they purchase. A 2018 Nielsen report, for example, confirms that more consumers are seeking out products with sustainability claims.¹⁰⁰ Similarly, a report from Mintel, a global market research firm, shows that “buying green” has gone mainstream.¹⁰¹ In fact, research shows that the absence of environmental impact information has a negative effect on product sales.¹⁰²

In line with this trend, many consumers rely on the certifications or labels bestowed by some MSIs to make ethical consumption decisions.¹⁰³ For example, Fairtrade International claims that “when you buy products with any of the FAIRTRADE Marks, you support farmers and workers as they improve their lives and their communities.”¹⁰⁴ Survey data, in turn, show that global consumers have trust in the Fairtrade Mark and closely associate it with providing fair prices and a living income to farmers to escape from poverty.¹⁰⁵ Another study showed that 74% of people who have seen the Marine Stewardship Council label have high trust in the initiative’s claims.¹⁰⁶ Similarly, a global research study indicates that the majority of global consumers (60%) believe that choosing a sustainability-labeled product can make a positive difference in the world’s forests.¹⁰⁷ Another study found that consumers in China, France, and Germany rely on certification marks to help them decide whether a product is environmentally friendly.¹⁰⁸

Finally, and critically, we also see evidence of MSI influence in the accountability frameworks of corporate actors. It is now common for companies that release annual human rights or sustainability reports to highlight how their activities are consistent with an MSI’s standards or mission, or otherwise how it has influenced their human rights policies.¹⁰⁹ With over 10,000 companies signed up to the principles set out in the UN Global Compact alone,¹¹⁰ and more than 65 Fortune Global 500 businesses as members of other MSIs,¹¹¹ this reach is significant.

However, the acceptance and adoption of MSI standards as “good practice” for businesses, and thus as an influence on businesses’ human rights policies, is not limited to companies who formally join an MSI. Some companies adopt or mimic MSI practices even if they are not members. A striking example of this is the Canadian mining company, Hudbay Minerals, which publicly endorsed VPs and noted that its security personnel “apply” the principles as a “framework for maintaining safety and security within an operating context that ensures respect for human rights and fundamental freedoms,” even though it is not a member of the initiative.¹¹² When a lawsuit alleging the

company had committed human rights abuses against community members in Guatemala was filed, the Ontario Superior Court of Justice even referenced Hudbay's public statements about its compliance with international human rights standards, including its support of the VPs, to help establish the necessary proximity between the company and plaintiffs, who alleged that Hudbay had failed to uphold its "duty to act with reasonable care."¹¹³

In addition, MSI standards have been more broadly accepted as good practices for industries and companies, such that non-members are also encouraged to comply with them by external actors. For example, many of the indicators in the Corporate Human Rights Benchmark (CHRB), one of the most prominent human rights rankings of companies, are tied to MSIs. For example, CHRB ranks extractive companies based in part on their participation in the MSIs relevant to their sector. Specifically, it looks to whether they are members of, or have policy statements committing them to practices established by, certain MSIs, such as VPs, ICoC, and EITI.¹¹⁴ Similarly, CHRB aligns its indicators for agricultural and apparel companies with some of the standards established by a number of MSIs, including the Ethical Trading Initiative, GRI, and Fair Wear Foundation.¹¹⁵ It is thus perhaps unsurprising that at least 8 of the top 10 scoring companies in the CHRB participate in or support at least one MSI: Adidas, Anglo American, BHP, ENI, Freeport McMoRan, the Marks & Spencer Group, Rio Tinto, and Unilever.¹¹⁶ Similarly, at least 7 of the top 10 companies listed on *Forbes*'s current "World's Most Reputable Companies" index are members of MSIs, or have a major subsidiary that is a member.¹¹⁷ These illustrations underscore the wide-ranging influence of MSIs on the policy frameworks that guide corporate behavior, regardless of MSI membership.

This discussion of MSI influence over actors and policy frameworks has important caveats. First, as the Hudbay litigation makes clear, simply because companies or governments claim to follow or comply with MSI standards does not mean that they do so. This is true also for MSI members, as explored further in **Insight 4: Monitoring & Compliance**. Second, the way in which MSIs have influenced the policies and practices of actors is not always positive—an issue we explore further in **Insight 3: Standards & Scope**.

Third, it should be noted that while the reach of MSIs is vast, it is far from total. Within a given industry, most MSIs do not have anywhere near full participation of an industry or the complete market share of products. In particular, MSIs often struggle to attract large Global South-based brands or retailers (although many producer companies from the Global South participate in MSIs), such as those in China, Russia, and India, as well as smaller and medium-sized consumer-facing companies (see **Insight 3: Standards & Scope**).

However, while MSIs do not have complete coverage of industries, they are institutional policy actors in their own right with their own bureaucracies and interests. Many have dozens of staff and multimillion-dollar budgets.¹¹⁸ The implications of this are that they not only assert influential policy positions, but they also sometimes compete for limited resources and are resistant to change for institutional reasons, such as to preserve their own funding and their established bureaucracies.

Finally, while the role of rights holders in MSIs is explored further in **Insight 2: Stakeholder Participation**, it is worth noting that rights holders were largely, if not completely, excluded from the process of creating MSIs and there is little research on whether they have influenced MSIs or been influenced by them. Our interviews with rights holders suggest that they are largely unaware of MSIs and often depend on CSOs to leverage MSIs' influence to achieve positive human rights outcomes.

4 MSIs' influence has peaked over the last few years, and their effectiveness as human rights tools has been increasingly questioned by a range of stakeholders

Critical signs indicate that the influence of MSIs has peaked and that faith in their effectiveness to protect human rights is diminishing. While MSIs have matured over the past three decades, we believe they are not likely to be the default or staple governance framework in the years to come as they were previously. Indeed, experience and information have changed the tenor of the debate about MSIs, particularly over the last few years.

Since their inception, MSIs have not been without controversy, but there was a “honeymoon period” in which they were given an opportunity by some donors, CSOs, governments, and others to prove their worth by waiting to see the results of the grand experiment. That honeymoon period appears to be ending, and the controversies about MSIs and their effectiveness has returned to the forefront, with a significant division between those who support them as pragmatic solutions to pressing challenges and those who see them as a distraction or diversion from promoting mandatory measures. On the one hand, proponents of MSIs have tended to underscore the importance of harnessing the resources and skills of different stakeholders to address complex issues that no single actor could solve alone,¹¹⁹ the democratizing potential of MSIs,¹²⁰ and that they perform an important role in filling governance gaps in a context where progress has been slow in developing legally binding human rights standards.¹²¹ On the other hand, some critics have highlighted the inherent limitations of MSIs as a form of voluntary private regulation, emphasizing that they are only as rigorous as companies will let them be and that enforceable rules or government regulation are the only effective ways to protect human rights.¹²² Some critics have gone further and contended that MSIs are a kind of “window dressing” for corporations, arguing that MSIs ultimately have reinforced the expansion of corporate influence and the private capture of regulatory spaces.¹²³ In some circles, the debates around MSIs have been so polarized that some individuals who participate in multi-stakeholder processes have reported that they believe they are seen by non-participants as “traitor[s]” who are sitting “with the enemy.”¹²⁴

“The growing evidence of corporate influence and limited protection of human rights has undermined the credibility of MSIs over the past few years, and led a growing and wide range of stakeholders to be concerned about the effectiveness of the model and to retreat from the field or focus on mandatory efforts.”

These divisions are now front and center in the field of MSIs. Increasingly, however, skeptics of the MSI model have been bolstered by evidence of MSIs' failures to fulfill the promise to bridge governance gaps by protecting human rights and increasing accountability, and by studies into the limits of MSIs.

The growing evidence of corporate influence and limited protection of human rights has undermined the credibility of MSIs over the past few years, and led a growing and wide range of stakeholders to be concerned about the effectiveness of the model and to retreat from the field or focus on mandatory efforts.

A. Stakeholders are retreating from the MSI model in favor of increased public regulation and more accountable models of private regulation

The critiques of MSIs have evolved from being largely based on predictions about the limitations or consequences of embracing private governance as a solution to human rights issues, to becoming rooted in specific allegations and evidence about the shortcomings of MSIs. While echoes of those

original debates have persisted, we do not intend to repeat them in full here. Instead, we want to highlight how the critiques of MSIs have changed, particularly in terms of who is criticizing MSIs and on what bases. There are multiple indicators that the civil society actors who are so important to MSI legitimacy are losing faith in their ability to get results for rights-holders. Importantly, however, other stakeholders, including government actors, funders, and some corporations have raised questions about MSIs, viewing them, at a minimum, as insufficient on their own to fill governance gaps.

First, in recent years some CSOs who were longstanding participants in or involved with the creation of MSIs have left those initiatives, citing an overall lack of faith after multiple years of engaging within them. For example, the NYU Stern Center for Business and Human Rights departed GNI in 2016 noting three key concerns: (1) that the initiative lacked a shared vision, including what is “reasonable to expect of companies”; (2) the lack of a “credible and transparent system for evaluating company compliance with human rights standards”; and (3) the need to build the initiative’s organizational capacity.¹²⁵ Oxfam departed from VPs in 2013, citing “frustration at the lack of meaningful progress in independent assurance [monitoring], despite more than ten years of deliberation and discussion.”¹²⁶ The Maquila Solidarity Network departed from FLA in 2013 because they felt like a “voice crying in the wilderness” about the need for structural reforms to monitoring and remedial mechanisms and for more labor representation in the initiative.¹²⁷ PanEco decided to leave RSPO in 2016, citing “the sheer level of inaction.”¹²⁸ FERN and Greenpeace departed from FSC in 2011 and 2018, respectively, each noting fundamental concerns about the approach taken by the initiative.¹²⁹

Second, MSIs are increasingly the targets of advocacy campaigns, rather than the solutions to those campaigns, or are the subject of external investigation. For example, the failure of grievance mechanisms at two MSIs—RSPO and Bonsucro—to satisfactorily resolve complaints from the perspective of aggrieved community members led CSOs to file complaints with the relevant National Contact Points, under the *OECD Guidelines*. Those complaints, which were both accepted for review, are discussed further in **Insight 4: Monitoring & Compliance**. In that chapter, we also include examples of many reports and campaigns by CSOs highlighting the failure of MSIs to detect abuses in specific instances, which we need not repeat here. However, to illustrate how extreme this advocacy has become, the creation of FSC Watch, which describes itself as “a group of people, FSC supporters and members among them, who are very concerned about the constant and serious erosion of the FSC’s reliability and thus credibility,” is illustrative.¹³⁰ The group was specifically launched as a counterpoint to FSC, to monitor concerns such as misuse of the FSC label, issues with its complaint process, and “structural problems within the FSC system.” The group believes that internal reform of FSC is very unlikely “as power within the FSC is increasingly captured by vested commercial interest.”¹³¹ More generally, the evidence of MSIs failures has energized some CSOs and academics to include MSIs as examples “green-washing” or “white-washing”: the idea that MSIs claim to be promoting sustainable practices while, in reality, they are protecting corporate interests and providing cover for unsustainable practices.¹³²

The mounting criticisms of MSIs are permeating beyond civil society. For example, cocoa industry regulators in Ivory Coast and Ghana recently threatened to suspend all voluntary sustainability programs in a bid to get more chocolate makers to pay a living income differential for cocoa purchases, noting that voluntary programs only serve selected farmers while the living income differential will benefit all growers.¹³³ In the US, the evidence over the past few years that child labor continues to be present in the cocoa supply chains of Nestle, Mars, and Hershey—all of which have a proportion of their supply chains certified by MSIs as part of their efforts to address child labor—spurred some senators to call for regulatory action last year.¹³⁴ Privately, some major long-term donors to MSIs and civil society participants in them have noted to us that they will be no longer funding the initiatives due to concerns about their effectiveness. These reservations by donors have been linked to the failure of MSIs to demonstrate that they are having positive impacts on rights holders (see **Insight 6: Impact**).

The corporate retreat has manifested itself in a different way. While corporations have rarely publicly critiqued the MSI model, their actions indicate a retreat as they return to creating industry-only or industry-dominated groups, briefly discussed later in this chapter.

Third, other forms of private governance are spreading and may be displacing the role of MSIs.¹³⁵ One important development is the emergence of the Worker-driven Social Responsibility (WSR) model through the WSR Network, which presents itself as both a counterpoint and response to the failings of MSIs and other voluntary corporate codes of conduct by creating legally enforceable obligations for companies that join.¹³⁶ This model has been widely celebrated and acclaimed. For example, the UN Special Rapporteur on human trafficking called the Fair Food Program (FFP), one of the earliest examples of a WSR initiative, an “international benchmark”; a representative from the United Nations Working Group on Business and Human Rights noted that it was a “groundbreaking model” that they hoped “serves as a model elsewhere”; and an article in the *New York Times* described it as the “best workplace-monitoring program” in the United States.¹³⁷ Since FFP was launched in 2011, other WSR initiatives have emerged—the Accord on Fire and Building Safety in Bangladesh (2013); the Milk With Dignity Agreement (2017); and the Gender Justice in Lesotho Apparel agreement (2019)—and have garnered wide support among CSOs and unions.¹³⁸ This level of acclaim and growth indicates that MSIs appear to no longer be the “gold standard” of private governance.

An overview of the main differences between the MSI and WSR models is presented in Spotlight 1.1; however, two fundamental distinctions are that the WSR model: (1) is structurally designed to center rights holders in the monitoring and implementation of standards; and (2) creates legally binding standards that workers can enforce outside of the initiatives. The importance of these two qualities was emphasized in a statement by 15 CSOs supporting WSR, including the American Civil Liberties Union, Human Rights Watch, and the Columbia Law School Human Rights Clinic. The statement underscored the importance of enforceability and noted that the level of worker participation envisaged by WSR “is not only required by human rights standards . . . but is essential for the efficacy of any initiative to improve workers’ rights in the supply chain.”¹³⁹ The statement concluded that “WSR models overcome the shortcomings of alternative approaches in protecting workers’ basic dignity and human rights to fair working conditions, health, and safety.”¹⁴⁰

The rise of the WSR model as a more rigorous private governance alternative not only threatens to displace MSIs’ perceived legitimacy as the “gold standard,” but it also has reignited the debate about whether MSIs are human rights maximizing and seriously dulled the aura of legitimacy surrounding MSIs as a governance miracle. Indeed, it is worth noting that the workers and organizations behind the WSR model actively reject any suggestion that they are an “MSI 2.0” or an evolution of the MSI model. Rather, they have positioned themselves as an *alternative* to MSIs, a significant indicator of the lack of faith in MSIs by those constituents. In the words of the WSR Network:

“The rise of the WSR model as a more rigorous private governance alternative not only threatens to displace MSIs’ perceived legitimacy as the “gold standard,” but it also has reignited the debate about whether MSIs are human rights maximizing and seriously dulled the aura of legitimacy surrounding MSIs as a governance miracle.”

Given the demonstrable failure of corporate social responsibility schemes and multi-stakeholder initiatives, Worker-driven Social Responsibility (WSR) is the only existing model with the proven potential to afford protection for the most vulnerable and lowest-wage workers in global supply chains.¹⁴¹

This distancing from MSIs is broadly resonant with our engagement with those in grassroots or movement-based organizations, who often see the term “multi-stakeholder” as a co-opted or tainted idea representing a push for corporate power in spaces traditionally reserved for governments, rather than a model for delivering protections or benefits to communities.¹⁴²

SPOTLIGHT 1.1. Differences between the WSR and MSI models

The WSR model is premised on a Statement of Principles that identify six qualities central to the model, many of which are framed as distinct from the practices of “traditional corporate social responsibility.” While the WSR model presents these key differentials in the context of protecting workers in contracted supply chains, we have attempted to distill these into more generalized principles to demonstrate its differences from MSIs.

- **Initiatives are driven by rights holders.** As the one stakeholder group with a direct interest in effective protections, rights holders have the lead in identifying priorities, designing the system, setting standards, and in monitoring, enforcement, and remediation of harms. This is different from MSIs, which have generally failed to include rights holders in their designs, governance, and key implementation activities (see **Insight 2: Stakeholder Participation**).
- **Rights holders can enforce binding obligations.** Whereas MSIs are based on voluntary commitments (see **Insight 4: Monitoring & Compliance**), WSR requires that rights holders have the power to enforce corporate commitments.
- **Comprehensive, rights holder-centered and independent verification of compliance is required.** Compliance monitoring requirements under WSR specifically recognize the shortcomings of top-down audits, which are discussed further in **Insight 4: Monitoring & Compliance**. They instead require: “inspectors who have deep knowledge of the relevant industry and labor issues and who operate independently of financial control and influence by buyers; in-depth worker interviews, carried out under conditions where workers can speak freely, as a central component of the process; effective worker education that enables workers to function as partners with outside inspectors; and a complaint resolution mechanism that operates independently of buyers and suppliers and in which workers organizations play a central role.”¹⁴³
- **Time-bound measurement of progress is required.** WSR initiatives include objectively measurable outcomes within set deadlines. This is not a general feature of MSIs, and without such requirements, they can create the appearance of progress while failing to deliver positive impacts for rights holders (see **Insight 6: Impact**).
- **There are mandatory economic consequences for failures to comply.** In the MSI context, non-compliance can, at best, lead to some internal sanction or engagement to encourage non-compliance. As explored in **Insight 4: Monitoring & Compliance**, in practice this has proved to be a major Achilles heel, with compliance ultimately dependent on the goodwill of members. By comparison, to incentivize compliance WSR requires that there be swift, certain, and meaningful economic consequences that result from non-compliance. In the WSR model, this means that the large corporate buyers must use their leverage with suppliers to force them to remediate violations. If, after those efforts are exhausted, suppliers have not complied, then corporate members must end their relationship with that supplier, providing a strong economic incentive for suppliers to comply and remediate harms.
- **Powerful actors must provide incentives and the capacity for compliance.** In the WSR model, corporations at the top of the supply chain (such as retailers or brands) pay a price premium or offer other financial inducements that enable suppliers to meet the costs of compliance with the program’s standards. This is in recognition of the power differential between buyers and suppliers. In the MSI model, powerful actors have generally been spared any obligations, with some rare exceptions, as discussed in **Insight 3: Standards & Scope**.

Fourth, occurring parallel to these developments has been a resurgence in advocacy for public regulation as a necessary tool in ensuring compliance and accountability for business-related human rights issues.¹⁴⁴ Internationally, a global network of over 250 grassroots organizations, trade unions, CSOs, and social movements created the Global Campaign to Reclaim Peoples Sovereignty, Dismantle Corporate Power and Stop Impunity in 2014 to call for a binding treaty that centers communities and ends corporate impunity.¹⁴⁵ The same year, the UN Human Rights Council, lobbied by a coalition of CSOs and governments, created an intergovernmental working group to begin a business and human rights treaty drafting process. Across Europe, a coalition of CSOs has called for mandatory human rights due diligence and remedy laws,¹⁴⁶ resulting in due diligence legislation passing in France in 2017, and multiple initiatives and movements for similar legislation continuing in Belgium, the UK, Switzerland, Denmark, and others.¹⁴⁷ These demands are not just being driven by civil society; many businesses now support mandatory due diligence.¹⁴⁸ The movement against forced and child labor has been particularly successful in instituting mandatory regulation. The Netherlands adopted a child labor due diligence law in 2017, the UK instituted a transparency clause into its Modern Slavery Act in 2015, the United States strengthened laws prohibiting imports produced with forced labor in 2016, and similar anti-slavery legislation was introduced in Canada in 2018.¹⁴⁹

“These calls for public regulation implicitly, and sometimes explicitly, acknowledge that the reliance on a voluntary approach to addressing business-related human rights abuse, including the promised ‘third-way’ of MSIs, has proven insufficient and does not prevent violations of human rights.”

These calls for public regulation implicitly, and sometimes explicitly, acknowledge that the reliance on a voluntary approach to addressing business-related human rights abuse, including the promised “third-way” of MSIs, has proven insufficient and does not prevent violations of human rights. Accompanying this resurgence of hard law advocacy has been a renewed attention on the reference in the UNGPs to a “smart mix of measures — national and international, mandatory and voluntary — to foster business respect for human rights.”¹⁵⁰ For a long period of time, we primarily heard the phrase “smart mix” used to justify the adequacy of voluntary measures, a notion that experts on business and human rights have called “a misreading of what the UNGPs say.”¹⁵¹ Now, the usage of the term has changed, and is primarily being used to support the need to go “beyond voluntary” and create mandatory laws to supplement voluntary measures, by recognizing that “a smart mix of measures necessarily involves legislative and regulatory measures.”¹⁵² As one attendee at the 2019 UN Forum on Business and Human Rights, which included the “smart mix” as a key theme,¹⁵³ noted:

The primary focus of the UN Annual Forum this year was the ‘smart mix’ of measures needed under the UNGPs to meet the state duty to protect human rights in practice.

We are witnessing a clear shift in this discussion. This was the first time that stakeholders from a wide range of backgrounds (including the private sector) made clear that more mandatory state measures are needed, alongside voluntary measures, and that both national and international state measures need to work together.¹⁵⁴

Embedded within these calls for public regulation, and the “beyond voluntary” and “smart mix” framings, is an understanding that the scales had become too heavily weighted in favor of voluntary initiatives, rather than mandatory measures. This was made explicit in recent comments by the United Nations Working Group on Business and Human Rights that there has been a “lack of government leadership in addressing governance gaps” and that there is now an urgent need for

governments to establish effective legislation.¹⁵⁵ At the same time, the Working Group recognized the “limits to what law alone can achieve in the short term,” and therefore, that “other approaches” should simultaneously be pursued.¹⁵⁶ In other words, a constellation or smart mix should continue to be pursued, but this means improving mandatory measures.

The cumulative effect of evident failures by MSIs to prevent human rights abuses, the emergence of alternative models, the push for public regulation, the growing perception of MSIs as tainted entities, and the questioning or retreat of a wide range of actors from MSIs all point to the end of their honeymoon period and a peak in their influence. As the critiques and calls for public regulation grow louder, it is likely that MSIs will no longer be considered sufficient responses to governance gaps in place of mandatory measures.

B. Corporate actors are increasingly designing their own voluntary standards, which have less oversight, further undermining the credibility of voluntary approaches to human rights regulation

As some civil society actors retreat from the MSI model, corporate actors take up increasingly larger shares of the space, reinforcing the concerns that led those civil society actors to retreat.

While corporations have rarely publicly critiqued the MSI model, their actions indicate a retreat as they return to creating industry-only or industry-dominated groups, as well as more elaborate modes of self-regulation. For example, some food and drink manufacturers have moved away from MSI certification or labels to establish their own standards for ethical sourcing of raw materials. This happened in 2017 when the UK supermarket chain Sainsbury’s pulled out of Fairtrade International and created their own “Fairly Traded” label.¹⁵⁷ This was not a one-off occurrence:

Soon after Sainsbury’s [created its own label], the global confectionary giant Mondelez – whose vast holdings include Cadbury and Toblerone – pulled several of its chocolate bars, including Dairy Milk, away from Fairtrade and into an in-house certification scheme called “Cocoa Life”. Nestlé had launched a similar programme, “Cocoa Plan”, back in 2013; between them, Nestlé and Mondelez control roughly 40% of the British chocolate market. Starbucks has “CAFE Practices”; Barry Callebaut, the Swiss cocoa producer, has “Cocoa Horizons”; US giant Cargill has “Cocoa Promise”; McDonald’s has its own “McCafé Sustainability Improvement Platform”.¹⁵⁸

The firms referenced in the passage all have some products that are certified by MSIs, such as Fairtrade International or Rainforest Alliance, but the ratio of MSI to self-regulated products is diminishing.¹⁵⁹ While there has not been any recent research that quantifies the growth of different types of private governance initiatives—from corporate-only initiatives to other types of standard-setting initiatives with different governance arrangements—they appear to be proliferating at a faster rate than when MSIs were first being formed in the late 1990s and early 2000s.¹⁶⁰ One standard’s database tracks over 460 “ecolabels,”¹⁶¹ another tracks over 230 sustainability standards,¹⁶² and so forth.

While it is too early to predict the consequence of the rise and proliferation of corporate-only voluntary initiatives, when combined with the more general mood shift around MSIs by other actors, it may threaten MSIs’ ability to recruit or sustain corporate participants over the long term.

Our Insights

Our analysis of the growth, establishment, and impact of the field of MSIs has led us to the conclusion that their influence has peaked. The stamp of legitimacy conferred upon MSIs by powerful international institutions, governments, and CSOs, epitomized by the inclusion of MSIs in the UNGPs, gave them significant influence in the field of business and human rights as prominent responses to major governance gaps. Over the past decade, however, growing skepticism among some civil society actors about the effectiveness of MSIs has resulted in their retreat from initiatives, allowing corporate interests to increasingly dominate the field. Instead of being a response to advocacy campaigns, the specific failings and concerning practices of MSIs have now often made them the target of civil society advocacy. This suggests that the influence of MSIs is eroding. In its place is a resurgence in advocacy for public regulation and more accountable private mechanisms, such as the Worker-Driven Social Responsibility model, that are displacing MSIs as the “gold standard”, and which may better bridge the governance gaps that MSIs had promised to fill.

Without any solid understanding or rigorous study on their effectiveness as corporate accountability tools, MSIs became a default response to major business and human rights crises in the 1990s and 2000s. The acceptance of MSIs as legitimate governance mechanisms by powerful Global North actors, and their ultimate inclusion in the UNGPs, lent them considerable influence to shape the agenda for responding to abuses in an industry, particularly in terms of establishing norms and “good practices” for how companies or governments should address business and human rights issues. (We explore these issues further in **Insight 3: Standards & Scope**.) In earlier work, this rise has driven us to refer to MSIs as “the new regulators.”¹⁶³

When MSIs emerged, they were viewed as promising opportunities to bridge the divide between voluntary measures (which included efforts such as industry codes of conduct) and involuntary initiatives (which broadly speaking fell under such rubrics as corporate accountability and hard regulatory or court-centric enforcement). However, the promised bridge of the 2010s did not materialize in most cases, as the key features underlying this distinction—that MSIs would offer member accountability, meaningfully include CSOs as “watchdogs,” or check corporate power (see **Insights 2-5**)—were weakly or inadequately implemented. Put differently, at each turn, MSIs have prominently leaned toward the voluntary side of the spectrum of voluntary and involuntary mechanisms.

“Now, as there is a resurgence towards advocacy for hard law . . . the influence and reach of MSIs appear to have peaked.”

Now, as there is a resurgence towards advocacy for hard law and to go “beyond voluntary,” by adding more mandatory or involuntary measures to the “smart mix,” the influence and reach of MSIs appear to have peaked. There are a growing number of specific allegations, with evidence, that MSIs have failed to ensure that their members respect human rights. The chorus of governments, donors, and CSOs, who initially were open to seeing what this grand experiment in governance might bring, now seems to be quietening. If MSIs’ support from civil society continues to diminish, and key CSOs terminate their participation, MSIs will increasingly be spaces dominated by corporate interests. The emergence of the alternative WSR model, which seeks to respond to the failings of MSIs and other voluntary corporate codes of conduct by creating legally enforceable obligations for members and centering rights holders in the design and implementation of its systems, indicates that MSIs will no longer be seen as “best-in-class” with respect to private governance.

While MSIs can also perform other functions beyond closing governance gaps—such as developing or diffusing norms, or sharing lessons and building trust between stakeholders—their credibility as tools to ensure that their members follow their standards and respect human rights, thereby closing the governance gaps that led to their creation, has peaked and is seriously doubted by many. As the remainder of this report makes clear, we believe this doubt is justified, and we anticipate that it will continue to grow. We anticipate that future government NAPs on business and human rights will be heavily critiqued if they continue simply to point to their support of MSIs as evidence that the issues underlying those MSIs are being addressed. Furthermore, we anticipate that there will be calls for governments to demonstrate what mandatory measures they are implementing to supplement the efforts of MSIs.

However, as the current influence of MSIs remains significant, and because they themselves and their advocates wield significant power and resources, we anticipate that the future of MSIs will be a contested space for some time as evidence of their shortcomings grows.

Cited Sources

- Accord on Fire and Building Safety in Bangladesh. "About." Accessed February 1, 2020. <https://bangladeshaccord.org/about>.
- . "Guide for Potential Signatories." August 15, 2018. <https://bangladeshaccord.org/resources/2018-transition-accord/2018/08/15/guide-for-potential-signatories>.
- African Development Bank Group. "AfDB Endorses Extractive Industries Transparency Initiative (EITI)." October 16, 2006. <https://www.afdb.org/en/news-and-events/afdb-endorses-extractive-industries-transparency-initiative-eiti-1598>.
- Albin-Lackey, Chris. "Without Rules: A Failed Approach to Corporate Accountability." Human Rights Watch, 2013. https://www.hrw.org/sites/default/files/related_material/business.pdf.
- Alliance for Water Stewardship. "Members." Accessed January 30, 2020. <https://a4ws.org/membership/members/>.
- Archer, John. "Norway Boosts Antigraft Rules for Oil Industry." *Reuters*. September 2, 2007. <https://uk.reuters.com/article/norway-anticorruption-oil/norway-boosts-antigraft-rules-for-oil-industry-idUKL278652520070927>.
- Barnali, Choudhury. "Balancing Soft and Hard Law for Business and Human Rights." *International & Comparative Law Quarterly* 67, no. 4 (2018): 961–86. <https://doi.org/10.1017/S0020589318000155>.
- Barneycastle, Chris. *The Sustainable Forestry Initiative of the American Forest & Paper Association*. Asheville: US Department of Agriculture, 2001. <https://www.fs.usda.gov/treesearch/pubs/6769>.
- Baumann-Pauly, D., J. Nolan, A. van Heerden, and Michael Samway. "Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy Assessments of the Fair Labor Association and the Global Network Initiative." *J Bus Ethics* 143, (2017): 771–87.
- Bendell, Jem. "In Whose Name? The Accountability of Corporate Social Responsibility." *Development in Practice* 15, nos. 3 and 4 (2005): 362–74.
- Better Cotton Initiative. "Find Members." Accessed January 30, 2020. <https://bettercotton.org/find-members/>.
- Bodenheimer, Miriam. *Transition towards Socially Sustainable Behavior? An Analysis of the Garment Sector*. Working Paper Sustainability and Innovation, No. S07. Karlsruhe: Fraunhofer ISI, 2018. <http://nbn-resolving.de/urn:nbn:de:0011-n-4943482>.
- Bonsucro. "Our Members." Accessed January 30, 2020. <http://www.bonsucro.com/bonsucro-members-2/>.
- . "Solidaridad Foundation." Accessed February 5, 2020. <https://www.bonsucro.com/members/solidaridad-foundation/>.
- Business & Human Rights Resource Centre. "National Movements for Mandatory Human Rights Due Diligence in European Countries." May 22, 2020. <https://www.business-humanrights.org/en/national-movements-for-mandatory-human-rights-due-diligence-in-european-countries>.
- . "Yahoo! Lawsuit (re China)." February 18, 2014. <https://www.business-humanrights.org/en/yahoo-lawsuit-re-china-0>.
- Buzatu, Anne-Marie. *Towards an International Code of Conduct for Private Security Providers: A View from Inside a Multistakeholder Process*. SSR Paper 12, 2015. Geneva: The Geneva Centre for the Democratic Control of Armed Forces, 2015. <https://icoca.ch/sites/default/files/resources/DCAF-SSR-12.pdf>.
- Casson, Anne. *The Hesitant Boom: Indonesia's Oil Palm Sub-Sector in an Era of Economic Crisis and Political Change*. CIFOR Occasional Paper No. 29, Bogor: CIFOR, 2000. <https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/4111/OP-029.pdf?sequence=1&isAllowed=y>.
- Chatterjee, Sumana. "Chocolate Industry Mount Campaign Over 'Slave Free' Labeling." *McClatchy Newspapers*, August 1, 2001. <https://www.mcclatchydc.com/news/nation-world/world/article24592945.html>.
- Cohn & Wolfe, Etsy Environmental Partners, Landor, and PSB. *Green Brands, Global Insights 2011*. 2011. <https://www.rankingthebrands.com/PDF/The%202011%20Image%20Power%20Green%20Brands.pdf>.
- Corporate Human Rights Benchmark. *Corporate Human Rights Benchmark Methodology 2019: For the Agricultural Products, Apparel and Extractives Industries*. London: CHRB, 2019. <https://www.corporatebenchmark.org/sites/default/files/CHRB%202019%20Methodology%20AGAPEX%2016Jan19.pdf>.
- CoST: Infrastructure Transparency Initiative. "Where We Work." Accessed January 30, 2020. <http://infrastructuretransparency.org/where-we-work/>.
- Cotton, Sarah K., Ulrich Petersohn, Molly Dunigan, Q. Burkhart, Megan Zander Cotugno, Edward O'Connell, and Michael Webber. *Hired Guns: Views about Armed Contractors in Operation Iraqi Freedom*. Santa Monica: RAND Corporation, 2010.

Coulby, Hilary. *A Guide to Multistakeholder Work: Lessons from The Water Dialogues*. The Water Dialogues, 2009. https://sswm.info/sites/default/files/reference_attachments/COULBY%202009%20A%20Guide%20to%20Multistakeholder%20Work.pdf.

de Bassompierre, Leanne, and Baudelaire Mieu. "Cocoa Growers Review Chocolate Brands' Sustainability Plans." *Bloomberg*. October 10, 2019. <https://www.bloomberg.com/news/articles/2019-10-10/top-cocoa-growers-review-chocolate-brands-sustainability-plans-k1kzpkap>.

Dekhili, Sihem, and Mohamed Akli Achabou. "Eco-Labeling Brand Strategy: Independent Certification versus Self-Declaration." *European Business Review* 26, no. 4 (2014): 305–29.

Dismantle Corporate Power. "Peoples Treaty." Accessed April 1, 2020. <https://www.stopcorporateimpunity.org/request-solidarity-actions/>.

Duke University Seminar on Corporations and International Law. "The Effects of a 'Crude Awakening': Multi-Stakeholder Initiatives and the Quest for Transparency." Seminar Blog. May 7, 2018. <https://sites.duke.edu/corporations/2018/05/07/the-effects-of-a-crude-awakening-multi-stakeholder-initiatives-and-the-quest-for-transparency/>.

Division for Sustainable Development, United Nations Department of Economic and Social Affairs *Supporting the Sustainable Development Goals through Multi-Stakeholder Partnerships: Ensuring That No One Is Left Behind*. Partnerships for Sustainable Development Goals. New York: UN, 2016. <https://sustainabledevelopment.un.org/content/documents/2329Partnership%20Report%202016%20web.pdf>.

Ecolabel Index. Homepage. Accessed February 1, 2020. <http://www.ecolabelindex.com/>.

Education for Sustainable Development Research Center, Rikkyo University and Development Education Association and Research Center. *The Palm Oil Story: What Does It Mean to Be "Eco-Friendly"?* Tokyo: ESDRC and DEAR, 2009. <https://www2.rikkyo.ac.jp/web/esdrc/products/palm%20oil%20story%20.pdf>.

EITI. "Countries: Implementation Status." Accessed January 30, 2020. <https://eiti.org/countries>.

ETI. "ETI's Origins." Accessed June 18, 2020. <https://www.ethicaltrade.org/about-eti/why-we-exist/etis-origins>.

European Bank for Reconstruction and Development. "Natural Resources." Accessed January 30, 2020. <https://www.ebrd.com/cs/Satellite?c=Content&pagename=EBRD%2FContent%2FContentLayout&cid=1395281536457>.

European Coalition for Corporate Justice. "Over 100 Civil Society Organisations Demand Human Rights and Environmental Due Diligence Legislation." December 2, 2019. <https://corporatejustice.org/news/16800-over-100-civil-society-organisations-demand-human-rights-and-environmental-due-diligence-legislation>.

European Investment Bank. *EIB at a Glance: 2019*. Kirchberg: EIB, 2019. https://www.eib.org/attachments/general/the_eib_at_a_glance_en.pdf.

———. "EIB Support for the Extractive Industry Transparency Initiative." February 27, 2008. <https://www.eib.org/en/press/news/eib-support-for-the-extractive-industry-transparency-initiative>.

Extractive Industries Transparency Initiative. "Companies." Accessed January 30, 2020. <https://eiti.org/supporters/companies>.

Fair Food Program. Homepage. Accessed February 1, 2020. <https://www.fairfoodprogram.org>.

———. "Recognition." Accessed February 1, 2020. <https://www.fairfoodprogram.org/recognition/>.

Fair Labor Association. "Affiliates." Accessed January 30, 2020. <https://www.fairlabor.org/affiliates/participating-companies>.

———. "Participating Companies." Accessed January 30, 2020. <https://www.fairlabor.org/affiliates/participating-companies>.

Fairtrade International, "The Fairtrade Marks," Accessed January 31, 2020. <https://info.fairtrade.net/what/the-fairtrade-marks>.

Federal Department of Foreign Affairs. "Participating States of the Montreux Document." Accessed January 30, 2020. <https://www.eda.admin.ch/eda/en/home/foreign-policy/international-law/international-humanitarian-law/private-military-security-companies/participating-states.html>.

Feinberg, Andrew. "House Committee Okays Latest Version of GOFA." *The Hill*. March 27, 2012. <http://thehill.com/blogs/hillicon-valley/technology/218571-house-committee-okays-latest-version-of-gofa>.

Fern. "Are Corporate Voluntary Commitments to Halt Deforestation Working?" June 4, 2019. <https://www.fern.org/news-resources/are-corporate-voluntary-commitments-to-halt-deforestation-working-1976/>.

———. "FERN Statement to the Forest Stewardship Council on Withdrawing [FERN'S] Membership." June 8, 2011. <https://www.fern.org/news-resources/fern-statement-to-the-forest-stewardship-council-on-withdrawing-ferns-membership-633/>.

Florverde Sustainable Flowers. "Governance." Accessed date. <https://florverde.org/governance/>.

- Forbes. "The 100 Largest U.S. Charities." Accessed January 30, 2020. <https://www.forbes.com/top-charities/list/#tab:rank>.
- . "The World's Most Valuable Brands." Accessed January 30, 2020. <https://www.forbes.com/powerful-brands/list/#tab:rank>.
- Forest Stewardship Council. "Member Portal." Accessed February 5, 2020. <http://memberportal.fsc.org>.
- . "Our History." Accessed January 29, 2020. <https://us.fsc.org/en-us/who-we-are/our-history>.
- Fransen, Luc. "Multi-Stakeholder Governance and Voluntary Programme Interactions: Legitimation Politics in the Institutional Design of Corporate Social Responsibility." *Socio-Economic Review* 10, (2012): 163–92. https://www.researchgate.net/publication/228152398_Multi-Stakeholder_Governance_and_Voluntary_Programme_Interactions_Legitimation_Politics_in_the_Institutional_Design_of_Corporate_Social_Responsibility.
- Freeman, Bennett, Maria B. Pica, and Christopher N. Camponovo. "A New Approach to Corporate Responsibility: The Voluntary Principles on Security and Human Rights." *Hastings Int'l & Comp. L. Rev.* 24, no. 3, (2001): 423–49. https://repository.uchastings.edu/hastings_international_comparative_law_review/vol24/iss3/11.
- FSC-Watch. "About." Accessed February 1, 2020. <https://fsc-watch.com/about/>.
- Global Coffee Platform. "Solidaridad Network Celebrates 50 Years of Sustainability Advocacy & Action." May 27, 2019. <https://www.global-coffeeplatform.org/latest/2019/solidaridad-network-celebrates-50-years-of-sustainability-advocacy-action#newsarticle>.
- Global Forum on Responsible Business Conduct. *Background Note: Multi-Stakeholder Initiatives and Responsible Business Conduct*. Global Forum Conference. Paris: OECD, 2016. <https://mneguidelines.oecd.org/global-forum/2016-GFRBC-Session-Note-MSI-and-RBC.pdf>.
- Global Network Initiative. "Our Members." Accessed January 30, 2020. <https://globalnetworkinitiative.org/#home-menu>.
- Global Reporting Initiative. "Brazil, Denmark, France and South Africa Governments Join in Commitment to Sustainability Reporting." June 20, 2012. <https://www.globalreporting.org/information/news-and-press-center/Pages/Brazil,-Denmark,-France-and-South-Africa-governments-join-in-commitment-to-sustainability-reporting.aspx>
- . "Sweden and Denmark Lead the Way in Sustainability Reporting." October 6, 2010. <https://www.globalreporting.org/information/news-and-press-center/Pages/Sweden-and-Denmark-lead-the-way-in-Sustainability-Reporting.aspx>.
- Global Sustainable Tourism Council. "GSTC Members." Accessed February 5, 2020. <https://www.gstcouncil.org/membership/gstc-members/>.
- Global Witness. *A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets*. London: Global Witness, 1999. <https://cdn.globalwitness.org/archive/files/pdfs/a%20crude%20awakening.pdf>.
- GlobeScan. "Consumers See Fairtrade as Reflection of Their Personal Values, Based on Fair Prices, Living Income and Improving Farmer Livelihoods." May 22, 2019. <https://globescan.com/fairtrade-reflection-consumers-personal-values/>.
- Good Electronics. "With Apple the FLA Is Not Convincing as a Multi-Stakeholder Initiative." August 5, 2013. <https://goodelectronics.org/with-apple-the-fla-is-not-convincing-as-a-multi-stakeholder-initiative/>.
- Greenpeace International. "Greenpeace International to Not Renew FSC Membership." March 26, 2018. <https://www.greenpeace.org/international/press-release/15589/greenpeace-international-to-not-renew-fsc-membership/>.
- Gresser, Charis, and Sophia Tickell. *Mugged: Poverty in Your Coffee Cup*. Oxford: Oxfam International, 2002. <http://www.oxfamamerica.org/files/mugged-full-report.pdf>.
- Hai, Teoh Cheng. *The Palm Oil Industry in Malaysia: From Seed to Frying Pan*. Zürich: WWF Switzerland, 2002. https://www.rspo.org/files/resource_centre/OP_Chain_Part%20A_new.pdf.
- Herbert, Bob. "In America, a Sweatshop Victory." *The New York Times*. December 22, 1995. <https://www.nytimes.com/1995/12/22/opinion/in-america-a-sweatshop-victory.html>.
- Holmqvist, Caroline. *Private Security Companies: The Case for Regulation*. SIPRI Policy Paper No. 9. Stockholm: SIPRI, January 2005. <https://www.sipri.org/publications/2005/sipri-policy-papers/private-security-companies-case-regulation>.
- Houlihan, Michael, and Bonnie Harvey. "It's Official: Customers Prefer Sustainable Companies." *Entrepreneur*. December 1, 2018. <https://www.entrepreneur.com/article/324001>.
- Humphreys, M., J. Sachs, and J. Stiglitz. "Introduction: What is the Problem with Natural Resource Wealth?" In *Escaping the Resource Curse*. Eds. M. Humphreys, J. Sachs, and J. Stiglitz. New York: Columbia University Press, 2007.
- Human Rights Watch. "Coalition Letter to Ben & Jerry's in Support of Milk with Dignity Program." June 7, 2017. <https://www.hrw.org/news/2017/06/07/coalition-letter-ben-jerrys-support-milk-dignity-program#>.

- . "'Race to the Bottom' Corporate Complicity in Chinese Internet Censorship." Vol. 18, no. 8C. New York: HRW, 2006. <https://www.hrw.org/reports/2006/china0806/china0806web.pdf>.
- . "Some Transparency, No Accountability: The Use of Oil Revenue in Angola and Its Impact on Human Rights." Vol. 16, no. 1A. January 2004. <https://www.hrw.org/sites/default/files/reports/angola0104.pdf>.
- . "The Niger Delta: No Democratic Dividend." Vol. 14, no. 6A. October 2002. <https://www.hrw.org/reports/2002/nigeria3/nigerdelta.pdf>.
- . "The Ogoni Crisis: A Case Study of Military Repression in Southeastern Nigeria." Vol. 7, no. 9. July 1995. <https://www.hrw.org/legacy/reports/1995/Nigeria.htm>.
- ICTI Ethical Toy Program. "Brands and Retailers." Accessed January 30, 2020. <https://www.ethicaltoyprogram.org/en/brands-and-retailers/>.
- International Monetary Fund. *Fiscal Transparency Initiative: Integration of Natural Resource Management Issues*. Policy Paper. Washington, DC: IMF, 2019. <https://www.imf.org/en/Publications/Policy-Papers/Issues/2019/01/29/pp122818fiscal-transparency-initiative-integration-of-natural-resource-management-issues>.
- Initiative for Responsible Mining Assurance. "Responsible Mining Map." Accessed January 30, 2020. <https://map.responsiblemining.net>.
- International Seafood Sustainability Foundation. "ISSF Board of Directors: Working Together to Achieve Common Goals." Accessed February 5, 2020. <https://issf-foundation.org/who-we-are/governance/board-of-directors/>.
- International Trade Centre. "Participating Standards." February 9, 2020. <http://www.intracen.org/itc/market-data/standards-map/participating-standards/>.
- Johns, Rebecca, and Leyla Vural. "Class, Geography and the Consumerist Turn." *Environment and Planning A: Economy and Space* 32, no. 7 (2000): 1193–1213.
- Jopke, P., and G. C. Schoneveld. *Corporate Commitments to Zero Deforestation: An Evaluation of Externality Problems and Implementation Gaps*. Occasional Paper 181. Bogor: CIFOR, 2018. http://www.cifor.org/publications/pdf_files/QccPapers/OP-181.pdf.
- Koos, Carlo and Jan Pierskalla. "The Effects of Oil Production and Ethnic Representation on Violent Conflict in Nigeria: A Mixed-Methods Approach." *Journal of Terrorism and Political Violence* 28, no.5 (2016): 888-911.
- Labowitz, Sarah, and Michael Posner. "NYU Center for Business and Human Rights Resigns Its Membership in the Global Network Initiative." NYU Stern Center for Business and Human Rights, February 1, 2016. <https://bhr.stern.nyu.edu/blogs/cbhr-letter-of-resignation-gni>.
- . "Why We're Leaving the Global Network Initiative." NYU Stern Center for Business and Human Rights, February 1, 2016. <https://bhr.stern.nyu.edu/blogs/why-were-leaving-the-gni>.
- Locke, Richard, Fei Qin, and Alberto Brause. *Does Monitoring Improve Labour Standards? Lessons from Nike*. Corporate Social Responsibility Initiative. Working Paper No. 24. Cambridge: Harvard University John F. Kennedy School of Government, 2006. https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/cr/ri/files/workingpaper_24_locke.pdf.
- Lucena, Cicero, and John Gummer. "Why Rio Failed in the Past and How it Can Succeed This Time." *The Guardian*. June 12, 2012, <https://www.theguardian.com/environment/2012/jun/12/rio20-agenda-politicians-john-gummer>.
- Madeley, John. "Coffee Price Rise Is Just a Hill of Beans." *The Guardian*. April 3, 2004. <https://www.theguardian.com/business/2004/apr/04/theobserver.observerbusiness11>.
- Marine Stewardship Council. *Demand for independent Labelling of Seafood Is Increasing Globally*. London: MSC, 2018. https://www.msc.org/docs/default-source/default-document-library/for-business/msc-consumer-survey-2018-results.pdf?sfvrsn=ba113ca2_2.
- Marx, Axel. *Global Governance and the Certification Revolution: Types, Trends and Challenges*. Working Paper No. 53. Leuven: Leuven Centre for Global Governance Studies, 2011. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1764563.
- Meakin, Stephanie. *The Rio Earth Summit: Summary of the United Nations Conference on Environment and Development*. Ottawa: Library of Parliament, Research Branch, Science and Technology Division, 1992. [http://publications.gc.ca/Collection-R/LoPBdP/BP/bp317-e.htm#D.%20Statement%20of%20Land%20Resources:%20Deforestation\(txt\)](http://publications.gc.ca/Collection-R/LoPBdP/BP/bp317-e.htm#D.%20Statement%20of%20Land%20Resources:%20Deforestation(txt)).
- Microsoft. *Human Rights Annual Report Fiscal Year 2019*. Redmond: Microsoft, 2019. <https://aka.ms/Annualhumanrightsreport2019>.
- Migrant Justice. "Milk with Dignity Campaign." Accessed February 1, 2020. <https://migrantjustice.net/milk-with-dignity-campaign>.
- Moog, Sandra, Andre Spicer, and Steffen Böhm. "The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council." *J Bus Ethics* 128 (2015): 469–93.

- MSI Integrity. *The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives*. Berkeley: MSI Integrity and Duke Human Rights Center at the Kenan Institute for Ethics, 2017). <https://msi-database.org/data/The%20New%20Regulators%20-%20MSI%20Database%20Report.pdf>.
- Nederland, MVO. "Dutch business association representing 2000 companies issues statement in support of mandatory due diligence legislation." Business & Human Rights Resource Centre. April 29, 2020. <https://www.business-humanrights.org/en/dutch-business-association-representing-2000-companies-issues-statement-in-support-of-mandatory-due-diligence-legislation>.
- Nielson. "Sustainability Sells: Linking Sustainability Claims to Sales." October 16, 2018. <https://www.nielson.com/us/en/insights/article/2018/sustainability-sells-linking-sustainability-claims-to-sales/>.
- Office of the US Secretary of State. *Voluntary Principles and Responsible Business Conduct: First National Action Plan for the United States of America*. Washington, DC: United States Government, 2016. <https://mk0globalnapshvllfq4.kinstacdn.com/wp-content/uploads/2017/10/NAP-USA.pdf>.
- Office of the United Nations High Commissioner for Human Rights. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. New York: UN, 2011. https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.
- . *Second Annual UN Forum on Business and Human Rights 2–4 December 2013 Final Programme Outline*. Final Program Outline. New York: UN, 2013. <https://www.ohchr.org/Documents/Issues/Business/ForumSession2/ProgrammeOutline.pdf>.
- Organization for Economic Co-operation and Development. *Multinational Enterprises in Situations of Violent Conflict and Widespread Human Rights Abuses*. OECD Working Papers on International Investment. Paris: OECD, 2002. https://www.oecd.org/countries/myanmar/WP-2002_1.pdf.
- . *OECD Due Diligence Guidance for Responsible Business Conduct*. Paris: OECD, 2018. <http://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>.
- Oxfam America. "Oxfam Leaves Voluntary Principles for Security and Human Rights Multi-Stakeholder Initiative." April 16, 2013. <https://www.business-humanrights.org/en/oxfam-leaves-voluntary-principles-for-security-and-human-rights-multi-stakeholder-initiative>.
- PanEcho. "PANECO Resigns from RSPO over "Sheer Level of Inaction." June 7, 2016. <https://paneco.ch/en/paneco-resigns-from-rspo-over-sheer-level-of-inaction/>.
- Partnerships for the SDGs. "About." Accessed January 31, 2020. <https://sustainabledevelopment.un.org/partnerships/about#criteria>.
- Program for the Endorsement of Forestry Certification. "Consumers Trust Certification Labels and Expect Companies to Label Products, PEFC Research Shows." November 20, 2014. <https://www.pefc.org/news/consumers-trust-certification-labels-and-expect-companies-to-label-products-pefc-research-shows>.
- Republic of Equatorial Guinea and the International Monetary Fund. *Equatorial Guinea: Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding*. Washington, DC: IMF, 2018. <https://www.imf.org/external/np/loi/2018/gnq/051118.pdf>.
- Rich, Eddie, and Jonas Moberg. *Beyond Governments: Making Collective Governance Work—Lessons from the Extractive Industries Transparency Initiative*. London: Greenleaf Publishing Limited, 2015.
- Ropes & Gray. "Modern Slavery Compliance For U.S.-Based (and Other) Multinationals: A Review of Recent Compliance and Disclosure Developments in the United States and Abroad." April 22, 2019. <http://www.ropesgray.com/en/newsroom/alerts/2019/04/Modern-Slavery-Compliance-For-US-based-and-Other-Multinationals-A-Review-of-Recent-Compliance>.
- Rose, Cecily. *International Anti-Corruption Norms: Their Creation and Influence on Domestic Legal Systems*. Oxford: OUP, 2015.
- Rosenberg, Jamie. "Millennials Green Up Consumerism." Mintel Blog. May 20, 2015. <https://www.mintel.com/blog/consumer-market-news/millennials-green-up-american-consumerism>.
- Roundtable on Responsible Soy. "Members." Accessed January 30, 2020. <http://www.responsiblesoy.org/about-rtrs/members/?lang=en>.
- Roundtable on Sustainable Biomaterials. "Community Hub." Accessed February 5, 2020. <https://rsb.org/community-membership/community-hub/>.
- . "Government & NGO Partnerships." Accessed January 30, 2020. <https://rsb.org/services-products/government-ngo-partnerships/>.
- Roundtable on Sustainable Palm Oil. "Search Members." Accessed February 5, 2020. <https://rspo.org/members/all>.
- Schatz, Brian, and Michael B. Jenkins. "Deforestation Can't Be Stopped by Voluntary Action Alone." January 15, 2020. World Economic Forum. <https://www.weforum.org/agenda/2020/01/deforestation-voluntary-action-regulation/>.

- Scherer, A. G., and G. Palazzo. "The New Political Role of Business in a Globalized World: A Review of a New Perspective on CSR and Its Implications for the Firm, Governance, and Democracy." *Journal of Management Studies* 48, no. 4, (April 2011): 899–931.
- Schleifer, Philip. "Varieties of Multi-Stakeholder Governance: Selecting Legitimation Strategies in Transnational Sustainability Politics." *Globalizations* 16, no. 1 (2019): 50–66.
- Schmetzer, Uli. "Children Modern-Day Serfs in Asia's Merciless Sweatshops." *Chicago Tribune*. November 18, 1991. <https://www.chicagotribune.com/news/ct-xpm-1991-11-18-9104140673-story.html>.
- Schouten, Greetje, and Pieter Glasbergen. "Private Multi-Stakeholder Governance in the Agricultural Market Place: An Analysis of Legitimization Processes of the Roundtables on Sustainable Palm Oil and Responsible Soy." *International Food and Agribusiness Management Review* 15, Special Issue B (2012): 63–88. https://www.researchgate.net/publication/261377823_Private_Multi-stakeholder_Governance_in_the_Agricultural_Market_Place_An_Analysis_of_Legitimization_Processes_of_the_Roundtables_on_Sustainable_Palm_Oil_and_Responsible_Soy.
- Sethi, S. Prakash, and Donald H. Schepers. "United Nations Global Compact: The Promise-Performance Gap." *Journal of Business Ethics* 122, no. 2 (June 2014): 193–208. <https://www.jstor.org/stable/42921428>.
- Singer, Peter W. "War, Profits and Vacuum of International Law: Privatized Military Firms and International Law." *Columbia Journal of Transnational Law*, 42, no. 2 (2004): 521–50. <https://www.brookings.edu/wp-content/uploads/2016/06/singer20040122.pdf>.
- Smith, Chris, US Rep. *Amendment in the Nature of a Substitute to H.R. 3605*. HR 3605. 112th Cong., 2nd sess. March 12, 2012. http://chrissmith.house.gov/uploadedfiles/hr_3605_ans.pdf.
- Stout, Ria "The Rainforest Alliance—UTZ Merger, a Sustainability Homecoming." Rainforest Alliance. January. 8, 2018. <https://www.rainforest-alliance.org/articles/rainforest-alliance-utz-merger-sustainability-homecoming>.
- Subramanian, Samanth. "Is Fair Trade Finished?" *The Guardian*, July 23, 2019. <https://www.theguardian.com/business/2019/jul/23/fair-trade-ethical-certification-supermarkets-sainsburys>.
- Sustainable Development Goals Knowledge Platform. "Multi-Stakeholder Partnerships & Voluntary Commitments." Accessed January 31, 2020. <https://sustainabledevelopment.un.org/sdinaction>.
- . "Sustainable Development Goals." Accessed February 6, 2020. <https://sustainabledevelopment.un.org/sdgs>.
- Thindwa, Jeff. "Multi Stakeholder Initiatives: Platforms of Collective Governance for Development." The World Bank. July 7, 2015. <http://blogs.worldbank.org/governance/multi-stakeholder-initiatives-platforms-collective-governance-development>.
- Tripathi, Salil, et al. *Voluntary Principles on Security and Human Rights: Performance Indicators*. London: International Alert, 2008. <https://www.international-alert.org/sites/default/files/publications/VoluntaryPrinciplesOnSecurityHumanRights.pdf>.
- . *Second Annual UN Forum on Business and Human Rights 2–4 December 2013 Final Programme Outline*. Final Program Outline. New York: UN, 2013. <https://www.ohchr.org/Documents/Issues/Business/ForumSession2/ProgrammeOutline.pdf>.
- United Nations General Assembly, Human Rights Council. *Implementation of General Assembly Resolution 60/251 of March 2006 Entitled "Human Rights Council": Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts*. UN doc. A/HRC/4/035. New York: UN, 2007. <https://www.business-humanrights.org/sites/default/files/media/bhr/files/SRSG-report-Human-Rights-Council-19-Feb-2007.pdf>.
- . *Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*. Addendum. UN doc. A/HRC/26/25/Add.4. New York: UN, 2014. https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_25_Add.4_ENG.DOC.
- UN Global Compact. "Our Participants." Accessed January 30, 2020. <https://www.unglobalcompact.org/what-is-gc/participants/>.
- UN Working Group on Business and Human Rights. *Guidance on National Action Plans on Business and Human Rights*. Geneva: UNWG, 2016. https://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf.
- Utting, Peter. "Regulating business via multi-stakeholder initiatives: a preliminary assessment." In USRISD, *Voluntary Approaches to Corporate Responsibility: Readings and a Resource Guide*. Geneva: NGLS, 2002. [http://www.unrisd.org/80256B3C005BCCF9/%20\(httpAuxPages\)/35F2BD0379CB6647C1256CE6002B70AA/\\$file/uttngls.pdf](http://www.unrisd.org/80256B3C005BCCF9/%20(httpAuxPages)/35F2BD0379CB6647C1256CE6002B70AA/$file/uttngls.pdf).
- US Congress. House. *Global Online Freedom Act of 2006*. HR 4780. 109th Cong., 1st sess. Introduced in House February 16, 2006. <https://www.congress.gov/bill/109th-congress/house-bill/4780/text>.
- US House of Representatives, Subcommittee on Africa, Global Human Rights, and International Organizations and the Subcommittee on Asia and the Pacific, Committee on International Relations. *The Internet in China: A Tool for Freedom or Suppression?* 109 Cong., 2nd sess. 2006. https://chrissmith.house.gov/uploadedfiles/2006.02.15_the_internet_in_china_-_a_tool_for_freedom_or_suppression.pdf.

- UTZ. "UTZ: What's in a Name?" Accessed January 20, 2020. https://utz.org/better-business-hub/marketing-sustainable-products/utz-whats-in-a-name/?gclid=Cj0KCQiAmsrxBRDaARIsANYiD1rXKqvDLH8NYYX_Qo04V-zgKKy_IfNU7ETOi2FpHyNyfwH8N-LeCk1AaAp68EALw_wcB.
- Valet, Vicky. "The World's Most Reputable Companies." *Forbes*. May 7, 2019. <https://www.forbes.com/sites/vickyvalet/2019/03/07/the-worlds-most-reputable-companies-2019/#24787c9913b6>.
- Van der Ploeg, F. "Natural Resources: Curse or Blessing?" *Journal of Economic Literature* 49, no. (2011): 366–420. <https://www.jstor.org/stable/23071620?seq=1>.
- Whoriskey, Peter. "Senators Call for Crackdown on Cocoa Imports Made with Forced Child Labor." *Washington Post* July 16, 2019. <https://www.washingtonpost.com/business/2019/07/16/senators-call-dhs-crack-down-cocoa-imports-made-with-forced-child-labor/>.
- Whoriskey, Peter, and Rachel Siegel. "Cocoa's Child Laborers." *Washington Post*. June 5, 2019. <https://www.washingtonpost.com/graph-ics/2019/business/hershey-nestle-mars-chocolate-child-labor-west-africa/>.
- Wishart, Marcus J., et al. *Application of the Hydropower Sustainability Assessment Protocol in the Zambezi River Basin*. Working paper. Washington, DC: World Bank, 2019. <http://documents.worldbank.org/curated/en/653781547149896277/Application-of-the-Hydropower-Sustainability-Assessment-Protocol-in-the-Zambezi-River-Basin>.
- Worker Rights Consortium. "Leading Apparel Brands, Trade Unions, and Women's Rights Organizations Sign Binding Agreements to Combat Gender-Based Violence and Harassment at Key Supplier's Factories in Lesotho." Press Release. August 15, 2019. <https://www.workersrights.org/press-release/leading-apparel-brands-trade-unions-and-womens-rights-organizations-sign-binding-agreements-to-combat-gender-based-violence-and-harassment-at-key-suppliers-factories-in-lesotho/>.
- World Bank. *Base Line Study: Transparency in the Public Construction Sector in Guatemala*. Washington, DC: World Bank, 2010. <http://documents.worldbank.org/curated/en/310121468035452650/Base-line-study-transparency-in-the-public-construction-sector-in-Guatemala>.
- . *Company Codes of Conduct and Industry Standards: An Analytical Comparison*. Part I of II. Washington, DC: World Bank, 2003. <http://documents.worldbank.org/curated/en/416281468096001385/pdf/346620v10CompanyCodesofConduct.pdf>.
- . "Supporting Enhanced Transparency in Extractives: The World Bank's Support to EITI." Brief. March 12, 2018. <https://www.worldbank.org/en/topic/extractiveindustries/brief/supporting-enhanced-transparency-in-extractives-the-world-banks-support-to-eiti>.
- The World Resources Institute. *World Resources 1988–89: An Assessment of the Resource Base That Supports the Global Economy, in collaboration with United Nations Environment Programme*. New York: Basic Books, 1988. http://pdf.wri.org/worldresources1988-89_bw.pdf.
- Worker-driven Social Responsibility Network. "CSR and MSIs." Accessed February 1, 2020. <https://wsr-network.org/what-is-wsr/csr-and-msis/>.
- . "Organizational Endorsers." Accessed February 1, 2020. <https://wsr-network.org/organizational-endorsers/>.
- Yale Environment 360. "Greenwashed Timber: How Sustainable Forest Certification Has Failed." February 20, 2018. <https://e360.yale.edu/features/greenwashed-timber-how-sustainable-forest-certification-has-failed>.
- Zeller, Tom. "Online Firms Facing Questions About Censoring Internet Searches in China." *The New York Times*. February 15, 2006. <https://www.nytimes.com/2006/02/15/technology/online-firms-facing-questions-about-censoring-internet-searches.html>.

Endnotes

- 1 While parts of this chapter briefly note that debate, we do not set out to comprehensively document the resistance to multi-stakeholderism, but rather to focus on the power and influence of the actors who have engaged with the “field of MSIs.” For background on debates around MSIs and multi-stakeholderism, see, e.g., Jem Bendell, “In Whose Name? The Accountability of Corporate Social Responsibility,” *Development in Practice* 15, nos. 3 & 4 (June 2005): 362–74; Sandra Moog, André Spicer, and Steffen Böhm, “The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council,” *Journal of Business Ethics* 128 (May 2014): 469–93; Peter Utting, “Regulating business via multi-stakeholder initiatives: a preliminary Assessment” in UNRISD, *Voluntary Approaches to Corporate Responsibility: Readings and a Resource Guide* (Geneva: NGLS, 2002).
- 2 Initiatives that are not industry- or issue-specific, such as the Global Reporting Initiative or UN Global Compact, might be better seen as a general response to the rise of globalization, governance gaps, and the impact of corporations on people and the planet.
- 3 For example, UTZ was originally formed as a “corporate initiative” and then later included other stakeholders: “[UTZ: What’s in a Name?](#)” UTZ, accessed January 20, 2020.
- 4 D. Baumann-Pauly, J. Nolan, A. van Heerden, and Michael Samway, “Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy assessments of the Fair Labor Association and the Global Network Initiative,” *J Bus Ethics* 143, (2017): 772.
- 5 See Utting, “Regulating business,” 4-5.
- 6 Stephanie Meakin, *The Rio Earth Summit: Summary of the United Nations Conference on Environment and Development* (Ottawa: Library of Parliament, Research Branch, Science and Technology Division, 1992). . See also Cicero Lucena and John Gummer, “Why Rio Failed in the Past and How it Can Succeed This Time,” *The Guardian*, June 12, 2012.
- 7 Meakin, *Rio Earth Summit*. See also The World Resources Institute, *World Resources 1988-89: An Assessment of the Resource Base That Supports the Global Economy, in collaboration with United Nations Environment Programme* (New York: Basic Books, 1988), 71.
- 8 “[Our History](#),” Forest Stewardship Council, accessed January 29, 2020.
- 9 Chris Barneycastle, *The Sustainable Forestry Initiative of the American Forest & Paper Association* (Asheville: US Department of Agriculture, 2001), 110–112.
- 10 See, e.g., “[Are Corporate Voluntary Commitments to Halt Deforestation Working?](#)” Fern, June 4, 2019, ; Brian Schatz and Michael B. Jenkins, “[Deforestation Can’t Be Stopped by Voluntary Action Alone](#),” World Economic Forum, January 15, 2020.
- 11 See, e.g., Bob Herbert, “[In America, a Sweatshop Victory](#),” *The New York Times*, December 22, 1995, , regarding Gap’s decision to allow independent monitors in its supply factories in Central America; Richard Locke, Fei Qin, and Alberto Brause, *Does Monitoring Improve Labour Standards? Lessons from Nike*, Working Paper No. 24 (Cambridge: Harvard University John F. Kennedy School of Government, [Corporate Social Responsibility Initiative](#), 2006), 7–13, describing Nike’s early responses to abuses in its supply chain; Uli Schmetzer, “[Children Modern-Day Serfs in Asia’s Merciless Sweatshops](#),” *Chicago Tribune*, November 18, 1991.
- 12 Rebecca Johns and Leyla Vural, “Class, Geography and the Consumerist Turn,” *Environment and Planning A: Economy and Space* 32, no. 7 (2000): 1203–04.
- 13 Johns and Vural, “Class,” 1203.
- 14 Johns and Vural, “Class,” 1204; see also Miriam Bodenheimer, *Transition towards Socially Sustainable Behavior? An Analysis of the Garment Sector*, Working Paper Sustainability and Innovation, No. S07/2018, (Karlsruhe: [Fraunhofer Institute for Systems and Innovation Research](#), 2018), 26–27, explaining that some of the companies and a few non-governmental organizations (NGOs) from the Apparel Industry Partnership created the Fair Labor Association (FLA) while other NGOs along with trade unions founded the Worker Rights Consortium.
- 15 See “[Yahoo! Implicated in Third Cyberdissident Trial](#),” Reporters without Borders, April 19, 2006, ; Joseph Kahn, “[Yahoo Helped Chinese to Prosecute Journalist](#),” *The New York Times*, September 8, 2005, ; Tom Zeller, Jr., “[Critics Press Companies on Internet Rights Issues](#),” *The New York Times*, November 8, 2005, 1; “[Google Censors Itself for China](#),” *BBC News*, January 25, 2006, ; David Barboza and Tom Zeller, Jr., “[Microsoft Shuts Blog’s Site after Complaints by Beijing](#),” *The New York Times*, January 6, 2006, ; Tom Malinowski, “[U.S.: Put Pressure on Internet Companies to Uphold Freedom of Expression: Testimony before the Congressional Human Rights Caucus](#),” Human Rights Watch, February 2, 2006, ; see also Baumann-Pauly et al., “Industry-Specific Multi-Stakeholder Initiatives,” 780–81.
- 16 US House of Representatives, Subcommittee on Africa, Global Human Rights, and International Organizations and the Subcommittee on Asia and the Pacific, [The Internet in China: A Tool for Freedom or Suppression?](#), 109th Cong., 2nd sess., 2006, 4.
- 17 Baumann-Pauly et al., “Industry-Specific Multi-Stakeholder Initiatives,” 781.
- 18 US Congress, House, [Global Online Freedom Act of 2006](#), HR 4780, 109th Cong., 1st sess., introduced in House February 16, 2006.
- 19 This clause was introduced after being heard by the House Foreign Affairs Subcommittee on Africa, Global Health, and Human Rights. Andrew Feinberg, “[House Committee Okays Latest Version of GOFA](#),” *The Hill*, March 27, 2012, For the revised Act, see US Rep. Chris Smith, [Amendment in the Nature of a Substitute to H.R. 3605](#), HR 3605, 112th Cong., 2nd sess., March 23, 2012.
- 20 Johns and Vural, “Class,” 1203.
- 21 Note that some other legislative efforts have been successful, such as California’s Assembly Bill 633 (AB 633), but there have not been any comprehensive national or international efforts that would cover US brands or retailers.
- 22 Peter Whoriskey and Rachel Siegel, “[Cocoa’s Child Laborers](#),” *Washington Post*, June 5, 2019.
- 23 This ultimately spurred the creation of the International Cocoa Initiative, an international multi-stakeholder initiative designed not to set standards but to facilitate dialogue and learning. It also coincided with the launch of the standard-setting MSI, UTZ, which addresses child labor in cocoa and other commodities. See Whoriskey and Siegel, “Cocoa’s Child Laborers”; Sumana Chatterjee, “[Chocolate Industry Mount Campaign Over ‘Slave Free’ Labeling](#),” *McClatchy Newspapers*, August 1, 2001, UTZ has since joined the Rainforest Alliance. Ria Stout, “[The Rainforest Alliance — UTZ Merger, a Sustainability Homecoming](#),” Rainforest Alliance, January 8, 2018.
- 24 See Eddie Rich and Jonas Moberg, *Beyond Governments: Making Collective Governance Work—Lessons from the Extractive Industries Transparency Initiative* (London: Greenleaf Publishing Limited, 2015).
- 25 Bennett Freeman, Maria B. Pica, and Christopher N. Camponovo, [A New Approach to Corporate Responsibility: The Voluntary Principles on Security and Human Rights](#), Hastings Int’l & Comp. L. Rev. 24, no. 3, (2001): 426–28.

26 Freeman, Pica, and Camponovo, *New Approach*, 425.

27 For a brief overview of this debate, see Jens Martens, *Corporate Influence on the Business and Human Rights Agenda of the United Nations*, Working Paper, (Aachen/Berlin/Bonn/New York: MISEROR, Brot für die Welt, and Global Policy Forum, 2014).

28 Utting, "Regulating business," 4.

29 See, e.g., OECD, *Multinational Enterprises in Situations of Violent Conflict and Widespread Human Rights Abuses*, *OECD Working Papers on International Investment*, (Paris: OECD Publishing, 2002).

30 See, e.g., Human Rights Watch, *Some Transparency, No Accountability: The Use of Oil Revenue in Angola and Its Impact on Human Rights*, vol. 16, no. 1A, (New York: Human Rights Watch, 2004); Carlo Koos and Jan Pierskalla "The Effects of Oil Production and Ethnic Representation on Violent Conflict in Nigeria: A Mixed-Methods Approach" *Journal of Terrorism and Political Violence* 28, no.5 (2016): 888-911.

31 For a survey of the literature, see, e.g., F. Van der Ploeg, "Natural Resources: Curse or Blessing?" *Journal of Economic Literature* 49, no. 2, (June 2011): 366–420; M. Humphreys, J. Sachs, and J. Stiglitz, "Introduction: What is the Problem with Natural Resource Wealth?" *In Escaping the Resource Curse*, ed. M. Humphreys, J. Sachs, and J. Stiglitz, (New York: Columbia University Press, 2007).

32 See, e.g., Bob Herbert, "In America, a Sweatshop Victory," *The New York Times*, December 22, 1995.

33 See earlier discussion about the formation of the FLA.

34 "ETI's Origins," Ethical Trading Initiative, accessed June 18, 2020.

35 See, e.g., Human Rights Watch, "Race to the Bottom" *Corporate Complicity in Chinese Internet Censorship*, vol. 18, no. 8(C), (New York: HRW, 2006).

36 See, e.g., "Yahoo! Lawsuit (re China)," Business & Human Rights Resource Centre, February 18, 2014.

37 See, e.g., Tom Zeller, "Online Firms Facing Questions About Censoring Internet Searches in China," *The New York Times*, February 15, 2006.

38 See, e.g., Human Rights Watch, "Race to the Bottom."

39 Sarah K. Cotton, Ulrich Petersohn, Molly Dunigan, Q. Burkhart, Megan Zander Cotugno, Edward O'Connell, and Michael Webber, *Hired Guns: Views about Armed Contractors in Operation Iraqi Freedom* (Santa Monica, CA: RAND Corporation, 2010), ch. 2.

40 Peter W. Singer, "War, Profits and Vacuum of International Law: Privatized Military Firms and International Law," *Columbia Journal of Transnational Law* 42, no. 2 (2004): 522–24.

41 See Caroline Holmqvist, *Private Security Companies: The Case for Regulation*, SIPRI Policy Paper No. 9 (Stockholm: SIPRI, January 2005).

42 Singer, "War," and Holmqvist, *Private Security Companies*, both collect media coverage of human rights violations by members of private military companies, including rape, arms trafficking, and attempted coups. Singer notes that the status of members of private military companies captured by armed combatants was unclear, as was the responsibility of their employers towards them or their families. Singer, "War," 525.

43 For an updated list of states and international organizations that joined the Montreux Document, see "Participating States of the Montreux Document," Federal Department of Foreign Affairs, accessed January 30, 2020.

44 John Madeley, "Coffee Price Rise Is Just a Hill of Beans," *The Guardian*, April 3, 2004.

45 Charis Gresser and Sophia Tickell, *Mugged: Poverty in Your Coffee Cup* (Oxford: Oxfam International, 2002), 9–11.

46 World Resources Institute, *World Resources*, 173,186.

47 Teoh Cheng Hai, *The Palm Oil Industry in Malaysia: From Seed to Frying Pan* (Zürich: WWF Switzerland, 2002).

48 Anne Casson, *The Hesitant Boom: Indonesia's Oil Palm Sub-Sector in an Era of Economic Crisis and Political Change*, Occasional Paper No. 29, (Bogor: Center for International Forestry Research, 2000), 1.

49 See, e.g., Education for Sustainable Development Research Center (ESDRC), Rikkyo University and Development Education Association and Research Center (DEAR), *The Palm Oil Story: What Does It Mean to Be "Eco-Friendly"?* (Tokyo: ESDRC and DEAR, 2009), 16.

50 Luc Franssen, "Multi-Stakeholder Governance and Voluntary Programme Interactions: Legitimation Politics in the Institutional Design of Corporate Social Responsibility," *Socio-Economic Review* 10 (2012): 169.

51 Global Witness, *A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets* (London: Global Witness, 1999); "The Effects of a 'Crude Awakening': Multi-Stakeholder Initiatives and the Quest for Transparency," Duke University Seminar on Corporations and International Law, May 7, 2018.

52 Human Rights Watch, *The Niger Delta: No Democratic Dividend*, vol. 14, no. 6, (New York: Human Rights Watch, 2002), 2–3, 33; Human Rights Watch, *The Ogoni Crisis: A Case-Study of Military Repression in Southeastern Nigeria*, vol. 7, no. 5, (New York: Human Rights Watch, 1995).

53 "The 100 Largest U.S. Charities," *Forbes*, accessed January 30, 2020.

54 "Members," Alliance for Water Stewardship, accessed January 30, 2020.

55 "Members," Alliance for Water Stewardship; see also "Members," Roundtable on Responsible Soy, accessed January 30, 2020.

56 "Our Participants," UN Global Compact, accessed January 30, 2020.

57 The World Wide Fund for Nature participates in the following: "Members," Alliance for Water Stewardship; "Find Members," Better Cotton Initiative, accessed January 30, 2020; "Our Members," Bonsucro, accessed January 30, 2020; "Responsible Mining Map," Initiative for Responsible Mining Assurance, accessed January 30, 2020; "Community Hub," Roundtable on Sustainable Biomaterials, accessed February 5, 2020; "Governance," Florverde Sustainable Flowers, accessed February 5, 2020; "ISSF Board of Directors: Working Together to Achieve Common Goals," International Seafood Sustainability Foundation, accessed February 5, 2020; "Members," Roundtable on Responsible Soy, accessed February 5, 2020; "Search Members," Roundtable on Sustainable Palm Oil, accessed February 5, 2020; "Member Portal," Forest Stewardship Council, accessed February 5, 2020; "GSTC Members," Global Sustainable Tourism Council, accessed February 5, 2020; "ISCC Members,"

International Sustainability and Carbon Certification, accessed February 5, 2020; “[Our Participants](#),” UN Global Compact. Solidaridad participates in the following: “Find Members,” Better Cotton Initiative; “[Solidaridad Foundation](#),” Bonsucro, accessed February 5, 2020; “[Solidaridad Network Celebrates 50 Years of Sustainability Advocacy & Action](#),” Global Coffee Platform, May 27, 2019, “Community Hub,” Roundtable on Sustainable Biomaterials; “Members,” Roundtable on Responsible Soy; “Search Members,” Roundtable on Sustainable Palm Oil; “Our Participants,” UN Global Compact.

58 “[Top 20 NGOs World](#),” NGO Advisor, accessed January 30, 2020. The Danish Refugee Council, Mercy Corps, Junior Achievement, and Ashoka are all members of the UN Global Compact; Open Society Foundations is a member of the Extractive Industries Transparency Initiative (EITI); Landesa is a member of Bonsucro; Oxfam is a member of EITI, Ethical Trading Initiative (ETI), the Initiative for Responsible Mining Assurance, the Roundtable on Sustainable Palm Oil (RSPO), and the UN Global Compact; and Save the Children is a member of the ETI, FLA, and the UN Global Compact.

59 Sandra Moog, André Spicer, and Steffen Böhm, “[The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council](#),” *Journal of Business Ethics* 128, (May 2014): 469–493; Philip Schleifer, “[Varieties of Multi-Stakeholder Governance: Selecting Legitimation Strategies in Transnational Sustainability Politics](#),” *Globalizations* 16, no. 1 (2019): 56.

60 “[The World’s Most Valuable Brands](#),” *Forbes*, accessed January 30, 2020. These companies are members of the Global Network Initiative (GNI), FLA, ICTI Ethical Toys, Marine Stewardship Council, Florverde, RSPO, and the UN Global Compact.

61 A ranking of the 20 largest corporations by revenue and their MSI membership is available on our website at www.msi-integrity.org/datasets.

62 Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#) (Geneva: United Nations, 2011).

63 [Improving the Human Rights Performance of Business Through Multi-Stakeholder Initiatives: Summary Report](#), SRSG Consultation at The Hague, (London: Business & Human Rights Resource Centre: 2007).

64 United Nations General Assembly, Human Rights Council, *Implementation of General Assembly Resolution 60/251 of March 2006 Entitled “Human Rights Council”*: [Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts](#), UN doc. A/HRC/4/035, (New York: UN, 2007), para. 53, referring to the Kimberley Process, EITI, and the Voluntary Principles on Security and Human Rights (VPs).

65 United Nations General Assembly, Implementation, para. 53.

66 United Nations General Assembly, Implementation, para. 84.

67 OHCHR, *Guiding Principles*, Principle 23.

68 OHCHR, *Guiding Principles*, Principle 30.

69 OECD, [OECD Due Diligence Guidance for Responsible Business Conduct](#) (Paris: OECD, 2018), 51.

70 See, e.g., the session at the 2013 UN Forum on Business and Human Rights, “[Multistakeholder Initiatives as Drivers of Good Practice of UN Guiding Principles Implementation?](#)” in OHCHR, *Second Annual UN Forum on Business and Human Rights 2–4 December 2013 Final Programme Outline*, Final Program Outline, (New York: UN, 2013), 25. OECD, Background Note: *Multi-Stakeholder Initiatives and Responsible Business Conduct*, [Global Forum on Responsible Business Conduct](#), (Paris: OECD, 2016) observing that “OECD projects on due diligence in the global supply chains suggest that MSIs are one of the best ways to address complex and systemic challenges that lead to human rights, labour, environmental and other adverse impacts covered by the MNE Guidelines.”

71 Division for Sustainable Development, United Nations Department of Economic and Social Affairs, [Supporting the Sustainable Development Goals through Multi-Stakeholder Partnerships: Ensuring That No One Is Left Behind](#), *Partnerships for Sustainable Development Goals*, (New York: UN, 2016), 3.

72 “[Sustainable Development Goals](#),” Sustainable Development Goals Knowledge Platform, accessed February 6, 2020.

73 “[Multi-Stakeholder Partnerships & Voluntary Commitments](#),” Sustainable Development Goals Knowledge Platform, accessed January 31, 2020.

74 “[About](#),” Partnerships for the SDGs, accessed January 31, 2020.

75 “[Supporting Enhanced Transparency in Extractives: The World Bank’s Support to EITI](#),” The World Bank, March 12, 2018.

76 Marcus J. Wishart, Kimberly Nicole Lyon, Cecil Nundwe, and Mats Johan Rikard Liden, [Application of the Hydropower Sustainability Assessment Protocol in the Zambezi River Basin](#) (Washington, DC: World Bank Group, 2019).

77 World Bank, [Base Line Study: Transparency in the Public Construction Sector in Guatemala](#) (Washington, DC: World Bank, 2010).

78 For Switzerland, see Anne-Marie Buzatu, [Towards an International Code of Conduct for Private Security Providers: A View from Inside a Multistakeholder Process](#), SSR Paper 12, (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2015); For the United Kingdom, see Salil Tripathi, William Godnick, and Diana Klein, [Voluntary Principles on Security and Human Rights: Performance Indicators](#) (London: International Alert, 2008.) 1; for the United States, Office of the US Secretary of State, [Voluntary Principles and Responsible Business Conduct: First National Action Plan for the United States of America](#) (Washington, DC: United States Government, 2016), 13.

79 “[Sweden and Denmark Lead the Way in Sustainability Reporting](#),” Global Reporting Initiative, October 6, 2010; “[Brazil, Denmark, France and South Africa Governments Join in Commitment to Sustainability Reporting](#),” Global Reporting Initiative, June 20, 2012.

80 “[Government & NGO Partnerships](#),” Roundtable on Sustainable Biomaterials, accessed January 30, 2020; Axel Marx, [Global Governance and the Certification Revolution: Types, Trends and Challenges](#), Working Paper No. 53, (Leuven: Leuven Centre for Global Governance Studies, 2011), 11.

81 Axel Marx, *Global Governance*, 11.

82 See Cecily Rose, *International Anti-Corruption Norms: Their Creation and Influence on Domestic Legal Systems* (Oxford: OUP, 2015), 168–69.

83 UN Working Group on Business and Human Rights, [Guidance on National Action Plans on Business and Human Rights](#) (Geneva: UNWG, 2016), 3.

84 The 16 countries are Belgium, Chile, Colombia, Denmark, Germany, Ireland, Italy, Kenya, Netherlands, Norway, Republic of Slovenia, Spain, Sweden, Switzerland, the United Kingdom, and the United States. The citations for this list of NAPs are available on our website at www.msi-integrity.org/datasets.

85 Office of the US Secretary of State, *Responsible Business Conduct*, 6, 13.

86 Office of the US Secretary of State, *Responsible Business Conduct*, 14.

87 HM Government, [Good Business: Implementing the UN Guiding Principles on Business and Human Rights](#) (London: Williams Lea Group, 2016), 10–11.

88 “[Countries: Implementation Status](#),” EITI, accessed January 30, 2020.

- 89 ["Where We Work"](#), CoST: Infrastructure Transparency Initiative, accessed January 30, 2020.
- 90 Marx, *Global Governance*, 11.
- 91 Marx, *Global Governance*, 11.
- 92 These include "EITI, the Open Government Partnership (OGP), Global Initiative on Fiscal Transparency (GIFT), Open Contracting Partnership (OCP), Busan Global Partnership for Effective Development Cooperation, and the Post-2015 Sustainable Development Goals (Post 2015 SDGs)," most of which the World Bank actively supports. See Jeff Thindwa, ["Multi Stakeholder Initiatives: Platforms of Collective Governance for Development"](#), The World Bank, July 7, 2015.
- 93 Republic of Equatorial Guinea and the International Monetary Fund, *Equatorial Guinea: Letter of Intent, Memorandum of Economic and Financial Policies, and Technical Memorandum of Understanding* (Washington, DC: IMF, 2018), 14, asking that application for membership in EITI is a requirement for entry into the International Monetary Fund's staff-monitored program, a prerequisite for loan eligibility.
- 94 European Investment Bank, *EIB at a Glance: 2019* (Kirchberg: EIB, 2019), 3.
- 95 ["EIB support for the Extractive Industry Transparency Initiative"](#), European Investment Bank, February 27, 2008.
- 96 "Supporting Enhanced Transparency," The World Bank; ["Natural Resources"](#), European Bank for Reconstruction and Development, accessed January 30, 2020; ["AfDB Endorses Extractive Industries Transparency Initiative \(EITI\)"](#), African Development Bank Group, October 16, 2006; [International Monetary Fund, Fiscal Transparency Initiative: Integration of Natural Resource Management Issues](#), Policy paper, (Washington, DC: IMF, 2019), with references to EITI throughout.
- 97 John Archer, ["Norway Boosts Antigraft Rules for Oil Industry"](#), *Reuters*, September 2, 2007.
- 98 A case study on RSPO in Liberia is available on our website at [msi-integrity.org](#).
- 99 Interview, Francis Colee, Head of Programs and Lead Researcher, Green Advocates International, Liberia, February 8, 2020; Interview, Alfred Brownell, Lead Campaigner, Green Advocates International, January 31, 2020.
- 100 ["Sustainability Sells: Linking Sustainability Claims to Sales"](#), Nielson, October 16, 2018. See also Michael Houlihan and Bonnie Harvey, ["It's Official: Customers Prefer Sustainable Companies"](#), *Entrepreneur*, December 1, 2018.
- 101 Jamie Rosenberg, ["Millennials Green Up Consumerism"](#), Mintel, May 20, 2015.
- 102 Sihem Dekhili and Mohamed Akli Achabou, "Eco-Labeling Brand Strategy: Independent Certification versus Self-Declaration," *European Business Review* 26, no. 4 (2014): 316.
- 103 See, e.g., Marine Stewardship Council, [Demand for independent Labelling of Seafood Is Increasing Globally](#) (London: MSC, 2018); ["Consumers Trust Certification Labels and Expect Companies to Label Products, PEFC Research Shows"](#), Program for the Endorsement of Forestry Certification, November 20, 2014.
- 104 ["The Fairtrade Marks"](#), Fairtrade International, accessed January 31, 2020.
- 105 ["Consumers See Fairtrade as Reflection of Their Personal Values, Based on Fair Prices, Living Income and Improving Farmer Livelihoods"](#), GlobeScan, May 22, 2019.
- 106 Marine Stewardship Council, [Demand for independent labelling of seafood is increasing globally](#), (London: MSC, 2018). Note that the verbatim statistic is "74% of people who love seafood and have seen the MSC label have a high level of trust in MSC claims."
- 107 "Consumers Trust," Program for the Endorsement of Forestry Certification.
- 108 Cohn & Wolfe, [Etsy Environmental Partners, Landor, and PSB, Green Brands, Global Insights 2011](#) (2011), 4.
- 109 See, e.g., Microsoft, [Human Rights Annual Report Fiscal Year 2019](#) (Redmond: Microsoft, 2019), 3, 7, citing their implementation of GNI and how it influenced their broad human rights policy.
- 110 "See who's involved," UN Global Impact, Active Search Filters: ["Company"](#) and ["Small or Medium Sized Enterprise"](#), accessed May 19, 2020.
- 111 Research on file with MSI Integrity and available upon request.
- 112 ["Ethics and Human Rights"](#), Hudbay Minerals, accessed May 19, 2020. See the list of company members of VPs: ["Who we are"](#), Voluntary Principles on Security and Human Rights, accessed May 19, 2020.
- 113 [Choc v. Hudbaay Minerals Inc.](#), ONSC 1414, file no. CV-10-411159, CV-11-423077, and CV-11-435841, (2013), para. 69.
- 114 Corporate Human Rights Benchmark, [Corporate Human Rights Benchmark Methodology 2019: For the Agricultural Products, Apparel and Extractives Industries](#), (London: CHR, 2019), 47, 95, 97.
- 115 See the sources for the indicators for apparel and agricultural companies: Corporate Human Rights Benchmark, [Benchmark Methodology](#), 80–94, 113.
- 116 At the time of writing, Adidas was an affiliate of the Fair Labor Association. "Affiliates," [Fair Labor Association](#), accessed January 30, 2020; Anglo American, BHP, ENI, Freeport McMoRan Repsol, and Rio Tinto were supporting companies of EITI; Extractive Industries Transparency Initiative, ["Companies"](#), accessed January 30, 2020; Marks and Spencer and Unilever were members of RSPO. "Search Members," Roundtable on Sustainable Palm Oil.
- 117 Vicky Valet, ["The World's Most Reputable Companies"](#), *Forbes*, May 7, 2019; LEGO and the Walt Disney Company are members of ICTI Ethical Toys. ["Brands and Retailors"](#), ICTI Ethical Toy Program, accessed January 30, 2020. Adidas is an affiliate of FLA. ["Participating Companies"](#), Fair Labor Association, accessed January 30, 2020. Microsoft is a member of GNI. ["Our Members"](#), Global Network Initiative, accessed January 30, 2020. Bosch and Michelin are subsidiaries of Canon (i.e., Canon Europe Ltd) and are participants in the UN Global Compact: "Our Participants," UN Global Compact.
- 118 MSIs with a public listing of their full staff and their annual expenditure include Bonsucro (16 staff; £1.5m (approx US\$1.9 million) FY16, FY17 and FY18 accounts did not list expenditure); Infrastructure Transparency Initiative (20 staff; £1.8 million (approx US\$2.3 million) FY18); EITI (31 staff; US\$7.1 million FY19); FLA (35 staff; US\$7.7 million FY16); RSPO (16 staff; US\$4.9 million FY17). Information available from the MSIs' websites, as of April 20, 2020.
- 119 Bendell, "In Whose Name?"
- 120 See, e.g., A. G. Scherer, and G. Palazzo, "The New Political Role of Business in a Globalized World: A Review of a New Perspective on CSR and Its Implications for the Firm, Governance, and Democracy," *Journal of Management Studies* 48, no. 4 (April 2011): 899–931, celebrating MSIs as deliberative spaces that allow different stakeholders to participate in dialogue, learning, and decision-making around issues of mutual concern.

- 121 See, e.g., Baumann-Pauly et al., "Industry-Specific Multi-Stakeholder Initiatives."
- 122 See, e.g., Chris Albin-Lackey, "[Without Rules: A Failed Approach to Corporate Accountability](#)," Human Rights Watch, 2013, saying, "Voluntary initiatives all face the same crucial limitations: they are only as strong as their corporate members choose to make them, and they don't apply to companies that don't want to join. They often do a good job of helping to define good company human rights practice, but enforceable rules are the only way of ensuring real, systematic change."
- 123 See e.g., discussion in Moog et al., "Politics," 128, noting that "critics have argued these initiatives are often used as a kind of "ethical window-dressing" for corporations, or as information-gathering opportunities by managers hoping to anticipate sources of social resistance to corporate plans."
- 124 Hilary Coulby, [A Guide to Multistakeholder Work: Lessons from The Water Dialogues](#) (The Water Dialogues, 2009), 35.
- 125 Sarah Labowitz and Michael Posner, "[Why We're Leaving the Global Network Initiative](#)," NYU Stern Center for Business and Human Rights, February 1, 2016; Sarah Labowitz and Michael Posner, "[NYU Center for Business and Human Rights Resigns Its Membership in the Global Network Initiative](#)," NYU Stern Center for Business and Human Rights, February 1, 2016.
- 126 "[Oxfam Leaves Voluntary Principles for Security and Human Rights Multi-Stakeholder Initiative](#)," Oxfam America, April 16, 2013.
- 127 "[With Apple the FLA Is Not Convincing as a Multi-Stakeholder Initiative](#)," Good Electronics, August 5, 2013.
- 128 "[PANECO Resigns from RSPO over 'Sheer Level of Inaction'](#)," PanEcho, June 7, 2016.
- 129 "[FERN Statement to the Forest Stewardship Council on Withdrawing \[FERN'S\] Membership](#)," FERN, June 8, 2011; "[Greenpeace International to Not Renew FSC Membership](#)," Greenpeace International, March 26, 2018.
- 130 "[About](#)," FSC-Watch, accessed February 1, 2020.
- 131 "About," FSC-Watch.
- 132 See, e.g., "[Greenwashed Timber How Sustainable Forest Certification Has Failed](#)," Yale Environment 360, February 20, 2018; S. Prakash Sethi and Donald H. Schepers, "[United Nations Global Compact: The Promise-Performance Gap](#)," *Journal of Business Ethics* 122, no. 2 (June 2014): 193–208.
- 133 Leanne de Bassompierre and Baudelaire Mieu, "[Cocoa Growers Review Chocolate Brands' Sustainability Plans](#)," *Bloomberg*, October 10, 2019.
- 134 See Peter Whoriskey, "[Senators Call for Crackdown on Cocoa Imports Made with forced Child Labor](#)," *Washington Post*, July 16, 2019.
- 135 Schleifer, "Varieties of Multi-Stakeholder Governance," 50, 52.
- 136 "[CSR and MSIs](#)," Worker-driven Social Responsibility Network, accessed February 1, 2020.
- 137 "[Recognition](#)," Fair Food Program, accessed February 1, 2020; UN General Assembly, Human Rights Council, [Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises](#), Addendum, UN A/HRC/26/25/Add.4, (New York: UN, 2014), para. 55–57.
- 138 "[Organizational Endorsers](#)," Worker-driven Social Responsibility Network, accessed February 1, 2020. For more information on these programs, see "[About](#)," Accord on Fire and Building Safety in Bangladesh, accessed February 1, 2020; [Homepage](#), Fair Food Program, accessed February 1, 2020; "[Milk with Dignity Campaign](#)," Migrant Justice, accessed February 1, 2020; "[Leading Apparel Brands, Trade Unions, and Women's Rights Organizations Assign Binding Agreements to Combat Gender-Based Violence and Harassment at Key Supplier's Factories in Lesotho](#)," Worker Rights Consortium, August 15, 2019.
- 139 "[Coalition Letter to Ben & Jerry's in Support of Milk with Dignity Program](#)," Human Rights Watch, June 7, 2017.
- 140 "Coalition Letter," Human Rights Watch.
- 141 [Homepage](#), Worker-driven Social Responsibility Network, accessed April 14, 2020.
- 142 While this insight is the result of an accumulation of informal conversations, position papers by network- or movement-based organizations, or those that support them, indicate a similar view. See, for e.g., Philip Seufert, [Policy dialogue spaces and multi-actor platforms in the context of tenure governance. A civil society perspective on experiences and criteria to advance human rights-based governance of tenure](#), Working Paper, (Heidelberg: FIAN International, 2017), 6–8; Harris Gleckman, [Multi-Stakeholder Governance: A Corporate Push for a New Form of Global Governance](#) (Amsterdam: Transnational Institute, 2016); Laura Michèle, Kavya Chowdhry, Patti Rundall, and Stefano Prato, "SDG 2 — Human rights risks of multi-stakeholder partnerships: the Scaling Up Nutrition Initiative" in *Global Civil Society Report on the 2030 Agenda and the SDGs* (Spotlight on Sustainable Development, 2019).
- 143 "[Statement of Principles](#)," Worker-driven Social Responsibility Network, accessed 1 April 2020.
- 144 See Choudhury, Barnali, "[Balancing Soft and Hard Law for Business and Human Rights](#)," *International & Comparative Law Quarterly* 67, no. 4 (2018): 961–86.
- 145 "[Peoples Treaty](#)," Dismantle Corporate Power, accessed April 1, 2020.
- 146 "[Over 100 Civil Society Organisations Demand Human Rights and Environmental Due Diligence Legislation](#)," European Coalition for Corporate Justice, December 2, 2019.
- 147 "[National Movements for Mandatory Human Rights Due Diligence in European Countries](#)," Business & Human Rights Resource Centre, May 22, 2020.
- 148 MVO Nederland, "[Dutch business association representing 2000 companies issues statement in support of mandatory due diligence legislation](#)," Business & Human Rights Resource Centre, April 29, 2020.
- 149 "[Modern Slavery Compliance For U.S.-Based \(and Other\) Multinationals: A Review of Recent Compliance and Disclosure Developments in the United States and Abroad](#)," Ropes & Gray, April 22, 2019.
- 150 OHCHR, [Guiding Principles](#), Principle 3, commentary, 5.
- 151 Rachel Davis, "[Beyond Voluntary: What it Means for States to Play an Active Role in Fostering Business Respect for Human Rights](#)," Shift, February 2019.
- 152 Rachel Davis, "[Beyond Voluntary](#)"; "Fulfilling the State Duty to Protect: A Statement on the Role of Mandatory Measures in a "Smart Mix," Shift, February 21, 2019.
- 153 "[2019 UN Forum on Business and Human Rights](#)," OHCHR, accessed May 19, 2020.
- 154 Anna Triponel, "[The 2019 UN Annual forum on Business and Human Rights — What Did I Miss?](#)" Triponel Consulting, December 19, 2019.

- 155 [United Nations General Assembly](#), Working Group on the issue of human rights and transnational corporations and other business enterprises, *Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms*, UN doc. A/73/163, (New York: UN, 2018), para. 31, 98.
- 156 United Nations General Assembly, Working Group, *Promotion and protection*, para. 78.
- 157 Samanth Subramanian, "[Is Fair Trade Finished?](#)" *The Guardian*, July 23, 2019.
- 158 Subramanian, "Is Fair Trade Finished?"
- 159 Subramanian, "Is Fair Trade Finished?"
- 160 For an early estimate of the number and growth of corporate codes, see [The World Bank, Company Codes of Conduct and Industry Standards: An Analytical Comparison](#), Part I of II, (Washington, DC: World Bank, 2003).
- 161 [Homepage](#), Ecolabel Index, accessed February 1, 2020.
- 162 "[Participating Standards](#)," International Trade Centre, February 9, 2020.
- 163 MSI Integrity, [The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives](#), (Berkeley: MSI Integrity and the Duke Human Rights Center at the Kenan Institute for Ethics, 2017).



INSIGHT 2

Stakeholder Participation:

MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change





Stakeholder Participation:

MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change

In this chapter: This chapter examines rights holders' and civil society organizations' (CSOs) participation in the governance of MSIs, and how structural issues can impact their involvement and influence.

Summary of our insights: The perceived legitimacy of MSIs stems from the fact that they include stakeholders—civil society or rights holders—who might act as watchdogs over corporations and drive pro-human rights reforms. However, in practice, MSIs generally exclude rights holders from governance and implementation processes, relying instead on CSOs to counterbalance corporate power. Yet, CSOs are ill-equipped to challenge corporate power within MSI governance due, in part, to their resource constraints, broad diversity, and the fact that they generally need to win the support of corporations to make key decisions. This is exacerbated by the process-oriented nature of MSIs, which favors the status quo and absorbs CSOs' limited resources. Despite the rhetoric of multi-stakeholderism, in reality, MSIs entrench power in favor of corporations—the entities they seek to regulate. MSIs are thus poorly situated to fulfill “regulatory” functions, such as determining whether to expel non-complying members or fix weaknesses in accountability mechanisms.

Key findings and observations:

- **MSIs have largely excluded rights holders from their governing bodies and implementation. In particular:**
 - Only 13% of MSIs include affected populations in their governing bodies, and none have a majority of rights holders on their boards.
 - The monitoring, compliance, and remedial mechanisms established by MSIs are not centered on rights holders, and the few MSIs that measure their impacts on rights holders do so through top-down studies that do not empower rights holders in their design or implementation.
 - CSOs participating in MSIs are not equipped or resourced to act as proxies for rights holders, and their presence does not necessarily mean that those most affected by the relevant issue are represented.
- **MSIs are premised on CSOs' ability to perform oversight of their operations. However, MSI decision-making rules and practices, along with differences in resources and capacity between CSOs and other stakeholders, can compromise CSOs' engagement as equal and effective partners. In particular:**
 - Multi-stakeholder decision-making rules can favor the status quo by requiring CSOs and their pro-reform allies to garner majority or consensus support for major pro-human rights reforms.
 - “Civil society” is a broad constituency often without any clearly defined boundaries. The different backgrounds, agendas, and interests of CSOs can require them to expend considerable effort to arrive at a common strategy and approach within the constituency.
 - MSIs are highly technocratic, and effective participation in their governance requires significant financial and technical resources, as well as investments of time. Yet CSOs—particularly those from the Global South—are often poorly resourced compared to their corporate or government constituents. MSIs thus risk reproducing pre-existing Global North/South and corporate/community power imbalances.
 - The process-oriented nature of MSIs also opens them up to delays by those resisting change, which further depletes limited CSO resources and may stymie efforts for reform.

Background: Context and Approach

MSIs' distinguishing feature is that they include CSOs—and sometimes rights holders—in governance and implementation. Rights holders and CSOs are the two stakeholder groups charged with advocating for human rights reforms and wider societal outcomes.¹ Effective civil society participation can provide expertise and research that are independent from industry perspectives, and can serve a “watchdog” role to investigate, negotiate, and advocate for robust human rights outcomes. Rights holders are directly and personally affected by MSIs and thus, as a group, hold critical information on the relevant industry and local context.² The inclusion of CSOs or rights holders has thus led MSIs to be perceived by external commentators as more legitimate and credible than business-driven initiatives.³

However, this assumes that these stakeholders are able to meaningfully influence MSI practices and outcomes.⁴ Yet, rights holders are drastically underrepresented in MSI governance bodies and wider decision-making processes. Their CSO allies often face capacity and power imbalances within MSIs, which undermine the quality of their participation. In this context, critics of MSIs have noted that such asymmetrical power arrangements are undemocratic, and can lead to corporate capture and the exclusion of rights holders and CSOs from equal opportunities to shape MSI agendas.⁵

Understanding the nature of power and governance dynamics within any organization, let alone across a field of organizations, is an inherently complex and often highly qualitative undertaking. This chapter, more than the others in the report, therefore relies more heavily on generalized observations and broad experiences of MSI governance and stakeholder participation over the past decade, as derived from our research, interviews, observations, and informal conversations with MSI participants and staff over the last decade. Where appropriate, we draw on our previous research on the composition of the governing bodies of the 40 MSIs included in our MSI Database; our previous analysis of governance practices of multi-stakeholder groups in 15 countries implementing the Extractive Industries Transparency Initiative (EITI), supplemented by a case study on EITI; external studies into MSIs; as well as from our interviews and workshops with rights holders in Cameroon, the Philippines, and Nigeria regarding their experiences with MSIs (Fairtrade International, the Fair Labor Association, the Forest Stewardship Council, UTZ, the Voluntary Principles on Security and Human Rights, and Worldwide Responsible Accredited Production): see **Knowledge Base**.

1 Rights holders are largely absent from MSI governance and implementation, even though they are the only group directly and personally affected

Rights holders are the individuals whose lives, livelihoods, or rights are affected by the business activities that an MSI seeks to address, such as farmers, factory workers, or forest dwellers (see **Defining the Key Concepts**).⁶ Nearly all of the 40 MSIs have a mission statement that refers to the benefits to rights holders, either by direct reference or by invoking human rights or social impact.⁷ Fairtrade International's mission, for example, commits the initiative to “empower producers to combat poverty, strengthen their position and take more control over their lives.”⁸ The Equitable Food Initiative aims to “improve the lives of farm workers.”⁹ Similarly, the Fair Labor Association's mission is “to promote and protect workers' rights and to improve working conditions globally,” while the Ethical Trading Initiative “exists to improve working conditions in global supply chains.”¹⁰ Although some MSIs' connection to human rights may be less explicit, or the identification of their rights holders more difficult than for others, all the MSIs in this report have standards that address or affect human rights (see **Background**). Thus, they all affect rights holders in some way.

Yet, despite their missions and intended impacts, MSIs have not facilitated rights holder participation in their governance and implementation, as this section discusses. This means MSIs are making decisions and operating without the perspective of the stakeholders who have immediate insight into whether an MSI's proposed interventions or decisions would be trusted or effective from the point of view of rights holders. This significantly impairs the ability of MSIs to protect human rights.

A. Rights holders are largely excluded from MSIs' decision-making bodies and important implementation processes

Our experience with and research on MSIs show that they have largely excluded rights holders from their decision-making and key implementation processes. This is a trend we have observed consistently since we first began our research into MSIs, and which no single MSI has meaningfully or adequately addressed. Examples of this cross-cutting failure to center rights holders in the governance or core operation of MSIs include:

“... the exclusion of rights holders undermines the ability of MSIs to effectively close governance gaps ...”

- Only 13% of the MSIs in our MSI Database include representatives of rights holders in their governing bodies.¹¹ These tend to be lone voices—usually individual union or worker representatives—on a body otherwise filled with multiple seats for industry and civil society. No MSIs have a majority of rights holders on its board.
- Ongoing monitoring or auditing systems in MSIs are top-down and not designed in a way that engenders the trust of rights holders to overcome the risks of reporting abuse to third-party auditors. Of the 10 oldest and 10 newest MSIs, none have a system with requirements to overcome the barriers and risks for rights holders to report abuses (see **Insight 4: Monitoring and Compliance**).
- Almost a third of MSIs in our MSI Database do not have a process that enables rights holders to directly report alleged abuses of the MSI's standards.¹² Those MSIs that do have complaint procedures generally have systems that pose multiple barriers to rights holders who seek to report abuse, and are thus not easily accessible to them. Nearly all MSIs with a complaint mechanism in place do not require rights holder consultation regarding appropriate remedies (see **Insight 5: Remedy**).
- Few MSIs directly assess their impacts on rights holders—only five out of the 20 oldest MSIs—and those that do conduct top-down studies that do not empower rights holders in their design or implementation (see **Insight 6: Impact**).
- While 55% of the MSIs in our MSI Database have processes that engage rights holders outside of formal decision-making,¹³ this engagement is generally not comprehensive or systematic, nor is it by and large part of the core implementation activities of an MSI, as outlined in the above bullets. For example, engagement with rights holders might be limited to offering them local implementation workshops or seeking public input on the revision of standards, reviews of the MSI, or other feedback mechanisms. MSIs have no obligation or commitment to incorporate such rights holder involvement, and when they do, the processes are almost all controlled and directed by the MSI.

We have also generally observed that there is no widely accepted practice or norm of including rights holders as partners in the design and development of MSIs. While there are sometimes efforts to consult or permit rights holders to provide input during reviews or revisions of some components of MSIs, from the outset, rights holders are not treated as co-designers, co-governors, or equals in MSI processes.¹⁴

The exclusion of rights holders ignores the strong desire we have heard throughout our work from affected communities and individuals—particularly those who are especially vulnerable to abuse or who have previously experienced abuses—to have a say in the decisions that affect their lives and livelihoods. An MSI’s decisions and outcomes impact the lives of the affected population above all other groups. It is their human rights, living conditions, or lives that the MSI seeks to protect or improve. As detailed in the case study in Spotlight 2.1, our interviews and workshops with rights holders in Cameroon, Nigeria, and the Philippines underscore that rights holders desire to know their rights and participate in their protection.

Importantly, the exclusion of rights holders undermines the ability of MSIs to effectively close governance gaps, and thus affects the substantive rights outcomes and rights protections of MSIs. Rights holders carry information on the local context and the relevant industry, and are crucial for designing and implementing MSI mechanisms and processes that are trusted, used, and effective at the local level. Ultimately, rights holders know the human rights issues that are of greatest importance to them, and the types of interventions that they will trust. Mechanisms and processes designed by those directly impacted are likely to have different features and considerations than mechanisms designed by international civil society, multinational corporations, governments, or those without first-hand knowledge of local experiences, cultures, geography, or other aspects unique to the areas where an MSI intends to operate. This is why, for example, co-design of grievance mechanisms is considered good practice, as it can result in a system that is more likely to be trusted and therefore used by rights holders as a whistle-blowing agent against a government or company actor.¹⁵ By comparison, if affected populations are excluded from these processes, they may remain unaware of the MSI and not use the protections and mechanisms that MSIs offer in their communities or workplaces. Thus, abuses may persist undetected by MSIs.

Furthermore, when rights holders are directly engaged in an MSI, they can report back on whether they have seen reduced human rights violations or improved transparency within their communities, as well as participate in learning and dialogue with companies, governments, or other MSI members. In this way, involving affected populations provides feedback to MSIs to gauge and learn from on-the-ground experiences. This is particularly important in light of the many challenges MSIs face in measuring their impact, which are examined further in **Insight 6: Impact**. Without rights holders’ input about whether abuses are continuing, MSIs risk whitewashing corporate (or sometimes government) behavior.

Finally, from a normative perspective, rights holders ought to have a voice in the processes that will affect them, rather than have these issues decided by civil society, government, and industry members who may have only limited, if any, understanding of the rights holders’ desires and priorities. Furthermore, if a community or group of rights holders have already experienced losses, harms, or rights abuses linked to the industry or issues covered by the MSI, treating those harmed populations as equal stakeholders in decision-making within the MSI may also help to address or remediate the disempowerment associated with the prior losses or abuses.

We recognize it can be challenging to create meaningful opportunities for rights holder involvement and engagement in MSI governance and design. MSIs wishing to involve rights holders need to ensure that its governance is legitimate, accountable, and representative of the diversity of rights holder perspectives. MSIs must also develop mechanisms that overcome power imbalances to ensure that membership for rights holders is meaningful, rather than symbolic or tokenistic. This requires overcoming barriers with respect to financial resources and rights holders’ potential lack of familiarity with the languages, politics, and operations of global governance initiatives.

These challenges are not insurmountable, however. As discussed in **Insight 1: Influence**, Worker-driven Social Responsibility initiatives are examples of alternative systems to MSIs, that were designed and governed by and with rights holders—key factors to which the initiatives attribute their success—demonstrating the feasibility of co-design or co-governance approaches.

SPOTLIGHT 2.1. Rights Holder Voices: Desire to know their rights and participate in their protection

Our interviews with rights holders in Cameroon and the Philippines explored their interactions with the MSIs that impact them. Many interviewees indicated little or no knowledge of the relevant MSI, and most indicated a strong desire to share information directly with MSIs or their member companies. For example, our interviews with indigenous villagers residing near a forest concession and workers at factories and farms included the following observations:

*We want to be involved in how to address rules and regulations . . . Unions and workers want to participate in decisions and have the company consult with workers about them.*¹⁶

*We want to improve our conditions of living. But our fear is that we are not always considered, and the exploitation disturbs our natural way of living. And these decisions are always taken without us – we are never consulted.*¹⁷

*They never told workers about fundamental rights. . . . The company's rules are very shady. I was never given a copy of regulations.*¹⁸

*They didn't explain the rules [to workers] that the factory needed to follow to become accredited.*¹⁹

*Maybe it would help if I could tell the buyer myself if the company was complying. Maybe we could gather evidence that they are not complying, photos, etc. and submit it online.*²⁰

*We would definitely want to talk to the companies and local authorities. This is exactly what the community wants.*²¹

*We want that the company come here. . . . We want to always take part in the discussion, and that once the company is operating, that someone is available in the village to monitor the process. Ideal is not for just one person to go to the company and discuss, the company should come to the village and discuss with everyone.*²²

*When [the MSI] wants to talk, it should avoid the bureaucratic system of communicating through the cooperative. It should come straight to farmers. Tell them standards and buy from them. Ask them, 'are you happy with the price for this cocoa?' and allow the common man to speak.*²³

Additionally, during a workshop we conducted with rights holders in Nigeria, participants identified several strategies that MSIs could use to better communicate with rights holders, including: creating and distributing MSI-specific posters summarizing the rights protected and how to file a complaint, implementing “each-one-teach-one” community awareness or training programs, and reaching out to community radio stations or communicating over social media.²⁴

Participants also suggested various ideas for how MSIs might facilitate receipt of information from rights holders, including the establishment of local, community-based monitoring teams, a complaints-filing hotline, or partnerships with local CSOs who might be able to file complaints on their behalf.²⁵

B. Rights holder perspectives are not always channeled through CSO participation

In our experience, MSI staff and members generally assume or perceive that the role of CSOs is to advocate for and represent right holders' interests. However, while CSOs that participate in MSIs generally have a mandate to address the issues that adversely affect rights holders—and they play a critical role in MSIs to that end—they are not a proxy for rights holders and their presence does not necessarily mean that those most affected by the relevant issues are represented.²⁶ While CSOs in MSIs may have a mandate to advocate for human rights, few would claim to represent rights holders or to have the resourcing or internal structures to seek rights holder input.

As discussed further in this chapter, “civil society” encompasses a broad and diverse clustering of stakeholders, including all formal or informal organizations that have a presence in public life but who are neither for-profit nor part of the state apparatus.²⁷ This can include not just advocacy groups, but also researchers, technical experts, academics, journalists, and others who are not directly impacted by the issues that an MSI seeks to address.

“... researchers have pointed out that large Global North CSOs ‘tend to be consistently over-represented in MSIs, while smaller groups representing minority concerns and interests from the developing world are systematically under-represented.’”

In our experience, most CSOs in MSIs—particularly those heavily involved in multi-stakeholder governance—do not have direct links or connections to rights holders, especially those rights holders in the Global South who are often the intended beneficiaries of MSIs' efforts to ensure more responsible corporate conduct. Rather, as explored more in the Part 2 of this chapter, researchers have pointed out that large Global North CSOs “tend to be consistently over-represented in MSIs, while smaller groups representing minority concerns and interests from the developing world are systematically under-represented.”²⁸

At times, CSOs in an MSI may conduct important research into community conditions and views on specific issues, or—if an MSI has community or rights holder representation—they may also play a critical role in amplifying and advocating for the rights holders' perspectives.²⁹ However, while CSOs offer important skills and play an important role in MSIs, unless they have an explicit mandate to represent their views and have a method for obtaining those views—such as a community-based organization with direct ties to rights holders—their inclusion should not be viewed as representative of rights holders perspectives. Thus, because most CSOs are neither structurally situated nor sufficiently resourced to represent the views of rights holders, and few MSIs have direct rights holder representation, most MSIs fail to provide rights holders with an effective voice within their initiative.

2 Governance rules and structural power dynamics favor the status quo and undermine CSOs' ability to affect change

CSOs are generally charged with the “watchdog” role in MSIs and, in our observation, are the stakeholder group most consistently committed to ensuring rigorous human rights and accountability outcomes. Thus, impediments to CSO capacity and the ability to participate can significantly impair both the effectiveness of MSIs from a human rights perspective, and the perceived legitimacy of MSIs (see the discussion of the centrality of CSO engagement to MSI legitimacy in **Insight 1: Influence**). By comparison, we have observed that companies generally tend to prefer the status quo or incremental change, perhaps because significant reforms could result in costly or inconvenient changes that might undermine their profit-maximizing obligations. Thus, even though some of the concerns raised in this chapter apply to other constituencies, their specific effect on CSOs is particularly salient from a human rights perspective. This is not to suggest that companies (or governments) necessarily oppose

human rights protections or reforms—some individual companies or governments have been staunch advocates for reform within MSIs—but rather to explain why this section focuses narrowly on how MSIs empower or inhibit the participation of CSOs.

Nearly all of the MSIs in our MSI Database include both industry and civil society representatives in their primary decision-making bodies.³⁰ However, CSO representation does not necessarily ensure meaningful CSO *participation* in MSIs. The following discussion outlines how MSIs' decision-making rules and internal power dynamics often preserve the status quo in favor of corporations, while undermining the ability of CSOs to participate and drive human rights reform. As these are often quite conceptual ideas, we have included a case study in Spotlight 2.2 on EITI, which draws together all the observations outlined in this chapter and demonstrates that, even in an MSI that has significant resourcing and clear efforts to ensure effective CSO participation, there are major structural impediments that inhibit a CSO's ability to effectively drive change. The case study illustrates how the various power differentials, internal culture, and other qualitative aspects of decision-making affect the ability of CSOs to effectively govern in an MSI or to improve its capacity to protect human rights.

A. Multi-stakeholder decision-making rules favor preserving the status quo, particularly with respect to contested or difficult human rights issues

It is evident that multi-stakeholder decision-making rules favor the status quo as a result of their design. The primary decision-making bodies of all the MSIs in our MSI Database, which are generally structured as boards or steering committees, are governed either by consensus or majority vote decision-making. This means that for an MSI to adopt a new policy or make other important decisions, a significant number of the board or committee members—if not all the members—need to support the motion. In this sense, MSIs' decision-making rules put a particular burden on civil society or other pro-reform actors to persuade or convince other stakeholders to support motions for reform, or else the status quo remains. Unfortunately, as the remainder of this report demonstrates, few MSIs were initially created—or have since developed—with robust monitoring, compliance, or remedial frameworks, and thus the status quo is often fairly weak from a rights protection perspective. This creates structural obstacles to achieving any reforms, particularly pro-human rights reforms.

This is not to say that change and reform in an MSI cannot or has not happened, or that actors from non-CSO constituencies never support reforms. We recognize that MSIs are dynamic and ever-evolving, and reviews and revisions to standards and oversight systems are a well-accepted good practice in MSIs.³¹ Indeed, much MSI governance is not contested or adversarial, and we have often been told by participants that the collaborative nature of MSIs and the areas of common ground between stakeholders are what help generate some of their positive effects: trust, learning, and relationship-building. However, we have observed that proposals that would significantly improve the human rights accountability measures in MSIs are often deeply contested, such that reaching agreement among stakeholders can be extremely resource-intensive and slow. This is particularly true if such changes will be costly or risky for corporations or governments to implement, or if changes might result in the disqualification of members, a situation we explore in **Insight 4: Monitoring and Compliance**.

That multi-stakeholder governance creates a structural bias against major reforms that could lead to stronger human rights protections was acknowledged in a recent evaluation commissioned by an MSI, the Ethical Trading Initiative, into whether it has delivered on its mission and theory of change.³² In particular, the evaluation found that while the initiative's members acknowledged that corporate purchasing practices and weak trade unions were key areas to address in efforts to produce meaningful improvement in working conditions (see **Insight 3: Standards and Scope**), the MSI had not adopted an approach that adequately addresses these issues. In this context, it noted that the initiative's "tripartite nature is at once its greatest strength and its key weakness", as it threatens to forestall "meaningful action" because it necessarily entails conflicting interests and objectives between members.³³ The

evaluation noted that a key challenge for the initiative if it wants to achieve more impact is to “transform this latent conflict of interests into a confluence of interests and action.”³⁴ However, it did not provide any guidance on how this could be done.

We have noticed that minority representation of CSOs (or rights holders) in MSI governing bodies can exacerbate the tendency of MSIs to broadly support the status quo, as it becomes the burden of individual representatives to win the support of the other constituencies. In our previous research on MSI governance, we found that most MSIs do not have equal representation among stakeholders in their primary decision-making bodies.³⁵ While a similar number of MSIs have CSOs as their largest constituency in their decision-making body (42% of MSIs) as those dominated by industry (37% of MSIs), in the industry-heavy MSIs, the representational imbalance is often significant. For example, at the most extreme end, three MSIs in our MSI Database have industry representatives exceeding the number of stakeholders from any other group by a ratio of 4:1 or greater.³⁶ Although some MSIs try to address this type of imbalance by using qualified or balanced decision-making processes, such as requiring two-thirds of each stakeholder group to support a decision whereby each group is given equal decision-making power, those three initiatives did not have any such measures.

B. The diffuse nature and lack of accountability in the “civil society” constituency undermine its ability to be an effective “watchdog” or agent of change

In addition to the inherent bias in MSI governance towards the status quo, “civil society” itself has an inherent disadvantage in fulfilling its watchdog or pro-reform role: it encompasses a wide constituency without any clearly defined boundary. While this rich diversity can be an asset in many ways, it can also mean that CSOs, as a stakeholder group, do not have a set of common interests or unified strategy for reform. Furthermore, the constituency may not be appropriately represented by CSO participants that have the skills, resources, or capacity to drive human rights reform. By comparison, while industry is also diverse in its representation and may have differing agendas or interests, it shares a basic commonality in that all actors need to ensure they take actions that preserve profit and will be approved by their board or management.

Depending on the MSI, civil society representatives can range from academics to journalists; community-based organizations to international non-governmental organizations; policy experts to campaigners; advocates for a particular issue or demographic to broad industry watchdog groups. The different backgrounds, agendas, and interests of CSOs can hamper the constituency, forcing them to expend considerable effort to arrive at a common strategy and approach.³⁷ Stakeholders have frequently reported to us that coordinating as a constituency is taxing, and failure to arrive at an agreement on positions not only means that the status quo remains, but that ultimately it can erode faith in the ability of the constituency to achieve major reforms. This is explored further in the case study in Spotlight 2.2.

Critical to CSO effectiveness is that they are independent from other MSI stakeholder groups, such that they are free to voice their perspectives. While some MSIs have specific safeguards about this in their governance rules, such as regulating or limiting MSI members’ funding of civil society, sometimes those safeguards are absent or poorly enforced.³⁸ CSOs who directly accept funding from MSI members can create a perceived, or actual, conflict of interest. In the two such instances that have been confidentially reported to us, the situations created tensions within CSO constituencies. While there was no suggestion that these particular organizations were “puppet” or “briefcase” CSOs, there was a general sense that these organizations perceived the MSI as less of a forum for achieving accountability than for engagement and dialogue, and adopted stances consistent with this perception. In a more concerning situation, during interviews with stakeholders in EITI we found that in seven of 15 national multi-stakeholder groups, the government was involved in the selection of the CSO representatives. (Note, this is different from the selection of CSOs to EITI’s international board,

explored in the case study in Spotlight 2.2.) We also found that many CSOs outside of these multi-stakeholder groups had doubts about the freedom or willingness of those groups to raise questions of corruption or wrongdoing that might implicate the government.³⁹ Given that EITI was developed to address issues of corruption in the extractive industry, the fact that governments with documented ties to corruption in the natural resource sector, like those of Nigeria and Cameroon,⁴⁰ were involved in the selection of the very organizations meant to fulfill a “watchdog role” raises alarming questions about the reliability and effectiveness of the initiative in those countries.

While allegations or concerns about the independence of CSO voices tend to be relatively specific and few, the vulnerability of civil society to corporate capture illuminates a more fundamental issue: the general lack of accountability of civil society to rights holders or any broader constituency. The ways in which different MSIs select and accept CSO participants vary, but—beyond requiring that CSOs are nonprofit organizations—there is no broadly followed practice of requiring civil society to be accountable or even connected to a wider constituency. At best, the civil society constituency in an MSI establishes membership criteria for CSOs and controls who can join and then vote on their representatives for the governing body.⁴¹ At worst, proof of a CSO’s nonprofit status is sufficient for representation in MSI governance.⁴² This is compounded by the lack of term limits, adequate conflict of interest provisions, or membership removal processes in MSIs.⁴³ Problems within civil society constituencies in some MSIs have prompted CSOs to resolve this issue of legitimacy and lack of accountability to a wider constituency by creating more robust selection criteria,⁴⁴ but such efforts come at a considerable cost of both resources and time, and may not be viable for smaller initiatives or CSO constituencies with limited resources.⁴⁵ As a result, CSO representatives who are poor advocates—whether because they only sporadically attend board meetings, do not have sufficient content knowledge, or any other reasons—can hinder the effectiveness of the constituency.

Finally, we have observed that, over time, more adversarial or deeply committed CSOs have chosen to end their participation in MSIs because of their disappointment and lack of faith in the initiative (see **Insight 1: Influence**). While this is still an early trend, we believe that over time this will result in MSIs being dominated by CSOs, or individuals within CSOs, with less adversarial dispositions.

These factors, ranging from potential diversity and divergence, to lack of accountability and biases over time that favor less adversarial CSOs, can inhibit a CSO’s ability to perform a “watchdog” role in MSIs, or otherwise ensure that MSIs are effectively closing governance gaps.

C. Resourcing and capacity constraints undermine civil society’s ability to engage as equal partners and drive change, with particularly exclusory effects on Global South CSOs

MSIs are resource-intensive and highly technocratic platforms for engagement. This means that those stakeholders with the most resources, technical expertise, and access to capital are able to exercise more influence over the policies and agenda of MSIs than those actors with fewer resources. CSOs generally have limited resources, especially compared to their industry or government counterparts. As such, resourcing and capacity constraints severely undermine their ability to engage as equal partners and effect change.

The governance structures and processes that regulate many MSIs are also highly bureaucratic and technical, and may involve forums for decision-making, stakeholder consultation, ad hoc groups, regional and national bodies, and expert advice. Effective CSO participation in each of these meetings, as in MSIs more broadly, requires taking the time to discuss and

“CSOs generally have limited resources, especially compared to their industry or government counterparts. As such, resourcing and capacity constraints severely undermine their ability to engage as equal partners and effect change.”

formulate internal positions and strategies, both within organizations and with other CSO participants. Participation entails time and costs associated with travel for in-person meetings and outreach with wider constituents.⁴⁶ As illustrated in the EITI case study in Spotlight 2.2, the sheer number of meetings and volume of materials produced by MSIs can mean that the limited resources available to CSOs are allocated to simply keeping up with routine governance and oversight, rather than to advancing reforms or ensuring the initiative's wider human rights impact.

We note that, if other constituencies elect not to engage in this type of activity, then the status quo remains—whereas CSOs need to be actively engaged to advance reforms or to garner support for contested issues, such as disputes around compliance with standards or suspending members (see the discussion of compliance in **Insight 4: Monitoring & Compliance**).

CSOs based in the Global South face even greater barriers to participation and demands—especially relative to their resources. Multiple studies have documented the risk that MSIs may reproduce existing power asymmetries, exploring issues such as how holding increasingly bureaucratic and technical executive meetings in English may inhibit Global South participation in MSIs.⁴⁷ In addition, because MSIs often have few contacts in the Global South capable of lending assistance, a CSO in the Global South may be overextended by multiple engagements with different MSIs at once.⁴⁸ Furthermore, grassroots or local CSO representatives based in the Global South are generally required to travel further distances at a greater cost in order to attend meetings.⁴⁹ As one CSO representative from Cameroon noted, “The indigenous population is vast and dispersed . . . Before the meeting, you have to get all the materials to prepare. But we don't have the time or financial resources to collect all the problems. That is a major constraint, that we are not able to go everywhere and get the sense of all the problems.”⁵⁰ Some researchers have argued that, as a result of these dynamics, MSIs may in fact marginalize or undermine alternative priorities developed by Global South rights holders.⁵¹ These are all dynamics that we, too, have observed.

It is thus unsurprising that, despite their standards being applied to factories and farms in the Global South, the overwhelming number of MSI boards we have encountered are—across all the constituencies—majority Global North representatives.⁵² Even in the rare commitment to geographic diversity by the Forest Stewardship Council, an MSI whose governance requires a balance of Global North and Global South participants,⁵³ there have been documented exclusionary effects on Southern actors, as discussed in this section.⁵⁴

“ . . . the overwhelming number of MSI boards we have encountered are—across all the constituencies—majority Global North representatives.”

To combat this trend, MSIs may take well-intentioned steps to support the capacity of rights holders and CSOs to participate with equal voices, particularly those from the Global South. Such efforts, when done effectively, could not just help address inequities, but could also provide resourcing that enables CSOs to better liaise and engage their constituents—efforts that many CSOs have reported to us are stymied by lack of funding or network connections. However, such financial arrangements can also create perverse motivations for participating in an MSI. At their worst, they risk jeopardizing the independence of CSO representatives or compromising a CSO's integrity, as financial support might raise suspicion among groups outside of the MSI. For example, our earlier research into multi-stakeholder groups in Cameroon and the Democratic Republic of Congo found that members who attended all of their meetings were entitled to receive up to US \$6,000 in per diems annually.⁵⁵ This is a significant amount of money, particularly in light of the fact that the per capita annual income in those countries is only a fraction of that amount. The result was that CSOs outside of the MSI perceived these payments as conflicts of interest, and questioned whether the money could lead to “capture” and distort stakeholders' motivations for joining the initiative, which undermined the trust and perceived credibility of the MSI at the local level.⁵⁶

D. The process-oriented governance culture of MSIs can further deplete CSOs' limited resources and undermine efforts to push for reform

Beyond formal governance rules, we have also noticed that the culture at MSIs—particularly those with government members or a large membership base—tends to be highly process-oriented. Prior to changing their practices or key policies, MSIs routinely engage in extensive public review, consultation, and internal deliberation. As the EITI case study in Spotlight 2.2 indicates, it is not uncommon for reform proposals on an MSI's accountability or remedial mechanisms to undergo many rounds or years of discussion, revision, and expert study, only for the initiative to reject any substantive change at all.⁵⁷

While inclusive and careful consideration of issues has merit and considerable value, it also means decision-making on important issues can be very slow, which can be particularly taxing for those advocating for reform. This type of process-heavy decision-making can also be abused by actors to avoid reform and preserve the status quo. In other words, the notions of deliberation and inclusivity can be hijacked to avoid or delay contested or high-stakes decisions.

On several occasions, CSOs have complained to us in confidence that the excessive deliberation and processing of proposals can sometimes feel like a delay tactic. While it is difficult to understand the motives of stakeholders or their willingness to genuinely engage in reform, we have registered an increase in the skepticism and concern of some CSO participants about whether such deliberations are conducted in good faith.

When MSI processes delay decisions—whether in good faith or in bad—they deplete CSOs' limited energy and resources to push for reform. In some cases, those resources may evaporate altogether, as CSOs may have limited project funding to focus on the reform proposal for a set number of years, face staffing or organizational priority changes, or may lose enthusiastic advocates due to MSI board term limits. These dynamics mean that MSIs can sap CSOs' limited resources through protracted discussions, thus undermining the advancement of pro-human rights reforms.

SPOTLIGHT 2.2. Despite significant resourcing, civil society representatives in EITI are structurally disadvantaged in governance and decision-making

The Extractive Industries Transparency Initiative stands out among MSIs because of the significant resources and financial support made available for civil society participation in the initiative. Several major philanthropic foundations support CSO participation in EITI (including Open Society Foundations) as does the World Bank, and EITI itself. This has enabled Global South representation on the EITI Board. In addition, Publish What You Pay, a network of over 700 non-governmental organizations committed to transparency and accountability, has also long provided significant coordination and logistical support to the civil society constituency.⁵⁸ EITI also has considerable resources, with a budget of US \$7 million and over 30 full-time staff; approximately 7% of staff time is dedicated to supporting the Board and some resources are dedicated specifically for assisting civil society.⁵⁹

CSO engagement within EITI occurs both on the international EITI Board—which this case study focuses on—and also in countries implementing EITI as part of the national multi-stakeholder groups that oversee the initiative. In this sense, CSOs provide an important oversight function and their participation in EITI is instrumental to its success. The major reforms that have

occurred within EITI have often been championed by CSOs, including the strengthening of EITI's standards on project level reporting, contract transparency, and beneficial ownership.

At the same time, our research shows that there are significant governance challenges that undermine CSOs' ability to achieve their full potential as agents of change within EITI. Between 2015–2018, staff from MSI Integrity observed nine EITI Board meetings. We also observed the closed half-day meetings held in advance by civil society to prepare and strategize for each Board meeting. Despite the unusually high amount of resourcing available to CSOs, the significant effort devoted to coordination by EITI staff, CSOs, and donors, and the reforms these efforts have achieved in expanding EITI's scope and coverage since its founding, we discern that civil society is still significantly disadvantaged in EITI governance in a way that undermines the accountability objectives of the initiative.

Large workload undermines CSOs' ability to drive reform:

Several CSO board members have noted that it is very challenging to meet the demands of board duties in addition to their regular employment responsibilities. The EITI Board meets two to four times a year, usually with a very heavy agenda. By way of example, the average-sized Board packet was 326 pages in 2018, resulting in almost a thousand pages of reading for that year's three meetings, and included complex decisions such as whether to suspend Afghanistan, a move that would have resulted in the loss of its foreign aid that is tied to EITI participation.⁶⁰ In addition, all Board members participate on one or more Board committees, some of which meet monthly.⁶¹ Those committees may include further sub-working groups, some of which meet as often as twice monthly, on top of normal committee and Board obligations.

Our general observation is that the complexity and enormity of governing EITI is all-consuming for CSOs, who are left with limited capacity for developing or advocating their own proposals for reform. The pre-Board half-day meetings we observed were often primarily spent planning how to respond to the complex or contentious issues raised by other constituencies, with limited time dedicated to issues that CSOs themselves had identified as a priority, such as the reform or progress they had joined EITI to advance.

Power imbalances negatively impact CSO participation in formal and informal decision-making processes:

CSOs are a minority on the 21-person EITI Board, which is comprised of member countries (9), industry and investors (6), civil society (5), and a chair (1). Although decisions can be made by qualified majority, requiring a third of each of the three constituencies and 13 of the 21 votes of the Board as a whole, we observed a practice of expecting every decision to be reached by consensus. While this does allow CSOs to veto proposals, it also disadvantages CSOs by requiring them to convince each individual Board member to support pro-reform outcomes.

Moreover, although EITI has clear decision-making rules and frequently holds meetings in Global South countries, we observe that contentious matters are often negotiated during closed or informal conversations that reflect a distinctly Western culture. For example, negotiation over contentious issues frequently took place during evening receptions or late-night drinks at the hotel bar, and drew heavily on interpersonal relationships. We observed many CSO representatives disengaged from these informal interactions—particularly those from the Global South or for whom English is not a working language—leaving a much smaller number of CSO representatives to bear much of the late-night

negotiation and decision-making.

Lack of expertise affects the quality of CSO engagement on critical issues:

While the nomination and selection process for the CSO representatives to the EITI Board includes evaluating the skills and expertise of the nominees, the governance of the MSI frequently involves dealing with issues well beyond the knowledge and expertise that could reasonably be expected of them. EITI Board governance includes examining complex legal, tax, and financial issues, alongside matters that require expertise idiosyncratic to MSIs, such as effective rules for monitoring, governance, or implementation. Although some CSOs—including MSI Integrity—provide ad hoc analysis about and support for specific reform proposals, we have observed that the ramifications of certain proposals are not always fully understood by CSOs, undermining the ability of CSOs to ensure EITI is robustly structured and governed.

Different, and sometimes conflicting, agendas:

CSO representatives are highly diverse, not just geographically, but also with regard to their constituencies, organizational affiliations, backgrounds, and interests. While some representatives are from large international CSOs with a focus on finance and economics, others may be from community-based organizations in the Global South that also monitor the environmental or social impacts of extractive activity. While diversity has many benefits, it can produce significant internal divisions and factions based on the different interests and agendas of CSOs. For example, in general, CSO representatives from countries implementing EITI (particularly those countries with repressive regimes) tend to be more reluctant to support the suspension or expulsion of countries for violating standards relating to human rights and civic space, whereas Northern-based CSOs tend to prefer to set strong precedents for wrongdoing. The tension is understandable: individuals from implementing countries may fear that such precedents mean their country could also be suspended or expelled at a later point, and they may lose the protection, resourcing, or other intangible benefits that EITI implementation or participation confers. Meanwhile, those participating in EITI from the Global North, because of EITI's potential to achieve accountability outcomes, may wish to set strong precedents and deter other countries from abusing rights. This internal dynamic significantly contributed to the delay in suspending Azerbaijan, which took almost four years (see **Insight 4: Monitoring & Compliance**, Figure 4.2).

Logistical and coordination difficulties undermine effective participation:

The CSOs recognize that to effectively drive an agenda of reform, much analysis, coordination, and planning are required between Board meetings. However, despite their best efforts, language barriers, different time zones, limited time, and the sheer volume of decisions that must be made between Board meetings, mean that difficult decisions are often left to be resolved at the in-person pre-Board half-day meeting. The complexity and high stakes of these decisions, combined with travel exhaustion, mean that they are sometimes rushed, and CSOs do not have the time to plan their strategy and approach to garner support for their positions.

While some of these issues are true for other constituencies, the difference is that CSOs in EITI are generally the primary agent of change when it comes to promoting more rigorous human rights, transparency, or accountability outcomes or procedures. While there are, of course, exceptions and allies, in general our observation has been that other constituencies are less immediately amenable to proposals to change EITI in these ways.

As a result, we have observed that passage of pro-accountability, transparency, and human rights reforms is often very slow and highly resource-intensive. The effort by CSOs to encourage EITI to adopt a grievance mechanism is illustrative: CSO advocacy resulted in EITI agreeing to review and address its procedures for raising complaints in 2016. This process lasted almost three years and spanned ten meetings of the Governance and Oversight Committee, resulting in the creation of a specific technical working group. It included a review by Harvard Law School's Negotiation and Mediation Clinic, which recommended that EITI "create structures to address grievances in a transparent and consistent manner."⁶² Yet, at the end of the process, which involved considerable input and engagement from the two CSO representatives driving the effort, and in which MSI Integrity also provided pro bono expertise and input, the only change was that the Secretariat shared more information about existing processes online and created a Google form—currently in English only—that now enables individuals to file complaints.⁶³ The Board did not change any of its practices for how those complaints are disclosed or handled.

This is not to say that civil society within EITI is not capable of achieving reforms, or that some members or participants from other constituencies do not support a pro-reform agenda. As noted earlier, with gradual support from other constituencies, the CSOs successfully expanded the EITI's standards to include limited protections for civic space and to require further transparency around beneficial ownership and extractive contracts. Rather, this case study highlights the burden placed on civil society—even in the case of an initiative where CSOs have access to significant resources and finance to support their involvement—and the difficulties of effectively governing the initiative to achieve accountability outcomes.

Our Insights

The perceived legitimacy of MSIs stems from the fact that they include stakeholders—civil society or rights holders—who might act as watchdogs over corporations and drive pro-human rights reforms. However, in practice, MSIs generally exclude rights holders from governance and implementation processes, relying instead on CSOs to counterbalance corporate power. Yet, CSOs are ill-equipped to challenge corporate power within MSI governance due, in part, to their resource constraints, broad diversity, and the fact they generally need to win the support of corporations when making key decisions. This is exacerbated by the process-oriented nature of MSIs, which favors the status quo and absorbs CSOs' limited resources. Despite the rhetoric of multi-stakeholderism, in reality, MSIs entrench power in favor of corporations—the entity they seek to regulate. MSIs are thus poorly situated to fulfill “regulatory” functions, such as determining whether to expel non-complying members or fix weaknesses in accountability mechanisms.

While the inclusion of civil society and rights holders in MSIs has been seen as central to their potential for closing governance gaps, MSI governance structures and practices do not enable or empower these stakeholders to uphold the integrity of an MSI's standards or mission. Civil society can only “check” the power of corporations if they have the ability to exercise meaningful power within an MSI. MSIs, however, have not empowered CSOs and rights holders with the necessary resources or decision-making power to act as agents of change. Their ability to make key decisions can also be contingent on obtaining the support of a portion, if not all, of an MSI's member corporations, and sometimes governments. As a result, MSIs often cannot reliably fulfill the “regulatory” aspects of their mission and operations: determining whether certain members should be expelled or sanctioned and providing stakeholders monitoring, remedial, or enforcement mechanisms (see **Insight 4: Monitoring & Compliance** and **Insight 5: Remedy**, which outline how these functions are often ultimately within the realm of multi-stakeholder boards or panels). These issues can often be contested, in which cases MSIs' processes are resource-intensive, slow, and rely on CSOs or rights holders to drive change. Meanwhile, corporations (and governments) resistant to change are able to delay decisions or—if a sufficient number agree—to effectively veto them.

This is not to say that CSOs are not able to individually voice their perspectives as much as other stakeholders, that change and reform in an MSI cannot or has not happened, or that MSIs have not yielded some positive benefits between stakeholders. Many stakeholders have reported to us that the space MSIs offer for learning, dialogue, experimentation, relationship-building, and concomitant norm diffusion make membership in them worthwhile. Some MSIs have also begun to engage in public policy and legislative reform efforts to support more rights-promoting outcomes. The current consensus and majority-based decision-making of MSIs, as well as their broader governance culture and dynamics, appear well-suited for achieving these types of aims; MSIs work to bring stakeholders together to exchange lessons, ideas, and positions internally in order to identify and negotiate areas of common agreement. Thus, assuming the appropriate stakeholders are engaged and that rights holder voices are being represented, MSIs can be powerful forums for identifying or acknowledging good practice, achieving incremental reform, and for learning, improvement, and experimentation.

In other words, there is a disconnect between the assumed role of CSOs and their actual capacities within the format and structure of MSIs. Multi-stakeholderism can have benefits, but the governance structures and culture within MSIs mean that CSO participation cannot be relied upon to ensure that abuses are prevented or remediated, or to hold corporations or governments accountable for abuses—even though these are the explicit functions that MSIs take on. This is compounded by the absence of rights holders from MSIs. Rights holder inclusion is deeply intertwined with the substantive rights outcomes and the ability of MSIs to establish rights protections. If rights holders were meaningfully involved and empowered in the design of a governance initiative, we believe that they would design and demand systems that offer robust human rights protection and access to effective remedy when those protections fail.

In our view, the limitations of MSIs as tools for closing governance gaps—their original promise—have over time put some CSOs in an impossible position, and are the underlying reasons why some prominent initial supporters have ultimately left MSIs: because they are powerless to change them. We anticipate that over time, adversarial or activist CSOs will continue to leave MSIs (see **Insight 1: Influence**), which will further transform them into effectively corporate-led initiatives.

In this way, some scholars argue that multi-stakeholder governance reinforces a larger trend of “corporate capture,” in which corporations exercise undue influence over these initiatives while excluding CSOs and rights holders from equal opportunities to effect change.⁶⁴ The concern is that this process of corporate capture results in policy formulations that favor the vested interests of corporate actors. As a result of these structural issues, we now believe that MSIs, in their current form, generally serve to entrench corporate power, rather than upend it.

Cited Sources

- Abbott, Kenneth W., and Duncan Snidal. "The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State." *In The Politics of Global Regulation*. Edited by Walter Mattli and Ngaire Woods, 44–88. Princeton, Oxford: Princeton University Press, 2008.
- Anastasiya Rozhkova. *Annual Trust Fund Implementation Progress Report to Development Partners Australia, Belgium, Canada, European Commission, Finland, Germany, Netherlands, Norway, Switzerland, United Kingdom, Fiscal Year 2018*. <http://pubdocs.worldbank.org/en/541291562161703180/EGPS-Annual-Report-FY18.pdf>.
- Batliwala, Srilatha. "Grassroots Movements as Transnational Actors: Implications for Global Civil Society." *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 13, no. 4 (December 2002): 393–410.
- Bendell, Jem. "In Whose Name? The Accountability of Corporate Social Responsibility." *Development in Practice* 15, nos. 3 and 4 (2005): 362–74.
- Bennett, E. "Legitimacy and Stakeholder Balance: Lessons from Fairtrade International." *Social Enterprise Journal* 12 (2016): 324–25.
- Bonsucro Limited. *Articles of Association of Bonsucro Limited*. 2006. <http://www.bonsucro.com/wp-content/uploads/2017/01/BONSUCRO-Articles-of-Association-final-for-EGM-160314.pdf>.
- Boström, Magnus, and Kristina Tamm Hallström. "Global Multi-Stakeholder Standard Setters: How Fragile Are They?" *Journal of Global Ethics* 9, no. 1, 93–110.
- Brouwer, Herman, Wim Hiemstra, Simone van Vugt, and Hettie Walters. "Analysing Stakeholder Power Dynamics in Multi-Stakeholder Processes: Insights of Practice from Africa and Asia." *Knowledge Management for Development Journal* 9, no. 3 (2013): 11–31.
- Consensus Building Institute. "Selection of Civil Society Representatives on the International EITI Board (2019–2022)." <https://www.cbi.org/project/eiti-board-cso/>.
- Dermawan, Fatima, and Leon Peschel. "Extractive Industries Transparency Initiative (EITI)." Harvard Negotiation and Mediation Clinical Program. <http://hnmcp.law.harvard.edu/projects/extractive-industries-transparency-initiative-eiti/>.
- The Economist. "Flare-Up." February 25, 2016. <https://www.economist.com/business/2016/02/25/flare-up>.
- EITI. "Azerbaijan Withdraws from the EITI." March 10, 2017. <https://eiti.org/news/azerbaijan-withdraws-from-eiti>.
- "Board Committees." Accessed January 20, 2020. <https://eiti.org/board-committees>.
- _____. "Funding." Accessed January 20, 2020. <https://eiti.org/funding#funding-of-the-international-management-of-the-eiti>.
- _____. "How to Voice Your Concern." Accessed January 20, 2020. <https://eiti.org/how-to-voice-your-concern>.
- _____. International Secretariat Work Plan. December 2, 2019. https://eiti.org/files/documents/international_secretariat_work_plan_2020.pdf.
- EMJee Consult. "Research on Multi-Stakeholder Initiative and Civil Society Space: Final Report of the Exploration of the Roles of MSIs in the Enabling Environment for Civil Society (EEfCS) In Tanzania." June 2018.
- Equitable Food Initiative. "EFI Board and Staff." Accessed January 28, 2020. <https://equitablefood.org/board-and-staff>.
- _____. "Our Mission." Accessed January 15, 2020. <https://equitablefood.org/about-efi/>.
- Ethical Trading Initiative. "ETI Board Members." Accessed January 28, 2020. <https://www.ethicaltrade.org/about-eti/our-team/eti-board-members>.
- _____. "Why We Exist." Accessed January 15, 2020. <https://www.ethicaltrade.org/about-eti/why-we-exist>.
- Fair Wear Foundation. "Our Team." Accessed January 28, 2020. <https://www.fairwear.org/about-us/our-team#board>.
- Fairtrade International. "Our Mission and Vision." Accessed January 15, 2020. <https://www.fairtrade.net/about/mission>.
- Forest Stewardship Council. *Statutes*. 2014. <https://us.fsc.org/download.fsc-ac-statutes.a-590.pdf>.
- Fransen, Luc. "Multi-Stakeholder Governance and Voluntary Programme Interactions: Legitimation Politics in the Institutional Design of Corporate Social Responsibility." *Socio-Economic Review* 10 (2012): 163–92.
- Fransen, Luc W., and Ans Kolk. "Global Rule-Setting for Business: A Critical Analysis of Multi-Stakeholder Standards." *Organization* 14, no. 5 (2007): 667–684.

- Gauthier, Bernard, and Albert Zeufack. "Governance and Oil Revenues in Cameroon." *Plundered Nations? Success and Failures in Natural Resource Extraction*. Edited by Paul Collier and T. Venables. London: Palgrave Macmillan, 2011.
- Ijewereme, Ogbewere Bankole. "Anatomy of Corruption in the Nigerian Public Sector: Theoretical Perspectives and Some Empirical Explanations." *Sage Open* 5, no. 2 (2015).
- International Commission of Jurists (ICJ). *Effective Operational-Level Grievance Mechanisms*. Geneva: International Commission of Jurists, November 2019. <https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>.
- IOD PARC. *Ethical Trading Initiative External Evaluation Report* (April 2015). Accessed January 20, 2020. https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_external_evaluation_report_-_iod-parc_2015.pdf.
- Mena, S., and G. Palazzo. "Input and Output Legitimacy of Multi-Stakeholder Initiatives." *Business Ethics Quarterly* 22 (2012): 527–56.
- MSI Integrity. *The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives*. San Francisco: MSI Integrity, June 2017. www.msi-integrity.org/wp-content/uploads/2019/07/171017-Nigeria-Convening-Summary-Report-SCrevid.pdf.
- _____. "The Multi-Stakeholder Initiative Database." Accessed February 24, 2020. <https://msi-database.org>.
- _____. *Understanding Community Experiences of Cocoa Farming and Extractive Site Security: A Workshop to Explore Community Engagement in the Voluntary Principles on Security and Human Rights and UTZ Certified*. Summary report. Port Harcourt, Nigeria, June 20–21, 2017. <http://www.msi-integrity.org/wp-content/uploads/2019/07/171017-Nigeria-Convening-Summary-Report-SCrevid.pdf>.
- Moog, Sandra, Andre Spicer, and Steffen Böhm. "The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council." *J Bus Ethics* 128 (2015): 469–93.
- Pingeot, L. "Scrutinizing the Corporate Role in the Post-2015 Development Agenda." *In State of the World 2014*, 165–173. Washington, DC: Island Press, 2014.
- Publish What You Pay. "Prominent Experts to Advise on the Independent Review of Civil Society Guidelines in the EITI." March 13, 2018. <https://www.publishwhatyoupay.org/pwyp-news/prominent-experts-advise-independent-review-civil-society-guidelines-eiti/>.
- Roundtable of Sustainable Palm Oil. *The Statutes of the Roundtable on Sustainable Palm Oil*. November 17, 2018.
- Schouten, Greetje, Pieter Leroy, and Pieter Glasbergen. "'On the Deliberative Capacity of Private Multi-Stakeholder Governance: The Roundtables on Responsible Soy and Sustainable Palm Oil.'" *Ecological Economics* 83 (November 2012): 42–50.
- Social Accountability International. "Board of Directors." Accessed January 28, 2020. https://sa-intl.org/people/?fwp_people=boardofdirectors.
- Taylor, P. "In the Market but not of It: Fair Trade Coffee and Forest Stewardship Council Certification as Market- Based Social Change." *World Dev* 33 (2005): 129–47.
- United Nations Development Programme. "UNDP and Civil Society." Accessed January 15, 2020. https://www.undp.org/content/undp/en/home/partners/civil_society_organizations.html.
- van Huijstee, Mariëtte. *Multi-Stakeholder Initiatives: A Strategic Guide for Civil Society Organizations*. Amsterdam, The Netherlands: Centre for Research on Multinational Corporations, 2012.
- Worker-Driven Social Responsibility Network. "Statement of Principles." Accessed January 10, 2020. <https://wsr-network.org/what-is-wsr/statement-of-principles/>.
- The World Bank. "Extractives Global Programmatic Support (EGPS) Multi-Donor Trust Fund." Accessed February 7, 2020. <https://www.worldbank.org/en/programs/egps>.
- World Health Organization. *Understanding Civil Society Issues for WHO*. Discussion paper no. 2. February 2002. <https://www.dgs.pt/participacao-da-sociedade-civil/legislacao-e-regulamentos/regulamentos-e-recomendacoes-internacionais/understanding-civil-society-issues-for-who-pdf.aspx>.
- Worldwide Responsible Accredited Production. "Board Members." Accessed January 28, 2020. <http://www.wrapcompliance.org/en/board-members>.

Endnotes

- 1 Kenneth W. Abbott and Duncan Snidal, "The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State," in *The Politics of Global Regulation*, ed. Walter Mattli and Ngaire Woods (Princeton: Princeton University Press, 2008), noting that non-governmental organizations may specialize in gathering and disseminating credible information, that their independence often makes them the only actor able to gather accurate testimony from workers and others affected by firms' practices, and that they have strong normative expertise and commitment.
- 2 E. Bennett, "Legitimacy and Stakeholder Balance: Lessons from Fairtrade International," *Social Enterprise Journal* 12 (2016): 324–25. See also "[Statement of Principles](#)," Worker-Driven Social Responsibility Network, accessed January 10, 2020.
- 3 Luc Fransen, "Multi-Stakeholder Governance and Voluntary Programme Interactions: Legitimation Politics in the Institutional Design of Corporate Social Responsibility," *Socio-Economic Review* 10 (2012): 169.
- 4 See also S. Mena and G. Palazzo, "Input and Output Legitimacy of Multi-Stakeholder Initiatives," *Business Ethics Quarterly* 22 (2012): 527–56.
- 5 G. Schouten, P. Leroy, and P. Glasbergen, "On the Deliberative Capacity of Private Multi-Stakeholder Governance: The Roundtable on Responsible Soy and Sustainable Palm Oil," *Ecological Economics* 83 (2012): 42; Jem Bendell, "In Whose Name? The Accountability of Corporate Social Responsibility," *Development in Practice* 15, nos. 3 and 4 (2005): 368. See also Luc W. Fransen and Ans Kolk, "Global Rule-Setting for Business: A Critical Analysis of Multi-Stakeholder Standards," *Organization* 14, no. 5 (2007): 671; Srilatha Batliwala, "Grassroots Movements as Transnational Actors: Implications for Global Civil Society," *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, 13, no. 4 (December 2002): 397. ("Global civil society is a microcosm, in many ways, of the imbalances of power, resources, and access that characterize the world at large. Northern groups and networks—even if they have 'Southern' organizations in their membership—occupy much of the space for citizen input at the multilateral institution level.")
- 6 To be clear, in the context of MSIs, we consider trade unions as rights holders or affected community representatives; see **Defining the Key Concepts**.
- 7 The mission statements of all 40 MSIs in this study are available from the spreadsheet "MSI Trends Dataset" on our website and contains information current as of June 30, 2019. See <https://www.msi-integrity.org/not-fit-for-purpose/aims-and-evidence/datasets/>.
- 8 "[Our Mission and Vision](#)," Fairtrade International, accessed January 15, 2020.
- 9 "[Our Mission](#)," Equitable Food Initiative, accessed January 15, 2020.
- 10 "[Why We Exist](#)," Ethical Trading Initiative, accessed January 15, 2020.
- 11 "[The Multi-Stakeholder Initiative Database](#)," MSI Integrity, accessed February 24, 2020.
- 12 See **Insight 5: Remedy**.
- 13 "[The Multi-Stakeholder Initiative Database](#)," MSI Integrity, accessed February 24, 2020.
- 14 For example, the ISEAL Alliance notes that when its members (many of whom are MSIs) set or revise standards, "directly affected stakeholders" should be consulted. [Setting Social and Environmental Standards: ISEAL Code of Good Practice](#), vers. 6.0, December 2014, 12. However, as it included businesses in its definition, there is no direct assurance that this process includes rights holders.
- 15 International Commission of Jurists (ICJ), [Effective Operational-Level Grievance Mechanisms](#) (Geneva: International Commission of Jurists November 2019), 11, 25, 87.
- 16 Interview 85, factory worker, Philippines, August 19, 2017.
- 17 Interview 36, forest villager, Cameroon, May 26, 2017.
- 18 Interview 114, factory worker, Philippines, August 27, 2017.
- 19 Interview 69, factory worker, Philippines, August 16, 2017.
- 20 Interview 71, factory worker, Philippines, August 16, 2017.
- 21 Interview 20, forest villager, Cameroon, May 23, 2017.
- 22 Interview 25, forest villager, Cameroon, May 23, 2017.
- 23 Interview 129, farmer, Cameroon, June 10, 2017.
- 24 MSI Integrity, [Understanding Community Experiences of Cocoa Farming and Extractive Site Security: A Workshop to Explore Community Engagement in the Voluntary Principles on Security and Human Rights and UTZ Certified](#), Summary report, Port Harcourt, Nigeria, June 20–21, 2017, 23.
- 25 MSI Integrity, [Understanding Community Experiences](#), 23–24.
- 26 Bendell, "In Whose Name?" 363.
- 27 The precise definition of "civil society" varies from source to source; however, there is consensus that it excludes government and for-profit actors. For example, according to the World Health Organization, "civil society embraces the general public at large, representing the social domain that is not part of the State or the market.... The increasingly accepted understanding of the term CSOs is that of non-state, not-for-profit, voluntary organizations formed by people within the sphere of civil society." World Health Organization, [Understanding Civil Society Issues for WHO](#), Discussion paper no. 2, February 2002, 4. The UN Development Programme identifies civil society as "the full range of formal and informal . . . organizations that are outside the state and market." "[UNDP and Civil Society](#)," UNDP.org, accessed January 15, 2020.
- 28 Sandra Moog, Andre Spicer, and Steffen Böhm, "The Politics of Multi-Stakeholder Initiatives: The Crisis of the Forest Stewardship Council," *J Bus Ethics* 128 (2015): 481.
- 29 Herman Brouwer et al., "Analysing Stakeholder Power Dynamics in Multi-Stakeholder Processes: Insights of Practice from Africa and Asia," *Knowledge Management for Development Journal* 9, no. 3 (2013): 26; see also MSI Integrity, [Protecting the Cornerstone](#), February 2015, 92–93, detailing how CSOs in the Philippines took steps to ensure community voices in the Extractive Industries Transparency Initiative.
- 30 See "[The Multi-Stakeholder Initiative Database](#)," MSI Integrity, accessed February 24, 2020.

- 31 In addition to our MSI Evaluation Tool, see ISEAL.
- 32 IOD PARC, [Ethical Trading Initiative External Evaluation Report](#), (April 2015), accessed January 20, 2020.
- 33 IOD PARC, 19.
- 34 IOD PARC, 19.
- 35 MSI Integrity, *New Regulators*, 9–11.
- 36 MSI Integrity, *New Regulators*, 9–11.
- 37 See EMJee Consult, “Research on Multi-Stakeholder Initiative and Civil Society Space: Final Report of the Exploration of the Roles of MSIs in the Enabling Environment for Civil Society (EEFCS) in Tanzania,” June 2018, 10. See also the EITI case study included in this chapter.
- 38 None of the five MSIs in our pilot evaluations, for example, included restrictions regulating or limiting payments or contributions from targeted actors to civil society.
- 39 See MSI Integrity, *Protecting the Cornerstone*, 38–40. Other instances have been reported to us in confidence.
- 40 See Bernard Gauthier and Albert Zeufack, “Governance and Oil Revenues in Cameroon,” *Plundered Nations? Success and Failures in Natural Resource Extraction* (2011): 27–78; Ogbewere Bankole Ijewereme, “Anatomy of Corruption in the Nigerian Public Sector: Theoretical Perspectives and Some Empirical Explanations,” *Sage Open* 5, no. 2 (2015): 6.
- 41 See Consensus Building Institute, [“Selection of Civil Society Representatives on the International EITI Board \(2019–2022\)”](#), accessed January 25, 2020; Roundtable of Sustainable Palm Oil, *The Statutes of the Roundtable on Sustainable Palm Oil*, November 17, 2018, 5.
- 42 See Roundtable of Sustainable Palm Oil *The Statutes of the Roundtable on Sustainable Palm Oil*, November 17, 2018, 5.
- 43 See MSI Integrity, *Protecting the Cornerstone*, iv–v, vii, 16–21.
- 44 For example, in 2016, the inclusion of an inappropriate candidate on the ballot for a civil society seat led CSOs to boycott the proceedings, and ultimately, to the CSO coordinating group, Publish What You Pay, undertaking a major revision of its constituency selection process and rules. See [“Selection of Civil Society Representatives on the International EITI Board \(2019–2022\)”](#); Consensus Building Institute; [“Flare-Up.”](#) *The Economist*, February 25, 2016.
- 45 For example, the EITI revision of its CSO criteria required a paid third-party facilitator and the creation of an advisory panel: see Publish What You Pay, [“Prominent Experts to Advise on the Independent Review of Civil Society Guidelines in the EITI,”](#) March 13, 2018.
- 46 Mariëtte van Huijstee, *Multi-Stakeholder Initiatives: A Strategic Guide for Civil Society Organizations* (Amsterdam, The Netherlands: 2012), 31–32, 51–52; MSI Integrity, *Protecting the Cornerstone*, 44.
- 47 See, e.g., Schouten, Leroy, and Glasbergen, “On the Deliberative Capacity,” 45; Moog, Spicer, and Böhm, “Politics of Multi-Stakeholder Initiatives, 481; Brouwer et al., “Analysing Stakeholder Power, 11–31.
- 48 van Huijstee, *Multi-Stakeholder Initiatives*, 323.
- 49 MSI Integrity, *Protecting the Cornerstone*, 44.
- 50 Interview 14, CSO representative, Cameroon, May 22, 2017.
- 51 Bendell, “In Whose Name?,” 365.
- 52 Our observation that most MSIs have a board primarily composed of Global North representatives is supported by a rough internal approximation of North/South board composition conducted in November 2018, which is available on file with MSI Integrity by request.
- 53 Forest Stewardship Council, [Statutes](#), 2014, 8–9, 12, establishing Social, Environmental, and Economic chambers with equal voting power, and requiring both its general assembly and board of directors to be geographically diverse. By comparison, see, e.g., the governance of Bonsucro, which does not require any diversity on its board in its governing rules: Bonsucro Limited, [Articles of Association of Bonsucro Limited](#), 2006.
- 54 See, e.g., Moog, Spicer, and Böhm, “The Politics of Multi-Stakeholder Initiatives,” 469–493, describing how “the initiative’s growing organizational complexity has meant that it is increasingly difficult to engage meaningfully” and that this is particularly difficult for “smaller groups from the global South and nationally based campaign groups in the North.”
- 55 MSI Integrity, *Protecting the Cornerstone*, ix, 48–49.
- 56 MSI Integrity, *Protecting the Cornerstone*, ix, 48–49.
- 57 See also the delays documented in **Insight 4: Monitoring & Compliance**, Figure 4.2 as another example of delayed decision-making within MSIs.
- 58 See The World Bank, [“Extractives Global Programmatic Support \(EGPS\) Multi-Donor Trust Fund,”](#) accessed February 7, 2020. [Annual Trust Fund Implementation Progress Report to Development Partners Australia, Belgium, Canada, European Commission, Finland, Germany, Netherlands, Norway, Switzerland, United Kingdom](#), Fiscal Year 2018, 7.
- 59 See [“Funding,”](#) EITI, accessed January 20, 2020.
- 60 The EITI Secretariat has noted that efforts are being made to reduce the size of the board packet (communication exchange on record with MSI Integrity).
- 61 See, for example, the requirements of the Implementation Committee: [“Board Committees,”](#) EITI, accessed January 20, 2020.
- 62 *Harvard Law School Clinical Negotiation and Mediation Clinical Program Review of the Grievance Mechanisms of the Extractive Industries Transparency Initiative*, 2018, 3. Copy available from the EITI Secretariat.
- 63 [“How to Voice Your Concern,”](#) EITI, accessed January 20, 2020. Note that this form has since been removed with the explanation: “We are updating the online form for raising concerns to the attention of the EITI’s international management. The form will be available here shortly.”
- 64 L. Pingeot, “Scrutinizing the Corporate Role in the Post-2015 Development Agenda,” in *State of the World 2014* (Washington, DC: Island Press, 2014); P. Taylor, “In the Market but Not of It: Fair Trade Coffee and Forest Stewardship Council Certification as Market-Based Social Change,” *World Dev* 33 (2005): 129–47.



INSIGHT 3

Standards & Scope:

Many MSIs adopt narrow or weak standards that overlook the root causes of abuses or risk creating a misperception that they are being effectively addressed



Standards & Scope:

Many MSIs adopt narrow or weak standards that overlook the root causes of abuses or risk creating a misperception that they are being effectively addressed



In this chapter: This chapter examines the ways in which an MSI's standards and scope can shape the human rights agenda for an industry. It analyzes the breadth and rigor of the standards set by some of the most prominent MSIs, and also examines which actors are charged with the burden of complying with these standards.

Summary of our insights: Although MSIs influence industry practices, when closely analyzed from a human rights perspective, certain standards that MSIs adopt are often far from what is considered to be "best practice." An MSI's standards may be too weak to lead to change, may fail to address key human rights issues, or may impose burdens primarily on Global South companies or governments without considering the leverage and responsibilities of Global North actors. Thus, even if a company or government complies with all of an MSI's standards, critical human rights abuses may continue. Yet few external actors—whether policymakers or consumers—have the time or expertise necessary to analyze an MSI's scope or limitations. Rather than transforming the underlying conditions or practices that lead to abuse, MSIs thus risk embedding certain business-as-usual practices and creating a misperception that they are effectively addressing human rights concerns when they are not.

Key findings and observations:

- **MSIs can draw attention away from the full extent of human rights abuses in an industry or create a misperception that they are being adequately addressed:**
 - Some MSI names, mission statements, or communication strategies may suggest that they encompass a broader range of issues than their standards address. Over three-quarters of MSIs in our MSI Database use "sustainable," "fair," "equitable," or "responsible" in their name or mission. However, uncovering the true scope of an MSI's standards requires expertise and close reading of technical documents that many individuals are unlikely to undertake. For example:
 - Although many supply-chain MSIs claim to address the economic wellbeing of workers, an analysis of eight prominent supply-chain MSIs reveals that—while more than half of the initiatives loosely encourage or mention providing workers with a living or fair wage—only one initiative actually requires that workers are paid a living wage within a fixed timeframe.
 - An analysis of seven prominent certification MSIs reveals that "certified" products like coffee, wood, or palm oil might still be tainted with serious human rights violations. This is because these MSIs primarily—if not exclusively—focus on monitoring conditions at the initial point of production, leaving open vulnerabilities for rights abuses when goods are washed, packaged, shipped, and at other later points in the supply chain.
 - Other initiatives, such as the Marine Stewardship Council and Kimberley Process Certification Scheme, have an explicitly narrow focus, but do little to acknowledge the wider human rights problems in an industry beyond those covered by their standards. Some civil society organizations (CSOs) and external stakeholders believe that those initiatives may crowd-out or obscure those wider issues.

- **MSIs sometimes create standards that are too weak to ensure that the underlying issue is actually being addressed.** This tends to happen through: (1) setting standards that are weaker than international human rights norms or are otherwise regressive; (2) using ambiguous language; (3) relying on processes that lack sufficient detail or rigor to ensure they lead to the protection of rights; (4) making key standards “optional”; and (5) only applying to selective aspects of a business operation or supply chain.
- **Many MSIs have set standards that assign responsibility to less-resourced actors—mainly producers and entities in the Global South—while ignoring more powerful actors in the Global North.** These MSIs risk failing to address the underlying drivers of abuse or to harness those actors with significant leverage and power to transform business practices. For example:
 - MSIs that include governments as members have not placed obligations on “home states” (the countries where multinational companies are headquartered) despite the relative power that Global North governments have over those companies and their duty to protect human rights. Instead, they focus on placing obligations on “host state” governments, who tend to have less economic or political power over foreign corporations.
 - Supply-chain MSIs do not tend to address the purchasing practices of powerful brands that drive human rights abuses along the supply chain, such as setting below-cost prices or demanding short lead times. For example, only two of the eight prominent supply-chain MSIs we analyzed explicitly recognize the need for responsible purchasing practices. Nor do MSIs adequately disclose the extent of abuses found in brands’ supply chains. Instead, they shift the focus onto the behavior of producers and suppliers.
 - Placing further burdens on producers risks compounding economic pressures that can lead employers to cut costs by creating unsafe working conditions or engaging in harmful labor practices. It also risks excluding the world’s poorest farmers and factories from participating in MSIs, thereby exacerbating economic inequality.

MSIs referenced: Bonsucro, Ethical Trading Initiative, Extractive Industries Transparency Initiative, Fair Labor Association, Fair Wear Foundation, Fairtrade International, Forest Stewardship Council, Global Coffee Platform, Global Network Initiative, Hydropower Sustainability Assessment Council, Infrastructure Transparency Initiative, International Code of Conduct for Private Security Providers, Marine Stewardship Council, Rainforest Alliance, Roundtable on Sustainable Palm Oil, Social Accountability International, Sustainable Forestry Initiative, UTZ, Voluntary Principles for Security and Human Rights, and Worldwide Responsible Accredited Production.

Background: Context and Approach

Given the influence of MSIs, and the resourcing that they attract and demand, MSIs' decisions about the standards they set and the approach they take can shape the scope and modality of human rights interventions for entire industries (see **Insight 1: Influence**). The practices that MSIs require companies or governments to follow can establish accepted “good practices” in an industry. The scope of issues that MSIs decide to highlight as important can shape human rights discourse and praxis in an industry. Furthermore, the way that MSIs envision obligations and design processes for implementation signals who ought to be responsible for addressing these issues: producers or retailers, companies or governments, and so forth.

In light of their influence, it is important that MSIs develop standards and approaches that will result in strong human rights protections for rights holders. Otherwise, MSIs may end up entrenching rather than upending corporate practices that lead to human rights abuse, while distracting attention and resources away from more comprehensive solutions.

Yet, MSIs can approach standard-setting in ways that may allow key abuses to persist, even if their members fully comply with their standards. This chapter examines the different problems we have observed with regards to standard-setting in MSIs. Our analysis is not meant to provide an exhaustive list of how MSIs fail to be rights-maximizing or to suggest that these deficiencies apply to all MSIs in the same way. To the contrary, we have observed that, while many MSIs may adopt approaches that risk leaving the door open for abuses to persist under the cover of their operation, the way that they do this varies from MSI to MSI, based on the specific standards, approach, and context of the initiative. The examples presented here are thus meant to illuminate, rather than exhaustively establish, the different ways that this can occur.

While throughout this chapter we reference and base our analysis on a number of different MSIs that address different issues and industries,¹ we also include a close analysis of eight MSIs in different sectors that focus on supply-chain issues. We refer to these collectively as “supply-chain MSIs.” We focused on supply-chain MSIs because of their relative ease of comparison given the overlap of labor issues found within supply chains, whereas other MSIs often operate in highly idiosyncratic contexts. The eight supply-chain MSIs are: Bonsucro, Fair Labor Association (FLA), Fairtrade International, Forest Stewardship Council (FSC), Marine Stewardship Council (MSC), Rainforest Alliance, Roundtable on Sustainable Palm Oil (RSPO), and Sustainable Forestry Initiative. These eight initiatives were selected because they are often held up as leaders in their respective industries, have a strong membership base relative to their industries, and cover a range of different industries. All but one of these supply-chain MSIs use a producer certification model, in which producers who choose to seek certification by the initiative are then required to comply with their standards; brands or retailers who buy from those producers can then promote their product as being certified.² We refer to these seven MSIs as “certification MSIs.” The remaining MSI, FLA, instead adopts a “top-down” approach to monitoring, whereby if a brand, retailer, or university joins FLA, a sampling of its major suppliers is subject to audits, but the individual products or companies are not subject to certification.³

1 MSIs can draw attention away from key human rights abuses or create a misperception that they are being adequately addressed

The scope and mandate of an MSI refers to the breadth of the issues or problems that it addresses and its proposed approach for addressing those issues or problems. We have observed that some MSIs may—inadvertently or not—endorse narrow approaches that draw attention away from key human rights abuses or create a misperception that they are being adequately addressed. This means that members of an MSI could comply with all of the MSI’s standards, and yet, abuses may persist in a way that consumers, policymakers, or other external stakeholders do not appreciate. There are two different ways we have observed this happening, which we outline below.

A. MSIs’ names, mission statements, or communication strategies may suggest that they address a broader range of issues than their standards actually do

MSIs, through their mission statements, names, or communications materials, may create the appearance or suggestion that they address the key human rights issues for a particular industry, or have adopted a robust approach for tackling a particular issue. However, a close analysis of the initiative’s context, scope, and standards—which is a technical and time-intensive exercise that many external actors are unlikely to conduct—can reveal that it addresses a narrower range of issues than may be apparent. That there is a gap between the appearance of what an MSI addresses and what its standards actually cover means some MSIs risk contributing to a public misperception that key issues are being addressed, when they are not.

Many MSIs describe their mission and activities in broad language that may give the impression that their standards cover a wide range of issues. Over three-quarters of MSIs in our MSI Database use “sustainable,” “fair,” “equitable,” or “responsible” in their name or mission. Similarly, a review of the mission statements of MSIs in our MSI Database reveals that most are broad, such as “to empower decisions that create social, environmental and economic benefits for everyone”;⁴ “to promote environmentally sound, socially beneficial and economically prosperous management of the world’s forests”;⁵ and “to create a better future for people and nature by making responsible business the new normal.”⁶ However, there is sometimes a gap between this messaging and the narrow range of issues that an MSI actually addresses.

To understand the exact issues that an MSI addresses requires a close reading of the initiatives’ standards, monitoring systems, and membership base. These are often contained in multiple—often dense and highly technical—documents, which can be difficult to locate, cross-reference, and understand. It also requires assessing an MSI’s scope and approach in light of the industry, the key adverse impacts that can occur in the sector, and the history behind the initiative’s formation—all of which may require considerable research.⁷ Our own analyses of MSIs frequently take hours, if not days, of desk-based research; indeed, the detail and complexity of MSIs mean that to have a comprehensive understanding of the scope and operations of an MSI usually takes in excess of 100 hours of analysis of desk-based material, as well as interviews with MSI staff.⁸ In addition, sometimes information central to understanding an MSI’s operations and practices is not available on its website, perhaps due to limited resources and communications budgets, which then requires engaging with MSI staff.⁹ As a result, assessing the limits of an MSI’s scope or the adequacy of its approach is an exercise that many policymakers, investors, consumers, or other external stakeholders may be unwilling or unable to undertake.¹⁰

To illustrate how this can occur, Spotlight 3.1 examines how the broad language used by supply-chain MSIs can contrast with the limited scope of their standards. There, while many use broad language to suggest they address the economic wellbeing of workers, and more than half of the initiatives loosely encourage or mention providing workers with a living or fair wage, only one initiative actually has

standards that require workers are paid a living wage within a fixed timeframe (and even this is only in limited contexts). Similarly, Spotlight 3.4. explains how products like coffee, wood, or palm oil might be labeled with an MSI's certification mark, and yet may have been produced under serious labor violations when the goods were being washed, shipped, or at other points in the supply chain. This is because it is only by closely analyzing the standards of certification MSIs that it becomes clear that very few of these initiatives actually monitor for labor or rights abuses beyond the initial point of production or harvest of a good. While all seven of the certification MSIs monitor at the factory or farm level, only two conduct any on-site monitoring of the conditions of workers or other rights holders at other stages in the supply chain, which thus allows for abuses to occur in certified products undetected.

Certification MSIs, such as the seven we analyzed in this section, are particularly at risk of misleading the public. This is because the labels and certification marks used by certification MSIs on different products are generally simple images accompanied by few words; the language that they do include is generally broad and does not specify the scope of the MSI. They do not provide extensive disclaimers or details about what the certification entails or covers, or information about the limitations of an MSI's standards. Indeed, as the case study on how different initiatives treat the issue of a living wage shows (see Spotlight 3.1), some MSIs use identical terms, but with different meanings: RSPO provides a "sustainable" label that includes a living wage standard whereas other MSIs, such as the Sustainable Forest Initiative and MSC, have a "sustainable" label that does not include a living wage standard. Indeed, MSC certified fish as sustainable for over 15 years without addressing any labor issues, and its revised standard selectively focuses on forced labor and child labor without addressing other relevant human rights issues (see Spotlight 3.2).

This lack of information about what certification covers and the precise meaning of terms used by MSIs creates knowledge asymmetry between consumers and MSIs that heightens the potential for misperception. Indeed, consumer concerns are behind recent legal proceedings alleging that certification by UTZ of Nestlé chocolate is falsely advertised as sustainable, given the prevalence of child and forced labor in the production of cocoa.¹¹ The duplication of MSIs and other voluntary standard-setting initiatives in some industries, which results in label competition within the same product range, can potentially create further confusion. By way of example, there are at least three different MSIs that certify coffee and five that monitor clothing and apparel factories (although not all provide consumer-facing labels), each with their own standards.¹² This is only within the context of MSIs; there are hundreds of other initiatives, plus many more companies, that also operate in these industries (see **Insight 1: Influence**).

The risk of creating public misperceptions is not unique to certification or consumer-facing MSIs, however. Other prominent MSIs without a certification focus also have language or mission statements that suggest a wider scope than is actually covered by their standards. For example, much of the communications materials of the Global Network Initiative, whose members include large technology companies such as Facebook, Google, and Microsoft, suggest that it has a broad mandate to ensure internet and telecommunications companies "respect freedom of expression and privacy."¹³ However, when closely analyzed, its standards do not address key privacy or freedom of expression issues, such as tech companies' sale to private actors of user data or the way in which this data is used for targeted advertising.¹⁴ Rather, most of GNI's standards and records of its activities are limited to how technology companies should respond to *government* restrictions or demands for data.¹⁵ This perhaps explains why GNI did not publicly comment on or reprimand Facebook after the high-profile Cambridge Analytica scandal in 2018, or with respect to other non-government data breaches by member companies.

While the initiative's focus on governments is important and understandable in light of its formation in response to the alleged complicity of tech companies in human rights abuses by the Chinese government (see **Insight 1: Influence**, where we discuss the history of GNI in detail), it is the failure to be explicit and

provide a justification for its narrow focus—or to acknowledge those other privacy issues and advocate for them to be addressed elsewhere—that underpins our concerns. This is because it risks creating a misperception that the initiative, and its members, are actively addressing a wider range of rights issues than they actually are. Indeed, we note that, until recently, the initiative claimed a broad public mission to: “protect and advance freedom of expression and privacy in the ICT industry by setting a global standard for responsible company decision making and by being a leading voice for freedom of expression and privacy rights.”¹⁶ Shortly after we engaged with GNI staff on this issue in October 2019, the mission statement published on GNI’s website was updated, and it now better reflects its focus on government demands.¹⁷ However, it has not made any clarification statement or undertaken any broader changes to its website or communications materials to note its limited focus, or to encourage governments or other actors to address the broader issues surrounding user privacy that are outside of this focus.

SPOTLIGHT 3.1. Supply-chain MSIs might be “Fair,” “Sustainable,” and “Responsible,” but do they guarantee workers a living wage?

MSIs addressing supply-chain issues often make broad claims and use language that suggests they are addressing issues relating to one of the key issues plaguing those sectors: the poverty and exploitation of workers at the bottom of the supply chain and their inability to earn enough to live. But do they actually ensure workers are paid a fair wage?

The economic precarity of farm and factory workers in the Global South is well-documented¹⁸ and explicitly spurred the formation of some MSIs.¹⁹ According to some calculations, the legal minimum wage in Bangladesh, China, India, Indonesia, and Turkey—countries that are heavily relied on for the manufacture of consumer goods and clothing—ranges anywhere from one-half to one-fifth of the amount it costs to live in those countries.²⁰ The problem of poverty wages in forestry and agribusiness in the Global South is similarly well understood.²¹

Perhaps unsurprisingly, given the significance of this issue, all but one of the eight prominent MSIs that address labor issues in these industries have a mission or have made wider public statements that indicate their commitment to addressing the economic wellbeing of workers (see Table 3.1 in this spotlight). Indeed, several MSIs have also formed the Global Living Wage Coalition, which has produced a standardized methodology for MSIs to determine whether particular workers are receiving a living wage, and has released benchmarks that determine the level of living wages for a given sector and sub-region.²² The notion of a “living wage”—the idea that “fulltime workers and their families should earn enough to afford a basic acceptable living standard and so not have to live in poverty”²³—has been codified in major declarations by the International Labor Organization (ILO) and recognized by the broader international community.²⁴

Yet, the proliferation of pledges around the importance of a living wage, and creation of a clear methodology for calculating the living wage rate for different regions, has not translated into clear requirements that ensure workers are in fact guaranteed a living wage by either their employers or brands. Instead, while more than half of the eight prominent supply-chain MSIs loosely encourage or mention providing workers of a living or fair wage, only one initiative has a clear standard *requiring* it be implemented within a fixed timeframe, and this is limited to specific contexts (see Table 3.1). While we understand that brands may face implementation challenges with respect to ensuring that their suppliers pay their workers a living wage, if brands were genuinely committed to ensuring workers receive fair pay, we have little doubt that they could overcome these logistical issues. To

begin, the requirement that workers are paid a living wage could be a condition entered into contracts with suppliers. If brands then transparently disclosed their supplier details, and made their contracts legally-enforceable by third-party beneficiaries, multiple avenues for monitoring and enforcement by workers, unions, and CSOs would also exist (see **Insight 4: Monitoring & Compliance**). As Table 3.1 and Part 3.A.(i) of this chapter demonstrates, however, MSIs have largely avoided imposing any meaningful obligations on brands to change their purchasing practices and also failed to require that suppliers ensure their workers receive a living wage.

TABLE 3.1. Analysis of “living wages” standards in supply-chain MSIs

MSI and Mission	Examples of materials relevant to economic wellbeing or a living wage for workers	Does the MSI publicly include reference to a living wage in its current standards, even if it is not mandatory?	Does the MSI have a standard requiring that a living wage be paid within a clear timeframe?
<p>Bonsucro</p> <p>“Our mission is to ensure that responsible sugarcane production creates <i>lasting value for the people, communities, businesses, economies and eco-systems</i> in all cane-growing origins.” (emphasis added)</p>	<p>Publicly states that standards explicitly seek to improve “three pillars of sustainability: economic, social and environmental viability”;</p> <p>At the time of writing, Bonsucro was reviewing its standards. This review includes considering a potential living wage indicator.²⁵</p>	<p>No. Its wage standard is limited to “applicable minimum” wages.</p>	<p>No.</p>
<p>Fairtrade International</p> <p>“Our mission is to connect disadvantaged producers and consumers, promote fairer trading conditions and empower producers to <i>combat poverty</i>, strengthen their position and take more control over their lives.” (emphasis added)</p>	<p>Living wage included as an issue on Fairtrade’s website;²⁶</p> <p>Member of the Global Living Wage Coalition.²⁷</p>	<p>Yes. Some but not all of its standards refer to a living wage.*</p>	<p>In some contexts: The Fairtrade Textile Standard requires that “if wages are below Fairtrade’s approved living wage benchmarks, the company must agree with trade union or workers’ representatives to a time-bound plan of no more than six years to increase pay to a living wage.”²⁸</p> <p>However, for other standards, Fairtrade only requires progressive realization without a prescribed or mandated timeline, or does not have a living wage requirement.*</p>

MSI and Mission	Examples of materials relevant to economic wellbeing or a living wage for workers	Does the MSI publicly include reference to a living wage in its current standards, even if it is not mandatory?	Does the MSI have a standard requiring that a living wage be paid within a clear timeframe?
<p>Fair Labor Association</p> <p>“The mission of the Fair Labor Association is to combine the efforts of business, civil society organizations, and colleges and universities to promote and protect workers’ rights and to improve working conditions globally through adherence to international standards.”</p>	<p>Launched a dedicated “Fair Compensation” portal on its website;²⁹</p> <p>Released a “Fair Compensation Strategy”;³⁰</p> <p>Commissioned several studies on wage levels.³¹</p>	<p>Yes. “Where compensation does not meet workers’ basic needs and provide some discretionary income, each employer shall work with the FLA to take appropriate actions that seek to progressively realize a level of compensation that does.”³²</p>	<p>No. The Workplace Code of Conduct requires employers to work with FLA toward progressive realization, but does not set a timeline for reaching a living wage.</p>
<p>Forest Stewardship Council</p> <p>“The Forest Stewardship Council mission is to promote environmentally sound, socially beneficial and economically prosperous management of the world’s forests.” (emphasis added).</p>	<p>Publicly states that “FSC is committed to the continuous improvement in wages for workers in the forestry sector, and the long term goal that workers are paid a living wage”;³³</p> <p>Released “Living Wage Auditor Guidance” document to aid in the verification of payment of living wages.³⁴</p>	<p>Yes. Requires that audited entities “shall pay wages that meet or exceed minimum forest industry standards or other recognized forest industry wage agreements or living wages, where these are higher than the legal minimum wages. When none of these exist, [the entity] shall through engagement with workers develop mechanisms for determining living wages.”</p>	<p>No. While FSC provides detailed guidance on how to determine whether companies are paying a living wage, their standards do not require that companies pay a living wage, as either the “minimum forestry standards” or “recognized forest industry wage agreements” are satisfactory.</p>
<p>Marine Stewardship Council</p> <p>“Our mission is to use our ecolabel and fishery certification program to contribute to the health of the world’s oceans by recognising and rewarding sustainable fishing practices, influencing the choices people make when buying seafood and working with our partners to transform the seafood market to a sustainable basis.”</p>	<p>MSC’s primary discussion of labor conditions occurred after labor violations in the seafood market were exposed (see Spotlight 3.2). There, MSC issued a broad response noting, “The MSC Board recognises the increasing importance placed on social issues when considering sustainability.” It promised to introduce “a risk based approach that assures stakeholders that labour practices throughout the MSC certified supply chain, from ocean to consumer, meet internationally accepted norms.”³⁵</p>	<p>No. There is no wage standard. There is not even a requirement to pay the minimum legal wage.</p>	<p>No.</p>

MSI and Mission	Examples of materials relevant to economic wellbeing or a living wage for workers	Does the MSI publicly include reference to a living wage in its current standards, even if it is not mandatory?	Does the MSI have a standard requiring that a living wage be paid within a clear timeframe?
<p>Rainforest Alliance</p> <p>"We envision a world where people and nature thrive in harmony."</p>	<p>Launched a dedicated portal on its website for living wage issues, "Living Wage: Rainforest Alliance content about our work to advance living wages for workers around the world";³⁶</p> <p>Commissioned studies into living wages;³⁷</p> <p>Member of the Global Living Wage Coalition.³⁸</p>	<p>Yes. The standard requires that "no less than the legal minimum wage or wages negotiated collectively, whichever is higher." However, the standard also has "continuous improvement compliance" indicators that include the living wage.</p>	<p>No. While progressive realization of the "continuous improvement criteria" is mandated, it is technically possible to remain certified indefinitely without ever paying all workers a living wage.**</p>
<p>Roundtable on Sustainable Palm Oil</p> <p>"RSPO will transform markets to make sustainable palm oil the norm."</p>	<p>Released "RSPO Guidance for Implementing a Decent Living Wage" document that sets rules for how its members should calculate living wages.³⁹</p>	<p>Yes. "Pay and conditions for staff and workers and for contract workers always meet at least legal or industry minimum standards and are sufficient to provide decent living wages."</p>	<p>No. Producers that fail to pay a living wage are required to establish an implementation plan for closing any gaps between current wages and living wages. However, there is no time-bound requirement for implementing the plan, nor is it clear whether there are repercussions to failing to honor the implementation plan.</p>
<p>Sustainable Forestry Initiative</p> <p>"A world that values the benefits of sustainably managed forests."</p>	<p>While the initiative has some general statements about why it is "better for woodworkers," it does not make any claims or statements addressing the economic wellbeing of workers.</p>	<p>No. Its wage standard is limited to "prevailing wages" (which is not defined) when examining countries outside the US and Canada. The US and Canada are exempted from wage analysis as they each have a "strong legal framework."</p>	<p>No.</p>

* As Fairtrade International has many standards, refer to our dataset for details of these standards (see sources for this table).

** This is a result of two exceptions. First, the living wage standard is only relevant if the Global Living Wage Coalition has provided a living wage benchmark for the specific country or region being audited. At the time of writing, living wage benchmarks were available for 26 different cities or regions of the world.⁴⁰ Second, there is no requirement that farmers ever need to comply with the highest “continuous improvement criteria”: to pay “a living wage to all workers.” Rather, this criterion is part of a group of the highest level of “improvement criteria.” Farmers need to overall meet 50% of the criteria in this group in the sixth year of being certified. However, they could choose to implement other criteria in this category, and thus not ever need to implement the living wage standard.

Source: With the exception of “other communications” or other cited material, the source data for this information is available from the spreadsheet, “MSI Trends Dataset,” which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019. The information in the “other communications” column is based on publicly available information.

B. MSIs with a narrow mandate can risk limiting awareness or focus on the wider range of human rights problems in an industry

While some MSIs have a wide mandate and scope, yet only address a narrower range of issues, others have an explicitly narrow mission. Some CSOs and external stakeholders have raised that, if an MSI picks-and-chooses which issues it will address without drawing attention to its limited scope or to the existence of other problems in an industry, it might deflect attention away from those other—sometimes major—human rights issues. While it is difficult to determine if these MSIs are, in fact, resulting in such crowding-out or the obscuring of other issues, we note that this is often a very real concern of CSOs that do not participate in MSIs, who—over the years—have also raised concerns that these initiatives (and their participants) may be corraling the limited financial and personal resources available to confront the full range of human rights issues in an industry.

We have included two case studies to illustrate this problem of adopting a narrow mission without justification or contextualization. The first is MSC, which is a prominent MSI in the seafood industry (see Spotlight 3.2). For almost two decades, it certified fish as “sustainable” without any examination of labor or broader human rights abuses in fishing. However, when reporting first began to emerge detailing the scale and extent of labor abuses—particularly forced labor—in the fishing industry, the initiative announced it would begin considering forced and child labor in its certification system, as explained in the case study in Spotlight 3.2. While the initiative’s focus on environmental issues was very clear when one examined its standards, its limitations on labor abuse protections may not have been known to consumers or other stakeholders for the reasons explored earlier in this chapter around consumer knowledge and perceptions. Such knowledge gaps may have contributed to the industry being able to operate for so long without addressing major human rights violations. The new labor standards it has since adopted risk repeating this problem, as they have a very narrow focus on child and forced labor, as outlined in the case study. As a coalition of human rights organizations noted in a statement criticizing the limitations of the new standard, “[f]orced labor cannot be easily identified or seen as an isolated problem; it is an accumulation of labor rights abuse,” and thus the failure of the initiative to now include abuses that are related to forced labor, such as wage theft or retention of identity documents, “jeopardize[s] the credibility of the MSC certification and raise[s] serious cause for concern.”⁴¹

The second case study is the Extractive Industries Transparency Initiative (EITI) (see Spotlight 3.3). The initiative is considered highly influential in promoting norms and good practices around transparency in the extractive sector. However, some commentators are now questioning whether promoting transparency is a sufficient approach to addressing the structural drivers of abuse, corruption, and lack of development linked to the “resource curse” that prompted EITI’s formation, or if the focus on transparency might be crowding out more far-reaching approaches that might achieve more transformative change.

Another commonly cited example is the Kimberley Process Certification Scheme. (Note, however, that while the initiative is often referred to as an MSI, it is not in our MSI Database because the companies and civil society it involves as observers do not have decision-making power.)⁴² This initiative is sometimes referred to as having been established “to assure consumers that their purchase of diamonds were not financing wars or human rights abuses,”⁴³ and thus it offers a general assurance that certified diamonds are “ethical.”⁴⁴ However, the initiative focuses on the trade of rough diamonds “used by rebel movements or their allies to finance conflict aimed at undermining legitimate governments.”⁴⁵ Thus, unbeknownst to consumers, they may buy certified diamonds that had been sold to fund conflicts perpetrated by *governments*, or that were produced by forced labor, child labor, or under other human rights violations, as these are not covered by the narrow definition. Although the initiative has been put on notice about its failure to address these other pressing issues for many years, it has not adopted a wider definition, nor has it explicitly recognized it has a narrow definition and that such problems fall outside its remit, or taken other advocacy or engagement steps that would address these other human rights issues. This has led to accusations that the initiative is whitewashing the industry by certifying diamonds on such a narrow basis despite the prevalence of child labor and other abuses.⁴⁶

This is not to suggest that MSIs need to address every human rights or accountability problem relevant to a given industry. There may be important reasons for an initiative to adopt a narrow focus, or begin by doing so. However, it is critical that MSIs acknowledge and provide a rights-based justification for adopting narrow approaches if it means that other pressing and serious human rights issues will remain unaddressed or outside its remit.⁴⁷ The examples we have noted in this section are problematic because they largely *do not acknowledge* the other problems in their industries or otherwise recognize the limitations of their scope, yet have come to leverage and attract considerable resources within their fields. It is this failure to contextualize an MSI’s efforts within the wider issues of an industry—or even to name those other issues—that risks obfuscating or detracting from those wider issues.

SPOTLIGHT 3.2. The Marine Stewardship Council: Can seafood be “sustainable” if it might have been caught by forced labor?

For 20 years, MSC has been labeling fisheries as “certified sustainable” if they meet the initiative’s environmental standards.⁴⁸ The initiative is influential: it has provided labels for “over 30,000 products,” has been referred to on “menus in over 100 countries,” and has commitments from major food suppliers like McDonalds and Carrefour to carry MSC-certified fish.⁴⁹

Beginning in June 2014, journalists exposed the presence of slavery in the seafood industry in a series of articles that garnered international attention.⁵⁰ These reports drew attention to the fact that the MSC certification did not include labor or human rights standards, as its focus was “environmentally sustainable fishing.”⁵¹ In other words, it became clear that consumers buying MSC-certified products might have been buying products made with forced labor or other human rights abuses, as the initiative was not monitoring for these issues given its focus on the environment.

In August 2014, the Board of MSC announced its intention to expand its standard to cover forced labor, although it did not mention it would cover other labor abuses, noting:

The MSC standard does not include a requirement for the assessment of the social and employment conditions of fisheries and their supply chains . . . However, MSC condemns the use of forced labour.⁵²

CSOs working on labor rights in the fisheries sector have noted that there are many other labor and human rights issues that are prevalent in the fishing industry, including wage theft, excessive work hours, and obstruction of workers’ ability to change employers.⁵³ However, these were not included in the revised standard. The decision by MSC to selectively focus on forced labor and child labor was thus criticized by a global coalition of nearly 60 environmental, human rights, and labor organizations as “unacceptable.”⁵⁴

MSC stated that it was limiting the scope of labor and workers’ rights to forced and child labor, not because of a human rights assessment or input from workers that these were the most pressing issues in the industry, but because it feared that, if it adopted broader labor standards, existing members “could decide to drop out of the MSC program facing the additional cost and time burden of the new requirements, while potential new members could see it as too high of a burden to enter the MSC program.”⁵⁵

The standard adopted by MSC to address child and forced labor has also been widely criticized as weak.⁵⁶ This is because it is very limited: the relevant standards only prohibit fishing operators who have been convicted of forced or child labor in the last two years, or who do not disclose their internal policies relating to child and forced labor.⁵⁷ Only some on-shore companies in the supply chain of those fisheries—determined by the MSC’s classification of the risk of the country where they are located—are then monitored on-site for labor abuses.⁵⁸ This on-site monitoring system has also been criticized because the third-party labor audit programs it relies on have proven ineffective in other industries.⁵⁹

SPOTLIGHT 3.3. Extractive Industries Transparency Initiative: A narrow focus on transparency may be limiting broader efforts to address good resource governance

EITI requires that countries publish financial information and disclosures relating to natural resource revenue in the extractive sector (mainly oil and gas). The initiative was launched in 2001 following concerns that, in some countries, instead of providing economic or social benefits to their citizens, the income from oil, gas, and minerals disappeared into the bank accounts of corrupt officials or funded ongoing domestic conflicts and associated human rights abuses.⁶⁰ In addition, human rights organizations directly linked the profits and actions of some extractive companies to violence or abusive activities in Angola and Nigeria.⁶¹ The approach taken by EITI was to focus on the transparency of the sector by creating a global standard that requires member countries to issue public reports that disclose the payments and revenues made by extractive companies to the state.⁶²

EITI has influenced good practice on revenue transparency both within and outside of its membership,⁶³ and has since expanded to include transparency on related issues such as beneficial ownership of extractive companies and disclosure of companies' legally or contractually required social contributions. Membership in EITI comes with considerable technical assistance and funding for actors seeking to implement it, and it enjoys support from international financial institutions and governments for its transparency-based approach.⁶⁴

However, EITI has been criticized because transparency by itself is “insufficient to address the multifaceted problems resource-rich countries face,”⁶⁵ and EITI's success in establishing norms relating to transparency might “be diverting attention away from core structural reforms that are needed to overcome the resource curse.”⁶⁶ These reforms include: (1) ensuring that resource-rich governments are accountable to their citizens about how public funds are spent; and (2) ensuring that oil, gas, and mining companies do not engage in behavior that results in violence or other human rights abuses.

Indeed, researchers have questioned whether CSOs who receive funding to engage in EITI and other transparency-focused MSIs may feel pressure to engage in the initiatives, while also narrowing their advocacy approaches and “crowding out” other issues.⁶⁷ These include electoral reforms to allow citizens to vote out regimes that mismanage funds, strengthened legal protection for civil society, and social mobilization regarding state use of funds derived from natural resource extraction.

There may have been pragmatic reasons behind launching EITI with an intentionally narrow focus on the transparency of payments. However, after almost two decades of operation, unless EITI broadens its focus to more meaningfully address the underlying issues that drove its development—such as public accountability for revenue expenditure, or lack of civic space and human rights protections to voice concerns about corruption, fiscal mismanagement, and related issues—it may face increased criticism for its limited ability to bring meaningful change to the citizens it seeks to benefit (see **Insight 6: Impact**).

2 An MSIs' ability to address key human rights issues can be undermined by weak standards

Another means by which MSIs sometimes create the impression that they are addressing an issue that they are, in actuality, not, is if they set standards for companies or governments that are too weak to ensure the underlying issue is actually being addressed. In other words, a company might be technically complying with an initiative's standards, but that compliance may be insufficient to address the specific abuse at which the standard is targeted. Thus, harms could persist despite a member being deemed compliant.

While it is difficult to undertake a wide comparative assessment of the standards set by all the MSIs in our MSI Database—as doing so requires deep contextual, legal, and qualitative analysis—our general observation is that many MSIs have a significant number of standards that meet the essential elements in our *MSI Evaluation Tool*: that standard-setting MSIs make standards publicly available and accessible to rights holders; make standards mandatory with a clear timeline for compliance; ensure that standards are verifiable; ensure that standards are consistent with international law and norms; and require that standards apply to all business activities of the member companies/governments.⁶⁸ For example, the majority of the 10 MSIs that we evaluated when testing the *MSI Evaluation Tool* primarily had standards that meet these criteria.⁶⁹ The eight supply-chain MSIs that we reviewed all include at least some reference to the ILO core conventions in their standards.⁷⁰ Some MSIs even approach relevant international law as the minimum floor or foundation that they then build on.⁷¹ Indeed, the quality of the standards set by an MSI—and the concomitant promise by its members that they will adhere to those standards—are often central to the hope that the initiative will address the underlying issue that prompted its formation (see **Insight 1: Influence**).

However, we have observed that weak standards can exist alongside those stronger standards. Generally, we have observed that standards tend to be weak if they are related to issues that entail complex structural reforms or considerable expense to meaningfully implement, such as issues linked to freedom of association, freedom of expression, or raising wage rates and prices.⁷²

Below we provide examples of five different deficiencies that primarily contribute to weak standards: (1) inconsistency with international or national law, or otherwise the setting of regressive standards; (2) ambiguous language; (3) relying on processes (rather than expecting substantive outcomes) that lack sufficient detail or rigor to ensure they lead to the protection of rights; (4) making addressing issues optional and therefore not central to becoming certified or passing audits; and (5) selective, rather than comprehensive, application to a business's activities or supply chain.

- **(1) and (4): Regressive and/or optional standards:** The Global Coffee Platform seeks to set “minimum sustainable production practices agreed on by the entire sector,” which it describes as a “baseline” compared to other MSIs such as Fairtrade International and Rainforest Alliance.⁷³ However, some of the Platform's standards set the baseline for coffee production regressively low.⁷⁴ For example, the standards allow collective bargaining agreements to be “partially applied”;⁷⁵ for child labor to be “happening” as long as farmers are being encouraged to send children to school and those children are not part of the regular workforce;⁷⁶ or to pay wages late or in violation of the contract.⁷⁷ While fully implementing collective bargaining, eradicating child labor, and paying wages on time are included as aspirational standards, they are ultimately optional.

- **(2): Ambiguous language:** The Voluntary Principles on Security and Human Rights (VPs) were created after a number of prominent international oil and gas companies were implicated in violence at their extractive sites (see Spotlight 1.1. in **Insight 1: Influence**). As a result, the VPs seek to guide extractive companies on how to provide “security for their operations in a manner that respects human rights.”⁷⁸ However, their standards contain considerable ambiguities which allow a lot of latitude for behavior, some of which could undermine the stated goal of the VPs if companies engage in bad faith or lack understanding of behaviors that might contribute to abuse. For example, the VPs state that companies should (emphasis added):
 - “record and report any *credible* allegations of human rights abuses. . . to appropriate host government authorities. *Where appropriate*, Companies *should urge* investigation and that *action be taken* to prevent any recurrence.”
 - “*to the extent reasonable*, monitor the use of equipment provided by the Company [to public security providers] and to *investigate properly* situations in which such equipment is used in an *inappropriate* manner.”
 - “*Where appropriate*, Companies should include the principles outlined above as contractual provisions in agreements with private security providers. . . *To the extent practicable*, agreements between Companies and private security should require investigation of unlawful or abusive behavior. . .”⁷⁹

These broad terms are not defined nor is interpretation guidance provided by the initiative. While implementation resources have been produced by civil society and government actors, and are available on the VPs’s website, these materials are strictly optional.⁸⁰

- **(3) Broad processes that do not ensure rights-consistent outcomes:** The Global Network Initiative sets out the steps that internet and communications companies should take if they receive government demands to divulge their users’ private information or to restrict content.⁸¹ These steps recognize that it is “neither practical nor desirable” to challenge the legality of all requests received, and instead permit companies to determine whether to challenge a request based on a range of criteria.⁸² While the criteria include weighing the risk of severe human rights impacts and the extent of the company’s leverage to address those impacts, they also permit a company to consider the cost and likelihood of success of challenging a decision.⁸³ There is no guidance about when or how “cost” can be used as a factor, which means that a company may have full knowledge that it is contributing to a human rights violation and choose to do nothing if the company deems it too costly. This weighing process might not be of concern if there was rigorous oversight of these decisions, however, as the initiative’s monitoring and disclosure requirements are very minimal (see Spotlight 4.2 in **Insight 4: Monitoring & Compliance**), there is no opportunity for public scrutiny of these decisions. Instead, there is broad discretion left to the companies that may allow for rights-inconsistent outcomes to be made without sufficient oversight.
- **(5) Selective application to business activities:** A brand or retailer’s consumer products might be labeled with an MSI’s certification mark, and yet, have been produced with serious labor violations, as explored in Spotlight 3.4. This is because very few certification MSIs actually monitor for labor or rights abuses beyond the initial point of production or harvest of a good, which means abuses may be occurring at other points in a company’s supply chain without being detected.

SPOTLIGHT 3.4. The chain of custody loophole: How “certified” goods might have been tainted with human rights violations

Most of the certification MSIs we reviewed primarily focus their monitoring and oversight efforts on the point of harvest or production. Yet, after a supplier or producer is certified or passes an audit in a certification MSI, the goods that they produced are often transferred through many other companies before they arrive at the final brand or retailer for sale: coffee beans, palm oil, fish, or agricultural goods may need to be washed, processed, and cooked; electronics or clothing may need to be assembled and packaged elsewhere.

Rights abuses can occur at these other steps in the supply chain, yet most MSIs do little to monitor or account for abuses that might occur after the initial point of production. All of the seven certification MSIs that we reviewed have a “chain of custody” standard that is intended to provide some assurance about what happens to certified goods after they are certified but before they reach the brand. However, these standards can be significantly less detailed and robust than the standards and oversight processes in place for the initial supplier, and instead, tend to focus primarily on the traceability of certified products. Only three of the seven MSIs we analyzed (Fairtrade International, FSC, and MSC) explicitly require compliance with international human rights or international labor standards, and on a very narrow range of issues, such as child and forced labor or the other ILO core conventions. Moreover, one of those three MSIs relies on self-declarations rather than any external monitoring, and another excludes certain actors unless it is in what the initiative considers a “high risk” country (see Spotlight 3.2). Put another way, only one of the seven MSIs does general on-site monitoring of the conditions of workers or other rights holders after the initial site of product certification.

This means there is potential for abuses in supply chains for products that are nonetheless certified by these MSIs. Independently arriving at an understanding of this limitation is not easy; it generally requires an analysis of an MSI’s technical “chain of custody” documents and familiarity with the human rights or labor standards mentioned, as well as their monitoring mechanisms. Not only is it unlikely that the average consumer would be able to decipher these, it is also unlikely that they will try.

TABLE 3.2. Deficiencies in Chain of Custody Certification Standards

	Chain of custody certification standard addresses international human rights or labor laws relevant to the issues covered by the MSI?	Chain of custody certification requires on-site monitoring or auditing?
Bonsucro	No.	N/A
Fairtrade International	Limited to the ILO core conventions, which are narrower than the other issues covered by the MSI.	Yes.
Forest Stewardship Council	Limited to the ILO core conventions.	No. Limited to a self-declaration confirming no direct or indirect involvement in violation of the ILO core conventions.
Marine Stewardship Council	Limited to child labor and forced labor.	Only for actors operating in certain countries deemed by the initiative to be of greater risk (see Spotlight 3.2).
Rainforest Alliance	Limited to prohibiting material violations of “labor laws.” As it does not specify any international laws, this appears to be a reference only to national or local laws, which may be set below international standards.	No. Limited to a self-declaration confirming no direct or indirect involvement in violation of the ILO core conventions
Roundtable on Sustainable Palm Oil	No.	N/A
Sustainable Forestry Initiative	Limited to avoiding sourcing from “controversial sources,” which requires conducting due diligence to ensure compliance with a variety of national and local laws.	No. However, due diligence is required.

Note: FLA was excluded from this analysis as it adopts a top-down approach to monitoring and does not provide any certification or consumer label.

Source: The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

Other cases further illustrate the ways in which an MSI, by virtue of its weak standards, can risk legitimizing irresponsible practices while failing to address an industry's key human rights issues that the MSI otherwise appears to be addressing. For example, the case study on MSC in Spotlight 3.2, as well as the examination of the supply-chain MSIs and their living wage standards in Spotlight 3.1, both provide examples of MSIs with standards that, if analyzed closely, are too weak to reliably ensure human rights protection and therefore may contribute to a misperception that the MSI is adequately addressing the key issue.

3 Some MSIs place more burden on Global South actors than Global North actors, which undermines their ability to address the underlying pressures or root causes of human rights abuse

MSIs also shape the human rights agenda and influence norms through their decisions about which actors they set standards for or *who* they place obligations on. We have observed that some MSIs shy away from focusing on the responsibilities and roles of Global North actors, and focus instead on those in the Global South. That is, they tend to put extensive obligations on the governments and companies who supply goods or produce resources rather than the corporations or governments who demand those resources or goods. This approach translates into focusing on those with relatively few resources, while actors with the greatest resources and spheres of influence are being underleveraged and asked to make relatively few changes. In some cases, additional costs and burdens placed on producers may risk exacerbating the economic pressures that can contribute to abuses or compound the economic vulnerabilities of the world's poorest producers.

In this way, not only do such MSIs risk exacerbating or entrenching relative power imbalances between the Global South and Global North, they also risk failing to identify key underlying drivers or root causes of abuse. Global North actors, through the demands of their producers, can contribute to the pressures that result in abuses. Importantly, these approaches also shield Global North actors from scrutiny, while undermining an MSI's ability to address key human rights issues or to ensure the effective protection from and prevention of abuse.

While this allocation of burdens may not occur in all MSIs, we look at two types of MSIs where we have noticed this trend. First, we examine MSIs that focus on supply chains, by analyzing the eight prominent supply-chain MSIs referred to at the beginning of this chapter. Second, we examine MSIs that include governments as actors within their membership. The analysis may not apply to other types of MSIs, such as those that focus on the provisions of services (rather than goods).

A. Supply-chain MSIs: A risk of exacerbating the economic precarity of the world’s poorest and most vulnerable producers, while failing to address how the purchasing practices of large brands can contribute to labor abuses

- (i) *Many supply-chain MSIs impose obligations on producers, but do not address the purchasing practices of brands that can contribute to abuse*

The economic power of large corporate brands and retailers is often significantly greater than the factories, farms, or other suppliers that produce the goods those large corporations sell. For example, just four companies control 70% of the trade in agricultural commodities by revenue.⁸⁴ Similarly, just three companies hold about 80% of the global tea market.⁸⁵ Even in industries without such concentration of corporate power, like the garment industry, large brands or retailers may have significantly more economic leverage than suppliers.

These large companies often leverage their market power to shift costs and risks to their suppliers, creating downward pressure on wages and working conditions. A survey by the ILO in 2016 of more than 1,450 suppliers in 87 countries from the manufacturing and agricultural sectors—including all of the sectors covered by the eight supply-chain MSIs we reviewed—identified three common purchasing practices that adversely influence working conditions and wages: (1) the setting of low prices, with more than a third of the companies accepting orders that were ultimately below the cost of production; (2) short lead times for orders, which puts pressure on suppliers to require employees to work overtime, hire casual labor, or outsource production in order to meet tight deadlines; and (3) a lack of secure contracts.⁸⁶

The conclusion of the ILO survey, along with many other studies, is that these irresponsible purchasing practices directly place pressure on suppliers to cut costs, which in turn incentivizes labor exploitation and human rights abuses throughout global supply chains.⁸⁷ Labor costs can sometimes be the only variable that suppliers control, putting pressure on suppliers to not pay promised wages, pay below the minimum wage, or outsource to more informal producers or agents, where there is a higher prevalence of forced labor and other abuses.⁸⁸ Examples are rife: lower commodity prices for coffee and sugar have been linked to rises in debt bondage, forced overtime, and illegal wage deductions; lower garment and electronics prices correlate with the increases in labor violations.⁸⁹ Suppliers may also attempt to cut costs on building safety, creating occupational health risks for workers. Notably, a study of the root causes of the Rana Plaza factory collapse in Bangladesh—which killed more than 1,130 people and injured approximately 2,500⁹⁰—found that profit margins in the low single digits “exacerbated a tendency on the part of Bangladeshi suppliers to cut corners on safety.”⁹¹

“Despite the correlation between purchasing practices and labor abuses, most MSIs do not monitor or address the behavior of powerful corporate buyers. . .”

Despite the correlation between purchasing practices and labor abuses, most MSIs do not monitor or address the behavior of powerful corporate buyers even though they likely obtain reputational benefits from participating in them or sourcing materials certified by supply-chain MSIs. Of the eight prominent supply-chain MSIs we reviewed for this chapter, only two explicitly recognize the need for responsible purchasing practices: Fairtrade International and FLA (see Table 3.3).⁹² While it is positive that these two MSIs are engaging with brands’ performance, we note that their standards about responsible purchasing practices lack details or specificity.⁹³ These ambiguities risk allowing for the underlying issues or abuses to persist and do not meet essential elements for effective standards as contained in the *MSI Evaluation Tool* (see the earlier discussion on weak standards). As explained further in this chapter, there is also little transparency or public oversight about compliance with these standards by both of these MSIs. The remainder of supply-chain MSIs do not expect the brand or buyer to adopt responsible purchasing practices with respect to feasible lead times or prices, even though these purchasing practices have been linked to human rights abuses.

TABLE 3.3. Standards that apply to buyers among eight prominent supply-chain MSIs

	Requires brand/ buyer to pay a price premium or guarantee a fixed minimum price?	Expects the brand/ buyer to adopt responsible purchasing practices with respect to feasible lead times or prices?	Requires brand/ buyer to monitor all of its product lines or achieve 100% MSI-certified products?	Publishes the aggregate number of abuses found throughout the brand's supply chain or the brand/buyer's portion of product lines that is certified?
Bonsucro	No.	No.	No.	No.
Fairtrade International	Yes.	Yes.	No.	No.
Fair Labor Association	No.*	Yes.	Yes.**	Sometimes.***
Forest Stewardship Council	No.	No.	No.	No.
Marine Stewardship Council	No.	No.	No.	No.
Rainforest Alliance	No.	No.	No.	No.
Roundtable on Responsible Palm Oil	No.	No.	No.	Yes, but very difficult to access and interpret.
Sustainable Forestry Initiative	No.	No.	No.	No.

* FLA has a purchasing principle that places an expectation of “alignment of financial terms with FLA Workplace Standards” on brands but it does not explicitly require a premium or minimum price.⁹⁵

** FLA has exceptions for smaller or less frequently used facilities.⁹⁶

*** This is available for some (but not all) brands that have passed FLA’s accreditation measurement. See Spotlight 3.5 for further discussion.

Source: The source data for this information is available from the spreadsheet, “MSI Trends Dataset,” which is available at our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

Compounding this failure to focus on brands' purchasing practices is the lack of attention given to highlighting or transparently disclosing the extent of abuses present within a brand's supply chain(s). For almost all of the MSIs we reviewed, it is very difficult—if not impossible—to discern the extent to which brands source from suppliers that have been found to use abusive practices or from certified suppliers (as opposed to suppliers that are not certified or subject to any oversight). While some MSIs publish the monitoring or audit reports on individual producers or suppliers that detail the level of compliance with standards, such as FLA, Rainforest Alliance, and Sustainable Forestry Initiative (see Table 4.2 in **Insight 4: Monitoring & Compliance**), the same level of scrutiny is not applied by MSIs to the behavior of brands. For example, six of the eight supply-chain MSIs do not disclose *any* information about the proportion of a brand's product lines that are certified or the total number of abuses found throughout a brand's supply chain (see Table 3.3). This means, for example, that there is no way to

“... it is very difficult—if not impossible—to discern the extent to which brands source from suppliers that have been found to use abusive practices...”

determine the amount of certified sugar that members of Bonsucro, such as agricultural giants Cargill and Wilmar, buy: it could be 2% of their total sugar, or it could be almost all of it.

The two supply-chain MSIs we reviewed that do publish information about brand-level compliance do so in a manner that makes it difficult, and sometimes impossible, to discern the extent to which brands have abuses in their supply chains or source from certified suppliers. RSPO publishes the standardized form that brands, retailers, and other companies are asked to submit annually about their progress in increasing the amount of certified palm oil they purchase.⁹⁴ However, the forms are complex and not suitable for a non-technical audience. They do not contain the most essential statistic: the proportion of certified palm oil versus non-certified palm oil purchased

by brands annually. Instead, individuals need to look through all the data and calculate those figures manually. The other MSI that publishes information about brands is FLA. However, as the analysis in Spotlight 3.5 demonstrates, the approach taken by FLA makes it difficult to accurately assess a brand's performance. The consequence is that, while individual factories are subject to transparent and standardized reports on their compliance, there is currently no means of easily distinguishing between an FLA company that appears to produce its goods with only very minor or rare instances of noncompliance (or, indeed, whose entire supply chain appears to provide a living wage to employees) versus a company whose supply chains reveal systemic abuses that were addressed superficially upon discovery.

This is all part of a broader tendency of supply-chain MSIs that we have observed: to focus attention on the conduct of individual factories, farmers, and other suppliers/producers in global supply chains, rather than highlight whether, and to what extent, large consumer-facing brands have taken steps to reliably reduce the presence of rights abuses within their supply chains, as well as the extent to which they use problematic purchasing practices that may contribute to abuse. This, combined with limited chain of custody requirements imposed on brands (discussed in Spotlight 3.4), risks deflecting attention away from whether, and to what extent, consumer-facing brands have reduced the risk of rights abuses within their supply chain.

Ultimately, this approach to standard-setting allows brands to gain the reputational benefits of participating in an MSI in return for having done little to improve their practices. Companies may therefore be incentivized to use MSIs to legitimize their problematic behavior and strengthen their market position, without fundamentally changing the behaviors that can contribute to abuse.

SPOTLIGHT 3.5. A blind-eye in fashion: Limited transparency and public reporting on the extent of abuses found in apparel and clothing brands' supply chains, or on their purchasing practices

There are four MSIs in our dataset that primarily focus on the garment industry. The disparities in their transparency and public reporting requirements demonstrate the lack of meaningful standards that are imposed on brands, especially when compared to the attention placed on producers. With little attention on the practices of brands or the extent of their abuses, there may be little motivation for these actors to adopt responsible purchasing practices. This is consistent with the approach taken by other MSIs that include garments among their broader focus, such as Fairtrade International and Ethical Trading Initiative.⁹⁷

We note that the MSI with the greatest transparency on brand behavior, the Fair Wear Foundation (FWF), has two factors that differentiate it from the other MSIs: (1) it has a membership base of small brands; (2) it was formed with support and continued engagement from labor unions.

Worldwide Responsible Accredited Production: No inclusion of brands, and thus no transparency or reporting on their practices

Worldwide Responsible Accredited Production (WRAP) only sets standards for suppliers; it does not have a consumer-facing label or chain of custody standard, nor can brands become members. As a result, there are no obligations placed on brands or final buyers, and no monitoring of their purchasing practices, disclosure of the number of abuses in their supply chain, or any other transparency efforts. Brands and retailers, however, may choose to indicate on their websites that they source from WRAP-certified facilities.⁹⁸ WRAP does not appear to have any policies that govern these claims. Put another way, brands can obtain reputational benefits without being expected to change their purchasing practices or disclose the extent of abuses in their supply chain.

Social Accountability International: No transparency or public reporting on brands

Brands and final buyers participate in Social Accountability International's (SAI) "Social Fingerprint" supply-chain management program, which requires that brands complete a self-assessment and independent evaluation.⁹⁹ The assessment results are private; all company-specific information is confidential and there is no brand-specific public reporting. To the contrary, SAI commits that it will not release any reports, articles, or statements mentioning company names or that include information that could identify a company without its prior approval. Members engage in dialog with SAI about development and implementation of an improvement plan to remain a member.

Fair Labor Association: Limited and irregular reporting on brands

Under FLA standards, brands and final buyers must subject all of their major suppliers of a certain size to third-party audits.¹⁰⁰ At the end of an initial implementation period, the FLA evaluates companies at the headquarter level "to determine whether they have social compliance systems in place to proactively identify and address risks or instances of noncompliance."¹⁰¹ The exact process for accreditation is not publicly available.

If the brand receives accreditation, FLA releases a report summarizing the review. While these accreditation reports provide some basic information on a brand's systems and policies, they lack a means for the public to easily assess the practices and performance of brands. For example, FLA has issued approximately 130 reports on the conditions of factories that produce apparel for Adidas, and recent accreditation reports have begun to list complaints that have been filed against the company and other special investigations that have occurred, as well as some generalized analysis of these. However, these reports still do not include any standardized or comprehensive disclosure of the abuses or instances of noncompliance found in a brand's supply chain found through FLA's audits or other mechanisms.¹⁰²

In addition, although brands are supposed to be reaccredited every three years, this timetable is not adhered to. For example, while Nike has been an FLA member for almost 15 years, it has only three publicly available accreditation reports: from 2008, 2014, and 2019. Similarly, New Balance has been a member of FLA since 2008, but the only publicly available accreditation reports are from 2014 and 2018. It is unclear why these timeframes were chosen, whether the other reports are not publicly available or the companies failed accreditation during the other periods, or whether for the first six years the company did not have sufficient processes and practices to pass accreditation.

The consequence is that, while individual factories are subject to transparent and standardized reports on their compliance, there is currently no means of easily distinguishing between an FLA company that appears to produce its goods with only very minor or rare instances of noncompliance versus a company whose supply chain reveals systemic abuses that it addressed superficially upon discovery.

In a promising move towards increased transparency, in 2019 FLA voted to approve a requirement that brands should publicly disclose their supplier lists.¹⁰³ However, as at the time of writing, these were not available on FLA's website or included in recent accreditation reports.

Fair Wear Foundation: Annual scorecards that rank the behavior of brands

FWF recognizes shared responsibility between brands and suppliers, acknowledging that "the management decisions of clothing brands have an enormous influence on factory conditions," such that "factory conditions cannot be separated from the purchasing practices of brands."¹⁰⁴ Compared to the other MSIs in the apparel sector, FWF has strong transparency and focuses on brand practices and behavior.

The initiative conducts an annual "Brand Performance Check" that results in a release of a public scorecard for each member brand.¹⁰⁵ As with the FLA accreditation reports, the FWF Brand Performance Checks do not disclose details on the performance of factories in a brand's supply chain. Instead, the scorecards, which are often more than 30 pages long and follow a clear standardized reporting structure, are based on indicators of brand purchasing practices, as well as on a brand's monitoring systems, remediation of violations, and handling of complaints, among other issues. The indicators are directly linked to key issues, such as whether the brand "determines and finances wage increases" through to assessments of how it "mitigates root causes of excessive overtime."¹⁰⁶ Each indicator has a transparent set of instructions for how it should be scored, as well as a narrative evaluation and tailored recommendations for improvement.

This direct and public focus on the policies and practices of member companies that own brands is encouraging; however, it should be noted that FWF does not provide standardized disclosures on the number and type of abuses and violations found in a brand's supply chain.

- (ii) *Certification MSIs place additional costs and burdens on producers, which risk exacerbating the pressures that lead to rights abuses and compounding the economic vulnerabilities of the world's poorest producers*

Not only do most of the certification MSIs we analyzed fail to require buyers to adhere to responsible purchasing practices, but many of these MSIs instead place additional costs and burdens on producers. By doing so, they risk further exacerbating the financial pressures on producers that lead to labor exploitation and human rights abuses, and excluding the smallest producers and suppliers from participating in the certification models—and thus the supply chains—of large brands. In this way, these MSIs might be compounding the economic vulnerabilities of the world's smallest producers by using an approach that favors agribusiness and large-scale production over small-scale production. Given that most of the world's farms are small-scale and family farms—with family farms operating about 75% of the world's agricultural land and thought to be responsible for the majority of the world's food and agricultural production¹⁰⁷—and that most of those are in rural poor areas of the Global South,¹⁰⁸ the long-term economic effects of this exclusion may be significant.

Certification can be prohibitively expensive for small producers and suppliers. However, all of the seven certification MSIs that we analyzed require the producers to pay for initial certification and follow-up monitoring.¹⁰⁹ A study commissioned by RSPO, for example, found that the cost of preparing and passing initial certification was 5–14% of annual revenue for smallholder farmers in Indonesia, whereas the market premium for selling certified palm oil was only 1–4% of regular palm oil prices—which would “sometimes but not always be sufficient to cover recurrent costs.”¹¹⁰ Maintaining certification also comes with costs. For example, a group of smallholders in Vietnam joined FSC after receiving grant funds to cover the US\$12,000 cost of their first monitoring visit. However, annual visits cost approximately US\$7,000, which researchers found was “beyond the capacity” of the smallholders, given annual income in the area is approximately US\$1,000. Fairtrade International, which is premised on addressing fair pricing and is one of the few MSIs to set fixed certification prices, has monitoring costs that, for smallholder farmers, begin at approximately €2,100 for an initial audit and continue at €1,200 per year thereafter.¹¹¹

These monitoring costs are in addition to other costs. For example, some initiatives charge membership fees, such as RSPO, which charges €500–2,000 per year depending on the size of the producer.¹¹² In addition, there are documentation costs and the ongoing costs of remaining compliant. For example, for the Vietnamese farmers who sought FSC certification (discussed in the paragraph above), to satisfy ongoing management and compliance requirements, they also had to undertake administrative tasks such as labeling wood and completing necessary paperwork (which most farmers have to enlist the support of a local technical department to do, given its complexity and language barriers).

While some MSIs have attempted to address these concerns by creating new standards for small-scale production, or by creating funds where small producers can apply for support with certification costs,¹¹³ there is evidence that these efforts may not overcome the barriers to participation that MSIs create.¹¹⁴ Thus, despite the fact that some development organizations, government agencies, and other actors in the supply chain—including sometimes the final buyer—have sometimes voluntarily assisted with certification costs, this may not be a sustainable long-term arrangement.¹¹⁵

These costs mean that small producers may be disproportionately burdened in seeking to gain certification, or—because the requirements of many supply-chain MSIs are more manageable for larger and more commercialized producers—the smallest producers and suppliers may be left out of MSI models altogether. This is compounded by the fact that it is unclear whether certification or participation in an MSI will lead to increased revenue for small-scale producers. Only one of the eight MSIs, Fairtrade International, requires that producers are paid a premium or are guaranteed a minimum price, although

this is paid into a communal fund for workers and farmers, and it does not guarantee that an entire crop will be sold as Fairtrade-certified; thus, a portion may not earn the premium.¹¹⁶ The remaining MSIs operate on the assumption that the market will provide a premium for certified products—or that the resulting benefits or practices encouraged by the initiative, such as more effective land or product management, will result in increased profit.¹¹⁷ However, this is left up to market forces and it is unclear whether certification or otherwise meeting an MSI’s standards results in additional net revenue (see **Insight 6: Impact**).

B. MSIs’ standards impose obligations for the “host states” but not “home states” of multinational corporations

MSIs that work directly with “home country” governments—the countries where the transnational companies are incorporated or housed—often give these governments decision-making power, but rarely impose any expectations of exhibiting good practice or broader obligations.

The failure to leverage the wide-reaching governing power of home countries is a lost opportunity for MSIs seeking to meaningfully address global governance gaps. There are “strong policy reasons for home States to set out clearly the expectation that businesses respect human rights abroad,” as articulated in the *UN Guiding Principles on Business and Human Rights*,¹¹⁸ and home countries generally have considerably more capacity to regulate corporations than host states. As one commentator has put it:

“[T]he reality is that for many states, particularly non-industrialised states, the economic power of [a transnational corporation] operating within that state (the ‘host state’) is such that the host state may be unable or unwilling to control effectively the activities of that corporation, or the host state may be prevented from doing so by other inter-national treaty obligations, such as bilateral investment agreements. This means that, while the host state undoubtedly will be in breach of its human rights obligations if it does not act to prevent these human rights violations occurring, the [transnational corporation] will remain unaccountable and unrestrained, and those whose rights are violated will be without an effective remedy. In contrast, the state where the head-quarters of the [transnational corporation] is incorporated or otherwise has its main centre of operations (the ‘home state’), is usually an industrialised state,” with the resources, power and legal interests to regulate in relation to the extraterritorial activities of the relevant corporation, if it chooses to do so.¹¹⁹

Several of the MSIs in our MSI Database include Global North governments—ordinarily home states—as voting members, yet despite their influence and jurisdiction over key actors, they are not expected to follow any standards or exercise control over companies within their jurisdictions.¹²⁰ For example, two MSIs in our MSI Database—the Infrastructure Transparency Initiative (CoST) and EITI—require that countries create rules governing how multinational corporations that they host operate within their territory, yet do not place any obligations on the home countries where these multinational corporations are headquartered. This is not for lack of interest by Global North countries in participating in MSIs. EITI, for example, has 15 “supporting countries,” who are all from the Global North and include countries where many major extractive companies are registered, including the United States, Canada, France, Australia, and the Netherlands.¹²¹ The supporting countries have decision-making power within the initiative, including board seats.¹²² However, the only obligation on these countries is to make a “clear public endorsement” of EITI.¹²³ There are no expectations of supporting countries to establish practices or policy environments that advance or “support” the mission of EITI, such as requiring their transnational extractive companies to disclose revenue across all their operations or creating incentives for their companies to operate in countries that are in full compliance with the *EITI Standard*.

Indeed, in 2017, the US did the opposite: it repealed a rule that required US-listed companies to disclose payments made to governments for the development of oil, gas, or minerals.¹²⁴ Yet, the US continued to retain a seat on the EITI Board despite its clear undermining of the initiative's mission.

Instead, both CoSt and EITI are premised on countries creating rules for when companies operate within their territory. In both initiatives, these implementing countries are almost exclusively from the Global South: all 19 of CoSt's members and 48 of EITI's 52 members are Global South countries.¹²⁵ Many of these are fragile or conflict-affected states, including Afghanistan, Iraq, Central African Republic, and the Democratic Republic of the Congo. In both of these cases, this means that the MSIs' ability to address the problems that prompted their development rests largely on the capacity of countries with histories of resource-fueled conflict or corruption to develop robust internal controls, rather than also considering the power, leverage, and responsibilities of countries where many extractive or infrastructure companies are registered or incorporated.

Other MSIs in our MSI Database include governments as voting members on their boards or governing bodies—which are often dominated by Global North representation—and also do not require these predominantly home governments to undertake meaningful obligations that would ensure the advancement of the MSI's mission. For example, the International Code of Conduct for Private Security Service Providers, Hydropower Sustainability Assessment Council, and the VPs all explicitly recognize the importance of home governments, yet put minimal—if any—obligations on home governments, while granting them key decision-making power.¹²⁶

Our Insights

Although MSIs influence industry practices, when closely analyzed from a human rights perspective, certain standards that MSIs adopt are often far from what is considered to be “best practice.” An MSI’s standards may be too weak to lead to change, may fail to address key human rights issues, or may impose burdens primarily on Global South companies or governments without considering the leverage and responsibilities of Global North actors. Thus, even if a company or government complies with all of an MSI’s standards, critical human rights abuses may continue. Yet few external actors—whether policymakers or consumers—have the time or expertise necessary to analyze an MSI’s scope or limitations. Rather than transforming the underlying conditions or practices that lead to abuse, MSIs thus risk embedding certain business-as-usual practices and creating a misperception that they are effectively addressing human rights concerns when they are not.

The centerpiece of an MSI is often its standards. These, along with its mission and mandate, consist of the change that an MSI, and its members, claim to be committed to enacting. This vision, at least rhetorically, offers a tremendous improvement to the state-of-play of human rights practices in the industry or broader environment: eliminating child labor, upholding freedom of expression, or promoting access to water.

However, while some of an MSI’s standards may be robust and contribute to strong norm development, if examined closely, in critical areas the scope and standards of an MSI can set a low bar for “best practice” and entrench practices that fail to prevent abuses. We have seen these weaknesses and failures manifest in different ways, although they are almost always linked to issues that present the greatest cost, risk, or threat to the most powerful actors in MSIs: large corporations or Global North governments. Difficult or complex issues that would likely entail significant financial or reputational costs, such as reporting alleged abuses by security forces or challenging government requests for internet users’ data, may be omitted altogether or only implemented through weak standards.

While it was always understood that, by their nature, MSIs would be a product of negotiation between stakeholders with different, sometimes competing, interests, the degree to which the scope and standards of MSIs both affirm corporate power and risk exacerbating power imbalances is striking. For example, rather than obligate Global North governments who participate in MSIs to take steps to incentivize or mandate that their corporations respect human rights or comply with an MSI’s standards—an effective and sensible step given their jurisdictional reach over their corporations—they have been allowed to largely free-ride in MSIs; they are afforded decision-making power with little, if any, expectation to change their behavior.

Similarly, a supply-chain MSI genuinely committed to addressing the economic precarity of workers could, for example, require brands to insert clauses in their contracts with suppliers that a living wage must be paid to workers, and empowering workers with the ability to enforce those clauses as third-party beneficiaries (see **Insight 4: Monitoring & Compliance**, where this is discussed). However, instead, most supply-chain MSIs have either skipped the issue or left it as a matter for suppliers, without any clear obligation or timeframe by which workers must be paid a fair wage. Indeed, with rare exception, brands in these MSIs are not required to pay any levies or increased prices to assist in off-setting the cost of production occurring in a way that respects rights, nor to make changes in their purchasing practices that can contribute to abuse. While we understand that there are challenges in calculating a

living wage, if brands were genuinely committed to ensuring workers received a living wage, we have little doubt that they could overcome these logistical hurdles. To us, the issue is more likely bound-up in questions of a brand's desire to preserve its profit margin, pricing, and competitiveness. MSIs have simply been forced to accept these limits, even if it has meant creating barriers to MSI participation on the world's poorest and most vulnerable producers, thus stratifying existing economic inequalities.

In these ways, MSIs are inherently limited by the redlines drawn by corporations or governments. This undermines the potential of MSIs to achieve transformative change in areas where initiatives risk seriously jeopardizing the profit or power of members. The funding and operational models of MSIs—which often rely on contributions from these government or corporate members, or rely on them to “drive demand” for others to participate—put further pressure on initiatives to adopt standards and approaches that are palatable to corporate and government members.

In the case of MSIs, details about how they actually operate and the extent of their mandate matter. Yet, as the approaches set by MSIs are difficult and time-intensive to fully untangle and understand, few actors outside of MSIs are likely to engage in the technical exercise of analyzing their limits. This asymmetry means that some MSIs risk creating a misperception that key human rights issues are being effectively addressed, when they are not; drawing attention away from other human rights issues in an industry or more effective efforts designed to address the root causes of abuse; or deflecting attention away from the role and responsibilities of powerful actors in preventing abuse. In these ways, many MSIs thus risk ultimately embedding corporate power, rather than tackling the root causes and drivers of abuse.

Seen in their worst light, companies may use the cover of MSIs to legitimize irresponsible behavior, while gaining reputational benefits that largely enable them to continue their business-as-usual practices. This is perhaps most overt in MSIs that use messaging to suggest that they encompass a broader range of issues than their mandate or scope actually addresses—particularly those who enable corporate members of MSIs to sell products that carry their “fair,” “responsible,” and “sustainable” certification marks, thus giving those members a reputational boon. However, insofar as MSIs have influenced the wider field of business and human rights (see **Insight 1: Influence**), and in particular what is considered “good practice,” it extends to all MSIs. We therefore seek to reinvigorate discussions about how to deal with the underlying governance gaps that remain from the approach MSIs have taken in partially or tepidly addressing key issues in an industry.

Cited Sources

- Alifano, Aurora. "Labor Abuse in the Seafood Industry Captures Media Attention," Fish Wise. November 26, 2014. <https://fishwise.org/labor-abuse-in-the-seafood-industry-captures-media-attention/>.
- Allen, Aiofe. "Kimberley Process 'Whitewashes' Blood Diamonds." *New Internationalist Magazine*. April 1, 2012. <https://newint.org/sections/agenda/2012/04/01/kimberley-process-certification-scheme>.
- askRSPO. "What Is the Cost of Sustainable Palm Oil?" Accessed February 6, 2020. <https://askrspo.force.com/s/article/What-is-the-cost-of-sustainable-palm-oil>.
- Associated Press. "Seafood from Slaves." March 2015–July 2016. <https://www.ap.org/explore/seafood-from-slaves/>.
- Barrett, Paul M., and Dorothee Baumann-Pauly. "Five Years after Rana Plaza: The Way Forward." NYU Stern Center for Business and Human Rights. April 23, 2018. <https://bhr.stern.nyu.edu/blogs/2019/1/30/five-years-after-rana-plaza-the-way-forward>.
- Baumann-Pauly, Dorothee, and Justine Nolan. "Mapping the Landscape of Multi-Stakeholder Initiatives: Few MSIs Are Equipped to Address Governance Gaps." NYU Stern Center for Business and Human Rights. July 5, 2017. <https://bhr.stern.nyu.edu/blogs/few-msis-are-equipped-to-address-gaps>.
- Better Cotton Initiative. "About BCI." Accessed February 5, 2020. <https://bettercotton.org/about-bci/>.
- Bonsucro. *Bonsucro Production Standard Including Bonsucro EU Production Standard*. Version 4.2. London: Bonsucro, 2016. <http://www.bonsucro.com/wp-content/uploads/2017/04/Bonsucro-PS-STD-English-2.pdf>.
- Business & Human Rights Resource Centre. "Living Wage." Accessed February 5, 2020. <https://www.business-humanrights.org/en/issues/labour/living-wage>.
- Cama, Timothy. "Senate Votes to Repeal Transparency Rule for Oil Companies." *The Hill*, February 3, 2017. <https://thehill.com/policy/energy-environment/317700-senate-votes-to-repeal-transparency-rule-for-oil-companies>.
- Clean Clothes Campaign. "Living Wages in Europe." Accessed February 5, 2020. <https://cleanclothes.org/campaigns/living-wages-in-europe>.
- Common Code for the Coffee Community. *4C Code of Conduct*. Version 2.3. Köln: 4C Services GmbH, 2018. https://www.4c-services.org/wp-content/uploads/2018/03/4C_Code_of_Conduct_v2.3_en.pdf.
- _____. *Tailored Wages 2019: The State of Pay in the Global Garment Industry*. Amsterdam: CCC, 2019. <https://cleanclothes.org/file-repository/tailoredwages-fp.pdf/view>.
- Extractive Industries Transparency Initiative. "Countries." Accessed February 6, 2020. <https://eiti.org/countries>.
- _____. *EITI Standard 2019*. Oslo: EITI International Secretariat, 2019. <https://eiti.org/document/eiti-standard-2019>.
- _____. "Supporting Countries." Accessed February 6, 2020. <https://eiti.org/supporters/countries>.
- Fair Labor Association. "Adidas." Accessed February 5, 2020. <http://www.fairlabor.org/affiliate/adidas>.
- _____. *Adidas Group: Assessment for Accreditation*. Washington, DC: FLA, 2017. https://www.fairlabor.org/sites/default/files/documents/reports/adidas_reaccreditation_assessment_october_2017.pdf.
- _____. "Fair Compensation." Accessed February 20, 2020. <https://www.fairlabor.org/global-issues/fair-compensation>.
- _____. *Charter Document*. Washington, DC: FLA, 2017. https://www.fairlabor.org/sites/default/files/fla-charter_revised_october_2017.pdf.
- _____. *FLA Workplace Code of Conduct*. Washington, DC: FLA. <https://www.fairlabor.org/our-work/code-of-conduct>.
- _____. *FLA Workplace Code of Conduct and Compliance Benchmarks*. Washington, DC: FLA, 2011. https://www.fairlabor.org/sites/default/files/fla_complete_code_and_benchmarks.pdf.
- _____. "Mission & Charter." Accessed February 20, 2020. <https://www.fairlabor.org/mission-charter>.
- _____. *New Balance Athletic Shoe, Inc.: Assessment for Accreditation*. Washington, DC: FLA 2014. https://www.fairlabor.org/sites/default/files/documents/reports/new_balance_accreditation_report_june_2014.pdf.
- _____. *Principles of Fair Labor & Responsible Sourcing*. Washington, DC: FLA, 2015. https://www.fairlabor.org/sites/default/files/responsible_sourcing_principles.pdf

- ____. "Reports." Accessed February 20, 2020. <https://www.fairlabor.org/global-issues/fair-compensation/reports>.
- Fair Wear Foundation. *Brand Performance Check: Acne Studios*. Amsterdam: FWF, 2019. <https://www.fairwear.org/wp-content/uploads/2019/07/acne-studios-performance-check6.pdf>.
- ____. *Brand Performance Check Guide*. Amsterdam: FWF, 2017. <https://api.fairwear.org/wp-content/uploads/2017/09/brand-performance-check-guide-2018.pdf>.
- Fairtrade International. *Fairtrade Standard for Hired Labour*. Version 15.01. Bonn: Fairtrade International, 2014. https://files.fairtrade.net/standards/HL_EN.pdf.
- ____. "Living Wage." Accessed February 20, 2020. <https://www.fairtrade.net/issue/living-wage>.
- ____. *Living Wage: Explanatory Document for Fairtrade Textile Standard*. Bonn: Fairtrade International, 2017. https://files.fairtrade.net/standards/2017-02-24_Living_wage_explanatory_document_Textile_EN.pdf.
- ____. "Our Mission and Vision." Accessed February 20, 2020. <https://www.fairtrade.net/about/mission>.
- ____. *Fairtrade Textile Standard*. Version 1.1. Bonn: Fairtrade International, 2016. https://files.fairtrade.net/standards/TextileStandard_EN.pdf.
- FLOCERT. "Cost Calculator." Accessed February 5, 2020. <https://www.flocert.net/solutions/fairtrade-resources/cost-calculator/>.
- Flora, Cornelia Butler, Carmen Bain, and Caleb Call. "Sustainability Standards and Their Implications for Agroecology." In *Integrating Agriculture, Conservation and Ecotourism: Societal Influences*, edited by W. Bruce Campbell and Silvia López Ortíz, 163–225. Dordrecht: Springer, 2012.
- Food and Agriculture Organization of the United Nations. "Smallholders and Family Farming." Accessed February 5, 2020. <http://www.fao.org/family-farming/themes/small-family-farmers/en/>.
- Food and Agriculture Organization of the United Nations, Asia Forest Network, and Asia-Pacific Network for Sustainable Forest Management and Rehabilitation. *Making Forestry Work for the Poor: Assessment of the Contribution of Forestry to Poverty Alleviation in Asia and the Pacific*. RAP Publication 2012/06. Bangkok: FAO, 2012. <http://www.fao.org/3/i2732e/i2732e.pdf>.
- Forest Stewardship Council. *FSC Principles and Criteria for Forest Stewardship*. Version 5.2. Bonn: FSC, 2015. <https://fsc.org/en/document-centre/documents/resource/392>.
- ____. *Living Wage Auditor Guidance*. Bonn: FSC, 2017. <https://fsc.org/en/document-centre/documents/resource/324>.
- ____. "Mission and Vision: Protecting Forests for Future Generation." Accessed February 5, 2020. <https://us.fsc.org/en-us/what-we-do/mission-and-vision>.
- Friends of the Earth Europe, Heinrich Boll Foundation, and Rosa Luxemburg Foundation. *AgriFood Atlas: Facts and Figures about the Corporations That Control What We Eat*. 2017. https://www.boell.de/sites/default/files/agrifoodatlas2017_facts-and-figures-about-the-corporations-that-control-what-we-eat.pdf?dimension1=ds_konzernatlas.
- Global Coffee Platform. "About the Tool." Accessed February 5, 2020. <https://www.globalcoffeeplatform.org/tools/gcp-baseline#features>.
- ____. *Baseline Common Code*. Version 2.1. Bonn: GCP, 2016. https://www.globalcoffeeplatform.org/assets/files/GCP_Doc_01_Baseline-Common-Code_v2.1_en.pdf.
- ____. *Concept of the Equivalence Mechanism*. Version 1.1. Bonn: GCP, 2016. https://www.globalcoffeeplatform.org/assets/files/Documents/GCP-Official-Documents/GCP_Doc_0x_Equivalence-Mechanism_v1.1_en.pdf.
- Global Living Wage Coalition. "About the Global Living Wage Coalition." Accessed February 20, 2020. <https://www.globallivingwage.org/about/>.
- ____. "The Anker Methodology for Estimating a Living Wage." Accessed February 15, 2020. <https://www.globallivingwage.org/about/anker-methodology/>.
- ____. "Giving Workers a Decent Standard of Living." Accessed January 9, 2020. <https://www.globallivingwage.org/>.
- ____. "Members and Partners of the Global Living Wage Coalition." Accessed February 20, 2020. <https://www.globallivingwage.org/about/members-partners/>.
- Global Network Initiative. "About GNI." Accessed February 6, 2020. <https://globalnetworkinitiative.org/about-gni/>.
- ____. "Core Commitments." Accessed February 6, 2020. <https://globalnetworkinitiative.org/core-commitments/>.

- _____. *The GNI Principles*. Washington, DC: GNI, 2017. <https://globalnetworkinitiative.org/gni-principles/>.
- _____. Homepage. Accessed February 6, 2020. <https://globalnetworkinitiative.org/>.
- _____. *Implementation Guidelines for the Principles on Freedom of Expression and Privacy*. Washington, DC: GNI, 2017. <https://globalnetworkinitiative.org/wp-content/uploads/2018/08/Implementation-Guidelines-for-the-GNI-Principles.pdf>.
- _____. "Media." Accessed October 14, 2019. <https://globalnetworkinitiative.org/media/>.
- _____. "Our Mission." Accessed August 13, 2019. <https://web.archive.org/web/20190813224108/https://globalnetworkinitiative.org/team/our-mission/>.
- _____. "Our Mission." Accessed February 6, 2020. <https://globalnetworkinitiative.org/team/our-mission/>.
- Global Reporting Initiative. "About GRI." Accessed February 5, 2020. <https://www.globalreporting.org/information/about-gri/Pages/default.aspx>.
- Global Witness. *A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets*. London: Global Witness, 1999. <https://cdn.globalwitness.org/archive/files/pdfs/a%20crude%20awakening.pdf>.
- Halloran, Brendan. *From Openness to Real Accountability: The Roles of MSIs*. London: T/AI 2015. <http://www.transparency-initiative.org/archive/wp-content/uploads/2015/05/MSIs-and-Accountability.pdf>.
- Hawkey, Sean. *Fairtrade Trader Standard*. Version 1.6. Bonn: Fairtrade International, 2015. https://files.fairtrade.net/standards/TS_EN.pdf.
- Hermes. "Certified Ethically-Sourced Diamonds." Accessed February 5, 2020. <https://www.hermes.com/us/en/story/135666-certified-ethically-sourced-diamonds/>.
- Hodal, Kate, Chris Kelly, and Felicity Lawrence. "Revealed: Asian Slave Labour Producing Prawns for Supermarkets in US, UK." *The Guardian*. June 10, 2014. <https://www.theguardian.com/global-development/2014/jun/10/supermarket-prawns-thailand-produced-slave-labour>.
- Human Rights Watch. *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry*. New York: HRW, 2018. <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>.
- _____. "Joint Statement by Civil Society Group's [sic] on Human Rights in the Diamond Supply Chain." November 12, 2018. <https://www.hrw.org/news/2018/11/12/joint-statement-civil-society-groups-human-rights-diamond-supply-chain>.
- _____. "MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains." June 10, 2019. <https://www.hrw.org/news/2019/06/10/mscs-revised-chain-custody-certification-fails-adequately-address-forced-labor-and>.
- _____. *'Paying for a Bus Ticket and Expecting to Fly': How Apparel Brand Purchasing Practices Drive Labor Abuses*. New York: HRW, 2019. <https://www.hrw.org/report/2019/04/23/paying-bus-ticket-and-expecting-fly/how-apparel-brand-purchasing-practices-drive>.
- _____. *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities*. New York: HRW, 1999. <https://www.hrw.org/legacy/reports/1999/nigeria/nigeria0199.pdf>.
- Hydropower Sustainability. "Hydropower Sustainability Assessment Council." Accessed February 6, 2020. <http://www.hydrosustainability.org/council>.
- Idemudia, Uwafiokun. "The Extractive Industry Transparency Initiative and Corruption in Nigeria: Rethinking the Links between Transparency and Accountability." In *Access to Information in Africa: Law, Culture and Practice*, edited by Fatima Diallo and Richard Calland, 127–48. Boston: Brill, 2013. <https://brill.com/view/book/edcoll/97890004251892/B97890004251892-s008.xml>.
- Infrastructure Transparency Initiative. "Where We Work." Accessed February 6, 2020. <http://infrastructuretransparency.org/where-we-work/>.
- International Code of Conduct for Private Security Providers Association. *The Articles of Association*. Geneva: ICoCA, 2010. https://www.icoca.ch/en/articles_of_association.
- _____. *International Code of Conduct for Private Security Providers*. Geneva: ICoCA, 2010. https://www.icoca.ch/sites/all/themes/icoca/assets/icoc_english3.pdf.
- International Labor Organization. "A Fair Wage: A Human Right." December 9, 2013. https://www.ilo.org/global/about-the-ilo/newsroom/features/WCMS_231993/lang-en/index.htm.
- International Labor Rights Forum. "Living Wage." Accessed February 5, 2020. <https://laborrights.org/issues/living-wage>.

- Kimberly Process. *Kimberly Process Certification Scheme*. KP, 2002. <https://www.kimberlyprocess.com/en/system/files/documents/KPCS%20Core%20Document.pdf>.
- Labour Behind the Label. "Living Wage." Accessed February 5, 2020. <https://labourbehindthelabel.org/campaigns/living-wage/>.
- LeBaron, Genevieve, Penelope Kyritsis, Cameron Thibos, and Neil Howard. *Confronting the Root Causes of Forced Labour: Concentrated Corporate Power and Ownership*. openDemocracy and the SPERI, University of Sheffield, 2018. https://cdn-prod.opendemocracy.net/media/documents/Confronting_Root_Causes_Forced_Labour_In_Global_Supply_Chains.pdf.
- Levin, Joshua, WWF, FMO and CDC. *Profitability and Sustainability in Palm Oil Production: Analysis of Incremental Financial Costs and Benefits of RSPO Compliance*. Gland: WWF, 2012. https://d2ouvy59pOdg6k.cloudfront.net/downloads/profitability_and_sustainability_in_palm_oil_production_update.pdf.
- Lowder, Sarah K., Jakob Skoet, and Terri Raney. "The Number, Size, and Distribution of Farms, Smallholder Farms, and Family Farms Worldwide." *World Development* 87 (November 2016): 16–29.
- Marine Stewardship Council. "Buy Sustainable Seafood." Accessed February 5, 2020. <https://www.msc.org/what-you-can-do/buy-sustainable-seafood>.
- _____. *Consultation Document—On-Shore Labour Practices*. Consultation August 15–October 15, 2018. London: MSC, 2018. <https://www.msc.org/docs/default-source/default-document-library/stakeholders/consultations/msc-consultation-document-on-shore-labour-practices.pdf>.
- _____. "MSC Board Announces Clear Policy on Forced Labour." August 1, 2014. <https://www.msc.org/media-centre/press-releases/press-release/msc-board-announces-clear-policy-on-forced-labour>.
- _____. *MSC Chain of Custody Standard: Default Version*. Version 5.0. London: MSC, 2019. https://www.msc.org/docs/default-source/default-document-library/for-business/program-documents/chain-of-custody-program-documents/msc-chain-of-custody-standard_default-version-v5-0.pdf?sfvrsn=b832b260_10.
- _____. *MSC Fisheries Certification Process*. Version 2.1. London: MSC, 2018. https://www.msc.org/docs/default-source/default-document-library/for-business/program-documents/fisheries-program-documents/msc-fisheries-certification-process-v2.1.pdf?sfvrsn=5c8c80bc_22.
- _____. *MSC Third-Party Labour Audit Requirements*. Version 1.0. London: MSC 2019. https://www.msc.org/docs/default-source/default-document-library/for-business/program-documents/chain-of-custody-program-documents/msc-third-party-labour-audit-requirements-v1-0.pdf?sfvrsn=71ab1ce5_8.
- _____. "Our History." Accessed February 5, 2020. <https://www.msc.org/about-the-msc/our-history>.
- _____. "Use the Blue MSC Label." Accessed February 5, 2020. <https://www.msc.org/for-business/use-the-blue-msc-label>.
- McGill, Abby. *Comments to the Marine Stewardship Council Regarding Proposed Labor Requirements*. International Labor Rights Forum, Seafood Working Group, 2017. https://laborrights.org/sites/default/files/publications/Comments%20to%20the%20Marine%20Stewardship%20Council%20regarding%20proposed%20labor%20requirements_FINAL.pdf.
- Molenaar, Jan Willem, Annemieke Beekmans, and Pim Pelders. *Producer Groups Models and Certification: An Exploration of Various Producer Group Models in the Agricultural and Forestry Sectors*. 2011. <http://www.cocoaconnect.org/publication/producer-groups-models-and-certification-exploration-various-producer-group-models>.
- MSI Integrity. *Development of the MSI Evaluation Tool and Evaluation Methodology*. Berkeley: MSI Integrity, 2017. <http://www.msi-integrity.org/dev/wp-content/uploads/2017/02/Tool-Development-History.pdf>.
- _____. *The Essential Elements of MSI Design*. Berkeley: MSI Integrity, 2017. http://www.msi-integrity.org/wp-content/uploads/2017/11/Essential-Elements_2017.pdf.
- _____. *The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives*. Berkeley: MSI Integrity, June 2017. <https://msi-database.org/data/The%20New%20Regulators%20-%20MSI%20Database%20Report.pdf>.
- MSI Integrity and the International Clinic for Human Rights at Harvard Law School. *MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives*. Version 1.0. Berkeley: MSI Integrity and ICHR, 2017. http://www.msi-integrity.org/wp-content/uploads/2017/11/MSI-Evaluation-Tool_2017.
- Oxfam. *Extractive Sectors and the Poor*. Boston: Oxfam America, 2001. <https://www.oxfamamerica.org/explore/research-publications/extractive-sectors-and-the-poor/>.
- Oxfam Germany et al. *Konzernatlas 2017*. Berlin: Oxfam Germany, 2017. <https://www.oxfam.de/ueber-uns/publikationen/konzernatlas-2017>.

- Rainforest Alliance. "About the Rainforest Alliance." Accessed February 5, 2020. <https://www.rainforest-alliance.org/about>.
- _____. "A Decent Standard of Living for All." Accessed February 20, 2020. <https://www.rainforest-alliance.org/articles/decent-standard-of-living-for-all>.
- _____. "Living Wage: Rainforest Alliance Content about Our Work to Advance Living Wages for Workers around the World." Accessed February 20, 2020. <https://www.rainforest-alliance.org/tags/living-wage>.
- _____. *Rainforest Alliance Sustainable Agriculture Standard for Farms and Producer Groups Involved in Crop and Cattle Production*. Version 1.2. New York: Rainforest Alliance, 2017. https://www.rainforest-alliance.org/business/wp-content/uploads/2017/11/03_rainforest-alliance-sustainable-agriculture-standard_en.pdf.
- Rietberg, Petra, and Maja Slingerland. *Costs and Benefits of RSPO Certification for Independent Smallholders: A Science-for-Policy Paper for the RSPO*. SEnSOR, 2016. <http://www.sensorproject.net/wp-content/uploads/2017/04/Costs-and-benefits-of-RSPO-certification-for-independent-smallholders-FINAL.pdf>.
- Robbins Brothers. "Conflict Free Diamonds or Blood Free Diamonds." Accessed February 5, 2020. <https://www.robbsbrothers.com/conflict-free-diamonds>.
- Rose, Cecily. *International Anti-Corruption Norms: Their Creation and Influence on Domestic Legal Systems*. Oxford: OUP, 2015.
- Roundtable on Sustainable Palm Oil. "Annual Communication of Progress 2019." <https://rspo.org/members/acop>.
- _____. "Introduction RSSF." Accessed February 6, 2020. <https://rspo.org/smallholders/introduction-rssf>.
- _____. *Principles and Criteria for the Production of Sustainable Palm Oil*. Bogor: RSPO, 2018. https://rspo.org/resources/search-result?-search=Principles+%26+Criteria&s_lang=&s_type=&s_publication_date.
- _____. *RSPO Guidance for Implementing a Decent Living Wage*. Bogor: RSPO, 2019. <https://rspo.org/resources/archive/907>.
- _____. *RSPO Guidance on Calculating Prevailing Wages*. Bogor: RSPO, 2019. <https://rspo.org/articles/download/28fa20f2e229437>.
- Shimansky. "Discover Diatmonds—Ethical Diamonds." Accessed February 5, 2020. <https://www.shimansky.co.za/discover/diamond-certification/ethical-diamonds>.
- Social Accountability International. "Corporate Member Commitment." Accessed February 5, 2020. <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=1192>.
- Strazzi, Cecile. "What Is Conflict Diamond?" Accessed February 5, 2020. <https://cecilestrazzi.com/what-is-conflict-diamond%3F>.
- Sustainable Forestry Initiative. *SFI 2015–2019 Extended Through December 2021 Forest Management Standard*. Washington, DC: SFI, 2015. https://www.sfi-program.org/wp-content/uploads/2015_2019StandardsandRules_Section2_June2019.pdf.
- Teh, Lydia C. L., Richard Caddell, and Yoshitaka Ota. "The Role of Human Rights in Implementing Socially Responsible Seafood." *PloS One* 14, no. 1 (January 25, 2019): e0210241. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6347265/>.
- Turker, Duygu, and Ceren Altuntas. "Sustainable Supply Chain Management in the Fast Fashion Industry: An Analysis of Corporate Reports." *European Management Journal* 32, no. 5 (2014): 837–49.
- Office of the United Nations High Commissioner for Human Rights. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. Geneva: United Nations, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.
- Van Alstine, J. "Critical Reflections on 15 Years of the Extractive Industries Transparency Initiative." *Extractive Industries and Society* 4, no. 4 (November 2017): 766–70.
- Vaughan-Whitehead, Daniel, and Luis Pinedo Caro. *Purchasing Practices and Working Conditions in Global Supply Chains: Global Survey Results*. Issue Brief No. 10. Geneva: ILO, INWORK, 2017. http://ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_556336.pdf.
- Velazquez, Maira, and Alicia Brudney. "Slave Labor: What Big Chocolate Doesn't Have to Tell You." Corporate Accountability Lab. October 8, 2019. <https://legaldesign.org/calblog/2019/10/8/slave-labor-what-big-chocolate-doesnt-have-to-tell-you>.
- Voluntary Principles on Security and Human Rights. *The Voluntary Principles on Security and Human Rights*. VPs, 2000. <http://www.voluntaryprinciples.org/wp-content/uploads/2019/12/TheVoluntaryPrinciples.pdf>.
- _____. *The Voluntary Principles on Security and Human Rights Backgrounder on Company Implementation*. VPs. Accessed February 5, 2020. https://docs.wixstatic.com/ugd/f623ce_ca85b83af2a24d279cd655a581da004d.pdf.

War on Want. "Living Wage: A Global Battle." Accessed March 15, 2020, <https://waronwant.org/livingwage>.

_____. *The Living Wage: Winning the Fight for Social Justice*. London: War on Want, 2013. <https://waronwant.org/sites/default/files/The%20Living%20Wage%20-%20War%20on%20Want.PDF>.

Willoughby, Robin, and Tim Gore. *Ripe for Change: Ending Human Suffering in Supermarket Supply Chains*. Oxford: Oxfam International, 2018. https://www-cdn.oxfam.org/s3fs-public/file_attachments/cr-ripe-for-change-supermarket-supply-chains-210618-en.pdf.

Wilshaw, Rachel, Sloane Hamilton, Julie Thérour-Séguin, and Daisy Gardener. *In Work But Trapped in Poverty: A Summary of Five Studies Conducted by Oxfam, with Updates on Progress along the Road to a Living Wage*. Oxford: Oxfam International, 2015. https://www-cdn.oxfam.org/s3fs-public/file_attachments/ib-in-work-trapped-poverty-290915-en.pdf.

The World Bank. "Supporting Enhanced Transparency in Extractives: The World Bank's Support to EITI." March 12, 2018. <https://www.worldbank.org/en/topic/extractiveindustries/brief/supporting-enhanced-transparency-in-extractives-the-world-banks-support-to-eiti>.

Worldwide Responsible Accredited Production. "Frequently Asked Questions." Accessed February 5, 2020. <http://wrapcompliance.org/en/faq>.

Endnotes

- 1 The MSIs referenced in this chapter include: Bonsucro, Ethical Trading Initiative (ETI), Extractive Industries Transparency Initiative (EITI), Fair Labor Association (FLA), Fair Wear Foundation, Fairtrade International, Forest Stewardship Council, Global Coffee Platform, Global Network Initiative (GNI), Hydropower Sustainability Assessment Council, Infrastructure Transparency Initiative, International Code of Conduct for Private Security Providers, Marine Stewardship Council, Rainforest Alliance, Roundtable on Sustainable Palm Oil (RSPO), Social Accountability International, Sustainable Forestry Initiative, UTZ, Voluntary Principles on Security and Human Rights (VPs), and Worldwide Responsible Accredited Production.
- 2 The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which contains information current as of June 30, 2019, and is available from our website at www.msi-integrity.org/datasets.
- 3 See Fair Labor Association, *Charter Document* (Washington, DC: FLA, 2017), 6.
- 4 See "About GRI," *Global Reporting Initiative*, accessed February 5, 2020.
- 5 "Mission and Vision: Protecting Forests for Future Generation," Forest Stewardship Council, accessed February 5, 2020.
- 6 "About the Rainforest Alliance," The Rainforest Alliance, accessed February 5, 2020.
- 7 See, for example, our *Evaluation Methodology for a recommended approach to evaluating an MSI's scope and standards: MSI Integrity and the International Human Rights Clinic at Harvard Law*, *MSI Evaluation Tool*, ver. 1.0. (Berkeley: MSI Integrity and IHRC, 2017).
- 8 MSI Integrity, *Development of the MSI Evaluation Tool and Evaluation Methodology*. (Berkeley: MSI Integrity, 2017), 10.
- 9 See for example, Dorothee Baumann-Pauly and Justine Nolan, "Mapping the Landscape of Multi-Stakeholder Initiatives: Few MSIs Are Equipped to Address Governance Gaps," NYU Stern Center for Business and Human Rights, July 5, 2017, noting the budget limitations of MSIs affecting their ability to provide public materials.
- 10 For more, see Cornelia Butler Flora, Carmen Bain, and Caleb Call, "Sustainability Standards and Their Implications for Agroecology," in *Integrating Agriculture, Conservation and Ecotourism: Societal Influences*, ed. W. Bruce Campbell and Silvia López Ortiz. (Dordrecht: Springer, 2012), 219.
- 11 *Walker v. Nestlé USA, Inc., Civil Case No. 19CV0723 L KSC*, doc. 1, United States District Court, Southern District of California, April 19, 2019. For a discussion of the case, see: Maira Velazquez and Alicia Brudney, "Slave Labor: What Big Chocolate Doesn't Have to Tell You," Corporate Accountability Lab, October 8, 2019.
- 12 The following are examples of MSIs that certify coffee: Fairtrade International, UTZ, and Rainforest Alliance (the Global Coffee Platform also covers coffee but does not itself directly "certify" members). The following are examples of MSIs that monitor clothing and apparel factories, although not all "certify" factories or provide labels: ETI, FLA, Fair Wear Foundation, Social Accountability International, Worldwide Responsible Accredited Production.
- 13 For example, the GNI website homepage states, at the top, "Protecting and Advancing Freedom of Information and Privacy in the ICT Sector." Homepage, Global Network Initiative, accessed February 6, 2020. A summary of the *GNI Principles* states, "GNI Participants commit to implement the organization's Principles on Freedom of Expression and Privacy ("the GNI Principles"), which provide direction and guidance to the ICT industry and its stakeholders in protecting and advancing the enjoyment of these human rights globally." Global Network Initiative, *The GNI Principles* (Washington, DC: GNI, 2017). Its media page, under "how to describe the Global Network Initiative," states, "Launched in 2008, the Global Network Initiative (www.globalnetworkinitiative.org) occupies a unique place in the global conversation about freedom of expression and privacy in the Information and Communications Technology Sector. The GNI's multi-stakeholder approach works to bring together information and communications technology companies, civil society (including human rights and press freedom groups), academics and investors from around the world to protect and advance freedom of expression and privacy, facilitate shared learning and collaborative problem solving, and promote coordinated advocacy." "Media," Global Network Initiative, accessed October 14, 2019. Its Core Commitments page states that the *GNI Principles* include what companies should do when faced with government demands but does not state that they are limited to that issue: "The GNI Principles state the overarching commitment of members to collaborate in the advancement of user rights to freedom of expression and privacy. The Principles provide high-level guidance to the ICT industry on how to respect, protect, and advance user rights to freedom of expression and privacy, including when faced with government demands for censorship and disclosure of user's personal information." "Core Commitments," Global Network Initiative, accessed February 6, 2020. Similarly, its "About" page explains that it formed to address government requests to censor content, restrict access, or hand over user data, but also states, "The GNI Principles ("the Principles") and Implementation Guidelines provide an evolving framework for responsible company decision making in support of freedom of expression and privacy rights." "About GNI," *Global Network Initiative*, accessed February 6, 2020.
- 14 While some of GNI's standards include general statements about upholding its principles through business operations and relationships with partners, suppliers, and distributors, most of the detailed guidance relates to how to respond to government restrictions or demands for data. See GNI, *Implementation Guidelines for the Principles on Freedom of Expression and Privacy* (February 2017).
- 15 See Global Network Initiative, *Implementation Guidelines*.
- 16 Global Network Initiative, "Our Mission," Note this webpage has since changed, but the earlier version is available at "Our Mission," Global Network Initiative, accessed August 13, 2019.
- 17 The new mission statement reads, "The mission of the Global Network Initiative is to protect and advance freedom of expression and privacy rights in the ICT industry by setting a global standard for responsible company decision making and serving as a multistakeholder voice in the face of government restrictions and demands." "Our Mission," Global Network Initiative. During our engagement with GNI, they noted they had "updated" their mission statement as "part of an pre-planned and ongoing review of the content on our website." (Letter from GNI is available on file, November 19, 2019.)
- 18 See, generally, Rachel Wilshaw, Sloane Hamilton, Julie Thérèse-Séguin, and Daisy Gardener, *In Work but Trapped in Poverty: A Summary of Five Studies Conducted by Oxfam, with Updates on Progress along the Road to a Living Wage*. (Oxford: Oxfam International, 2015). There have now been many campaigns by unions and other NGOs for workers to receive a living wage, including "Living Wage," *Labour Behind the Label*, accessed February 5, 2020; "Living Wage," International Labor Rights Forum, accessed February 5, 2020, <https://laborrightrights.org/issues/living-wage/>; "Living Wages in Europe," Clean Clothes Campaign, accessed February 5, 2020; "Living Wage: A Global Battle," War on Want, accessed March 15, 2020; see also "Living Wage," Business & Human Rights Resource Centre, accessed February 5, 2020.
- 19 See Table 1.1 in **Insight 1: Influence**.
- 20 See Clean Clothes Campaign, *Tailored Wages 2019: The State of Pay in the Global Garment Industry* (Amsterdam: CCC, 2019), 11.
- 21 See Food and Agriculture Organization of the United Nations, Asia Forest Network, and Asia-Pacific Network for Sustainable Forest Management and Rehabilitation, *Making Forestry Work for the Poor: Assessment of the Contribution of Forestry to Poverty Alleviation in Asia and the Pacific* (Bangkok: RAP Publication, 2012); "War on Want, *The Living Wage: Winning the Fight for Social Justice* (London: War on Want, September 2013).
- 22 "The Anker Methodology for Estimating a Living Wage," Global Living Wage Coalition, accessed February 15, 2020.
- 23 Richard Anker, *Estimating a living wage: a methodological review* (Geneva: ILO, 2011), 7.
- 24 ILO Conventions 95 and 131, ILO Recommendations 131 and 135. "A Fair Wage: A Human Right," International Labor Organization, December 9, 2013. "One of the funda-

mental human rights is the right to a just remuneration that ensures an existence worthy of human dignity." See also "Living Wage," International Labor Rights Forum, citing Article 23(3) of the *Universal Declaration of Human Rights*, International Labor Organization Recommendation 135 (1970), and international agreements in support of this right.

25 [Bonsucro Call for Proposals: Review of Bonsucro Production Standard Decent/Living Wage](#) (2020).

26 "[Living Wage](#)," Fairtrade International, accessed February 20, 2020.

27 "[About the Global Living Wage Coalition](#)," Global Living Wage Coalition, accessed February 20, 2020.

28 Fairtrade International, [Living Wage: Explanatory Document for Fairtrade Textile Standard](#) (Bonn: Fairtrade International, 2017).

29 "[Fair Compensation](#)," Fair Labor Association, accessed February 20, 2020.

30 Fair Labor Association, "Fair Compensation."

31 "[Reports](#)," Fair Labor Association, accessed February 20, 2020.

32 "[FLA Workplace Code of Conduct](#)," Fair Labor Association, accessed February 20, 2020.

33 "[Calculating a Fair Deal for Brazil's Coffee Farmers](#)," Forest Stewardship Council, August 9, 2016.

34 Forest Stewardship Council, [Living Wage Auditor Guidance](#) (Bonn: FSC, 2017)

35 "[MSC to seek stakeholder input on enhanced requirements for labour practices](#)," Marine Stewardship Council, July 20, 2016.

36 "[Living Wage: Rainforest Alliance Content about Our Work to Advance Living Wages for Workers around the World](#)," Rainforest Alliance, accessed February 20, 2020.

37 "[A Decent Standard of Living for All](#)," Rainforest Alliance, accessed February 20, 2020.

38 "[Members and Partners of the Global Living Wage Coalition](#)," Global Living Wage Coalition, accessed February 20, 2020.

39 [Roundtable on Sustainable Palm Oil](#), *RSPO Guidance for Implementing a Decent Living Wage*, June 1, 2019.

40 "[Giving Workers a Decent Standard of Living](#)," Global Living Wage Coalition, accessed January 9, 2020.

41 "[MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains](#)," Human Rights Watch, June 10, 2019.

42 See **Defining the Key Concepts**.

43 "[What Is Conflict Diamond?](#)" Cecile Strazzi, accessed February 5, 2020.

44 See, for example, "[Discover Diamonds—Ethical Diamonds](#)," Shimansky, accessed February 5, 2020; "[Certified Ethically-Sourced Diamonds](#)," Hermes, accessed February 5, 2020; "[Conflict Free Diamonds or Blood Free Diamonds](#)," Robbins Brothers, accessed February 5, 2020.

45 Kimberly Process, [Kimberly Process Certification Scheme](#) (Kimberly Process, 2002), 3.

46 See, for example, "[Joint Statement by Civil Society Group's \[sic\] on Human Rights in the Diamond Supply Chain](#)," Human Rights Watch, November 12, 2018, signed by Amnesty International, Enough Project, Global Witness, Human Rights Watch and IMPACT; Aiofe Allen, "[Kimberly Process 'Whitewashes' Blood Diamonds](#)," *New Internationalist Magazine*, April 1, 2012.

47 MSI Integrity, [The Essential Elements of MSI Design](#) (Berkeley: MSI Integrity, 2017), 5.

48 "[Our History](#)," Marine Stewardship Council, accessed February 5, 2020.

49 "[Buy Sustainable Seafood](#)," Marine Stewardship Council, accessed February 5, 2020; "[Use the Blue MSC Label](#)," Marine Stewardship Council, accessed February 5, 2020.

50 See Kate Hodal, Chris Kelly, and Felicity Lawrence, "[Revealed: Asian Slave Labour Producing Prawns for Supermarkets in US, UK](#)," *The Guardian*, June 10, 2014, ; Aurora Alifano, "[Labor Abuse in the Seafood Industry Captures Media Attention](#)," *Fish Wise*, November 26, 2014. Following this, the Associated Press published a scathing series of articles exposing slavery in the seafood industry. The Associated Press won the Pulitzer Prize for this reporting. *Associated Press*, "[Seafood from Slaves](#)," series, March 2015–July 2016.

51 Marine Stewardship Council, "[MSC Board Announces Clear Policy on Forced Labour](#)," press release, August 1, 2014.

52 Marine Stewardship Council, "MSC Board Announces Clear Policy." Note that MSC has stated that this announcement followed a review of its position, which was first initiated in 2012. In correspondence with MSI Integrity, an MSC representative noted, "The Board initially decided to scope a requirement on forced labour in 2012, and continued to approve development milestones after this." However, MSI Integrity was not able to verify this independently, nor were any materials shared by MSC to verify this: Feedback from MSC on file with MSI Integrity, dated February 18, 2020.

53 Human Rights Watch, [Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry](#) (New York: HRW, 2018); Lydia C. L. Teh, Richard Caddell, and Yoshitaka Ota, "[The Role of Human Rights in Implementing Socially Responsible Seafood](#)," *PLoS One* 14, no. 1 (January 25, 2019): e0210241.

54 Abby McGill, [Comments to the Marine Stewardship Council Regarding Proposed Labor Requirements](#) (International Labor Rights Forum, Seafood Working Group, 2017), 3.

55 Marine Stewardship Council, [Consultation Document—On-Shore Labour Practices, Consultation](#) August 15–October 15. (London: MSC, 2018), 13.

56 See "[MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains](#)," Human Rights Watch, June 10, 2019. This echoes earlier critiques made during the development of the new rules: McGill, [Comments to the Marine Stewardship Council](#), 2.

57 Marine Stewardship Council, [MSC Fisheries Certification Process, vers. 2.1](#), (London: MSC, 2018), 14.

58 Note that wider labor issues in the fishing industry, including wage theft, excessive work hours, and obstruction of workers' ability to change employers, are included in these audits, but compliance on these issues is not required by the MSC Standard. Marine Stewardship Council, [MSC Chain of Custody Standard: Default Version, vers. 5.0](#), (London: MSC, 2019), 19; [Marine Stewardship Council, MSC Third-Party Labour Audit Requirements, vers. 1.0](#), (London: MSC, 2019), 8–10. For other critiques of this process, see Human Rights Watch, [MSC's Revised Chain of Custody Certification Fails to Adequately Address Forced Labor and Child Labor in Seafood Supply Chains](#), (New York: HRW, 2019).

59 Human Rights Watch, "MSC's Revised Chain of Custody."

- 60 See, e.g., Global Witness, *A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets* (London: Global Witness, 1999); Oxfam, *Extractive Sectors and the Poor* (Boston: Oxfam America, 2001).
- 61 See, e.g., Human Rights Watch, *The Price of Oil: Corporate Responsibility and Human Rights Violations in Nigeria's Oil Producing Communities* (New York: HRW, 1999); Global Witness, *A Crude Awakening*.
- 62 The EITI Standard has since evolved to include other important disclosures: see EITI, *EITI Standard 2019* (Oslo, Norway: EITI International Secretariat, 2019).
- 63 See Cecily Rose, *International Anti-Corruption Norms: Their Creation and Influence on Domestic Legal Systems* (Oxford, UK: OUP, 2015), 168–69, arguing that EITI had a normative influence on the passage of transparency regulations in the European Union and United States.
- 64 For example, the World Bank provided over US\$60 million in grants and technical assistance for the implementation of EITI since 2004. “[Supporting Enhanced Transparency in Extractives: The World Bank's Support to EITI](#),” The World Bank, March 12, 2018. See **Insight 1: Influence** for a broader discussion of MSIs’ influence and support.
- 65 J. Van Alstine, “Critical Reflections on 15 Years of the Extractive Industries Transparency Initiative,” *Extractive Industries and Society* 4, no. 4 (November 2017): 766.
- 66 Uwafiokun Idemudia, “[The Extractive Industry Transparency Initiative and Corruption in Nigeria: Rethinking the Links between Transparency and Accountability](#),” in *Access to Information in Africa: Law, Culture and Practice*, ed. Fatima Diallo and Richard Calland, (Boston: Brill, 2013), 144.
- 67 Brendan Halloran, *From Openness to Real Accountability: The Roles of MSIs London*: Transparency and Accountability Initiative, 2015), 3–4.
- 68 MSI Integrity, *The Essential Elements*, 6.
- 69 See **Knowledge Base** for information on the development of the *Tool*. The ten MSIs selected for pilot-testing were: Better Cotton Initiative, Common Code for the Coffee Community, EITI, FLA, Fairtrade International, GNI, the Kimberley Process, RSPO, Roundtable on Responsible Soy, and VPs. The pilot datasets are on file with MSI Integrity.
- 70 See, e.g. Bonsucro, *Bonsucro Production Standard Including Bonsucro EU Production Standard, vers. 4.2*, (London: Bonsucro, 2016).; Fairtrade International, *Fairtrade Textile Standard, vers. 1.1*, (Bonn: Fairtrade International, 2016); Fair Labor Association, *FLA Workplace Code of Conduct and Compliance Benchmarks* (Washington, DC: FLA., 2011); Forest Stewardship Council, *FSC Principles and Criteria for Forest Stewardship, vers. 5.2*, (Bonn: FSC, 2015); MSC, *Audit Requirements*; Rainforest Alliance, *Rainforest Alliance Sustainable Agriculture Standard for Farms and Producer Groups Involved in Crop and Cattle Production, vers. 1.2*, (London: MSC, 2017); *Roundtable on Sustainable Palm Oil, Principles and Criteria for the Production of Sustainable Palm Oil* (Kuala Lumpur: RSPO, 2018); Sustainable Forestry Initiative, *SFI 2015–2019 Extended Through December 2021 Forest Management Standard* (Washington, DC: SFI, 2015).
- 71 See, e.g., ICoCA, *International Code of Conduct for Private Security Provider*, (Geneva: ICoCA, 2010.) 3.
- 72 This intersects somewhat with the challenges of MSIs in detecting “invisible” issues, as discussed in **Insight 4: Monitoring & Compliance**.
- 73 In this way, the initiative seeks to bring in a wider pool of coffee producers and gradually improve conditions. See “[About the Tool](#),” Global Coffee Platform, accessed February 5, 2020.
- 74 Note that the Global Coffee Platform has fairly limited public information available about its *Baseline Common Code*. However, a basic explanation of the system is that compliance entails reaching a “yellow” level of baseline standards, as referred to in the following footnotes. See [Global Coffee Platform, Concept of the Equivalence Mechanism, vers. 1.1](#), Bonn: GCP, 2016), 6.
- 75 Common Code for the Coffee Community, *4C Code of Conduct, vers. 2.3*, (Köln: 4C Services GmbH, 2018), 20; Global Coffee Platform, *Baseline Common Code, vers. 2.1*, (Bonn: GCP, 2016), 19.
- 76 See Common Code for the Coffee Community, *4C Code of Conduct*, 18; Global Coffee Platform, *Baseline Common Code*, 17. In particular, a “green” standard is ensuring children “are not part of the regular workforce,” whereas a “yellow” standard has more qualifications, namely that children “are not part of the regular work force at the Producing Entity, buying and processing facilities or coffee estates. The Producing Entity has identified vulnerable regions or producers where child labour may be happening, encourages farmers to send children to school and raises awareness on young workers (below 18 and above legal school age) to not perform hazardous work.”
- 77 Common Code for the Coffee Community, *4C Code of Conduct*, 23; Global Coffee Platform, *Baseline Common Code*, 22. In particular, a “green” standard is paying workers “in time/as stated in the labour agreement,” whereas a “yellow” standard is merely that wages “are paid,” thereby inferring that late payments are acceptable for “yellow.”
- 78 Voluntary Principles on Security and Human Rights, *The Voluntary Principles on Security and Human Rights Background on Company Implementation*, accessed February 5, 2020, 1.
- 79 See Voluntary Principles on Security and Human Rights, *The Voluntary Principles on Security and Human Rights* (VPs, 2000), 5–6.
- 80 “[Implementation of the Voluntary Principles](#),” Voluntary Principles on Security and Human Rights, accessed March 4, 2020.
- 81 For example, GNI requires companies to request that governments follow domestic legal processes, to request clarification and the legal basis for demands that appear unlawful or overbroad, and to interpret government requests and government jurisdiction “so as to minimize the negative effect” on freedom of expression or privacy. See Global Network Initiative, “Implementation Guidelines,” 9–10.
- 82 Global Network Initiative, “Implementation Guidelines,” 10.
- 83 Global Network Initiative, “Implementation Guidelines,” 10.
- 84 Robin Willoughby and Tim Gore, *Ripe for Change: Ending Human Suffering in Supermarket Supply Chains* (Oxford: Oxfam International, 2018), 9, citing Friends of the Earth Europe, Heinrich Boll Foundation, and Rosa Luxemburg Foundation, *Agrifood Atlas: Facts and Figures about the Corporations That Control What We Eat* (2017). See also Genevieve LeBaron, et al. *Confronting the Root Causes of Forced Labour: Concentrated Corporate Power and Ownership*, openDemocracy and SPERI, University of Sheffield, 2018).
- 85 LeBaron, et al. *Confronting the Root Causes*, 41, citing Oxfam Germany et al., *Konzernatlas 2017* (Berlin: Oxfam Germany, 2017), 28.
- 86 Daniel Vaughan-Whitehead and Luis Pinedo Caro, *Purchasing Practices and Working Conditions in Global Supply Chains: Global Survey Results*, Issue Brief No. 10, (Geneva: ILO, INWORK., 2017), 1–2.
- 87 See LeBaron, et al., *Confronting the Root Causes*, 50–51; Willoughby and Gore, *Ripe for Change*, 41, 101–02, noting that unfair purchasing practices from supermarkets include short-term contracts, short lead times on orders, and one-sided contractual clauses that allow buyers to withdraw from a contract if margins are insufficient, among several others; Duygu Türker and Ceren Altuntas, “Sustainable Supply Chain Management in the Fast Fashion Industry: An Analysis of Corporate Reports,” *European*

Management Journal 32, no. 5 (2014): 837, 839, saying, "Increased time pressures on the order cycles of the fast fashion industry result in employee abuse and other unethical working practices at manufacturing sites." Human Rights Watch, "[Paying for a Bus Ticket and Expecting to Fly](#)": How Apparel Brand Purchasing Practices Drive Labor Abuses (New York: HRW, 2019), noting that "low purchase prices and shorter times for manufacturing products, coupled with poor forecasting, unfair penalties, and poor payment terms, exacerbate risks for labor abuses in factories."

88 LeBaron, et al., *Confronting the Root Causes*, 43–44.

89 LeBaron, et al., *Confronting the Root Causes*, 43–44.

90 Paul M. Barrett and Dorothee Baumann-Pauly, "[Five Years after Rana Plaza: The Way Forward](#)," NYU Stern Center for Business and Human Rights, April 23, 2018, 5.

91 Barrett and Baumann-Pauly, "Five Years," 9.

92 A third MSI, RSPO, does not have specific standards around purchasing practices although it does encourage brands to commit to buying 100% certified palm oil: see "MSI Trends Dataset" which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

93 For example, with respect to pricing, FLA requires that brands have written policies and procedures that address "alignment of financial terms with FLA Workplace Standards," but does not provide any further details or guidance on what this means. Fair Labor Association, *Principles of Fair Labor & Responsible Sourcing, Principle 8, Benchmark 8.1*, (Washington, DC: FLA, 2015). Fairtrade International states, "Fairtrade does not accept unfair practices that clearly damage producers' or other traders' capacity to compete or the imposition of trading conditions on suppliers that would make it difficult for them to comply with Fairtrade standards." It then provides guidance that includes examples of unfair practices. However, both the standard and its guidance all contain qualifiers to the provisions, like "clearly damage," "excessive transfer of costs," and "generally disadvantageous," that make it difficult to determine which types of practices are, in fact, prohibited. Sean Hawkey, *Fairtrade Trader Standard, vers. 1.6*, (Bonn: Fairtrade International), 2015, 38. While some discretion and flexibility can be helpful given the range of contracts and contexts in which these MSIs operate, in our view the ambiguity in these standards go beyond that and risk being broadly interpreted to encompass that continuation of irresponsible purchasing practices.

94 See "[Annual Communication of Progress 2019](#)," Roundtable on Sustainable Palm Oil.

95 Fair Labor Association, *Principles*, Principle 8, Benchmark 8.1.

96 Fair Labor Association, *Charter Document*, 24, indicating that the initial level of monitoring will be 5% of the member company's "applicable facilities." "Applicable facilities" are those that are not *de minimus*. Fair Labor Association, *Charter Document*, 4. "De minimus facilities" are those with which the member company contracts for production for six months or less in any 24-month period, or in which the member company accounts for 10% or less of the annual production. Fair Labor Association, *Charter Document*, 7.

97 With respect to ETI, brands and final buyers commit to implementing the *ETI Base Code* in their supply chain, and ETI provides support and learning to facilitate their compliance. However, the *Base Code* does not require that its member companies adopt responsible purchasing practices, although guidance on best practices is available. While member companies report to ETI on their progress, none of these reports are made public. ETI has indicated that in the future this might change, but there are no commitments regarding the required level of detail or frequency of issuing such reports. See Ethical Trading Initiative, *Human Rights Due Diligence Framework* (2016), and Ethical Trading Initiative, *Towards Greater Transparency: ETI's Direction of Travel* (London: ETI, 2017), 2. With respect to Fairtrade International, see Table 3.3.

98 "[Frequently Asked Questions](#)," World Responsible Accredited Production, accessed February 5, 2020.

99 "[Corporate Member Commitment](#)," Social Accountability International, accessed February 5, 2020.

100 Fair Labor Association, *Charter Document*, 24, indicating that the initial level of monitoring will be 5% of the member company's "applicable facilities." "Applicable facilities" are those that are not *de minimus*; Fair Labor Association, *Charter Document*, 4. "De minimus facilities" are those with which the member company contracts for production for six months or less in any 24-month period, or in which the member company accounts for 10% or less of the annual production. Fair Labor Association, *Charter Document*, 7.

101 Fair Labor Association, *New Balance Athletic Shoe, Inc.: Assessment for Accreditation* (Washington, DC: FLA, 2014), 3.

102 See, e.g., Fair Labor Association, *Adidas Group: Assessment for Accreditation* (Washington, DC: FLA, 2017), 6, 31–36.

103 "[Labor and Human Rights Groups Urge Multi-Stakeholder Initiatives and Business Associations in the Apparel Sector to Adopt Transparency Requirements](#)," Human Rights Watch, March 14, 2019.

104 Fair Wear Foundation, *Brand Performance Check Guide* (Amsterdam: FWF, 2017).

105 See, e.g., Fair Wear Foundation, *Brand Performance Check: Acne Studios*, (Amsterdam: FWF, 2019).

106 Fair Wear Foundation, *Brand Performance Check Guide*, 44, 53.

107 Sarah K. Lowder, Jakob Skoet, and Terri Raney, "The Number, Size, and Distribution of Farms, Smallholder Farms, and Family Farms Worldwide," *World Development* 87, (November 2016): 27.

108 "[Smallholders and Family Farming](#)," Food and Agriculture Organization of the United Nations, accessed February 5, 2020.

109 The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available from our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019. To be clear, the analysis in this section is limited only to production certification MSIs and does not include FLA.

110 Indeed, in the case of one smallholder, the recurring costs of certification, such as to cover costs such as developing farm management plans and group membership in RSPO, amounted to 80% of operational costs or 27% of net annual income from palm oil. See Petra Rietberg and Maja Slingerland, *Costs and Benefits of RSPO Certification for Independent Smallholders: A Science-for-Policy Paper for the RSPO* (SenSOR, 2016), 2.

111 "[Cost Calculator](#)," FLOCERT, accessed February 5, 2020.

112 "[What Is the Cost of Sustainable Palm Oil?](#)" askRSPO, accessed February 6, 2020.

113 For example, RSPO has created a "[Smallholder Support Fund](#)" and customized standards for smallholders. "Introduction RSSF," Roundtable on Sustainable Palm Oil, accessed February 6, 2020.

114 See for example, Jan Willem Molenaar, Annemieke Beekmans, and Pim Pelders, *Producer Groups Models and Certification: An Exploration of Various Producer Group Models in the Agricultural and Forestry Sectors* (2011), 53, finding that smaller or less professional groups, regardless of how they are organized, "may be confronted with difficulties in maintaining certification without external technical and financial support."

115 Rietberg and Slingerland, *Costs and Benefits*, 10.

116 FLA does have a purchasing principle that places an expectation of “alignment of financial terms with FLA Workplace Standards” on brands. However, the ambiguity of this term does not appear to make it meaningfully enforceable by suppliers. Fair Labor Association, *Principles*.

117 See Joshua Levin, [WWF, FMO and CDC, Profitability and Sustainability in Palm Oil Production: Analysis of Incremental Financial Costs and Benefits of RSPO Compliance](#) (Gland: WWF, 2012), vi.

118 Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#) (Geneva: UN, 2011), Principle 2, commentary.

119 McCorquodale, Robert, and Penelope Simons, “Responsibility beyond Borders: State Responsibility for Extraterritorial Violations by Corporations of International Human Rights Law.” *The Modern Law Review* 70, no. 4 (2007): 598–625, 599–600.

120 These include EITI, VPs, CoST, [International Code of Conduct for Private Security Service Providers](#), Hydropower Sustainability Assessment Council.

121 “Supporting Countries,” EITI, accessed February 6, 2020.

122 Supporting members are represented on the Board, and their presence is required for a quorum on any decisions: EITI, *EITI Standard 2019*, (Oslo: EITI, 2019), 59.

123 EITI, “Supporting Countries.”

124 Timothy Cama, “[Senate Votes to Repeal Transparency Rule for Oil Companies](#),” *The Hill*, February 3, 2017.

125 See “[Countries](#),” EITI, accessed February 6, 2020; “[Where We Work](#),” CoST, accessed February 6, 2020. Note that while EITI includes some Global North countries, they are merely expected to follow the same standards as other producers and are not given additional responsibilities to acknowledge that they are also the countries where many extractive companies are registered or incorporated.

126 The VPs recognize that “governments have the primary responsibility to promote and protect human rights” and acknowledge “that home governments and multi-lateral institutions may, on occasion, assist host governments with security sector reform, developing institutional capacities and strengthening the rule of law.” Voluntary Principles on Security and Human Rights, *Voluntary Principles*. The International Code of Conduct for Private Security Providers has seven government members, all from the Global North, yet they are merely expected to “provide information related to their implementation [of the standards and relevant international law], including the development of their domestic regulatory framework for [private security company] activities, and to promote compliance with the [MSI] in their contracting practices and policies.” International Code of Conduct Association, [The Articles of Association](#) (Geneva: ICoCA, 2010), 3.3.2. Finally, there are no obligations for “advanced economy country governments” in implementing the Hydropower Assessment Protocol, even though they are represented on the primary decision-making body. “[Hydropower Sustainability Assessment Council](#),” Hydropower Sustainability, accessed February 6, 2020.



INSIGHT 4

Monitoring & Compliance:

MSIs employ inadequate methods to detect human rights abuses and uphold standards



Monitoring & Compliance:

MSIs employ inadequate methods to detect human rights abuses and uphold standards



In this chapter: This chapter examines the requirements that MSIs have in place to monitor and report on compliance with their standards. It also examines how MSIs respond to instances of non-compliance with their standards and their level of transparency regarding member non-compliance.

Summary of our insights: MSIs put considerable emphasis on the standards that they set, but have not developed effective mechanisms for detecting abuses, enforcing compliance with those standards, or transparently disclosing levels of compliance. Despite the emergence of models that enable rights holders to legally enforce MSIs' standards or to be actively engaged in monitoring companies for abuses, MSIs have not adopted them. By focusing on setting standards without adequately ensuring if members are following those standards, MSIs risk providing companies and governments with powerful reputational benefits despite the persistence of rights abuses.

Key findings and observations:

- **MSIs employ inadequate methods to detect human rights abuses.**
 - MSIs that monitor their members' compliance with MSI standards do so through top-down professionalized audits. These approaches do not consider the power imbalances between rights holders and MSI members that may inhibit rights holders from reporting abuse or prevent auditors from detecting abuse. For example:
 - In reviewing the monitoring procedures of the 10 newest and 10 oldest MSIs, we found that no single MSI had procedural requirements that address the spectrum of issues rights holders may face when attempting to speak out about abuses, such as offering protection against reprisals or ensuring evaluators speak local languages/use an independent interpreter.
 - The majority of MSIs do not require any unannounced audits or spot checks.
 - There are now many well-documented failures to detect violations that have resulted in harm or abuse, such as audited factories collapsing or catching fire, or the documentation of severe labor abuses in farms or factories that have been certified by MSIs. Yet, despite the increasing evidence about the inherent limitations of MSI approaches to monitoring, most MSIs have not evolved to adopt rights holder-centric models.
- **MSIs have weak measures for upholding or enforcing compliance.**
 - MSIs respond to issues of serious non-compliance through their boards or certification bodies. As a number of examples illustrate, if a member disputes a report or allegation of non-compliance, the processes become vulnerable to delay and indecision. In worst-case scenarios, members withdraw if they do not want to remediate or address abuses.
 - Models have emerged that enable rights holders to enforce compliance, for example by requiring members to put legally-binding terms reflecting an initiative's standards in their contracts. However, MSIs have not adopted them and thus compliance remains dependent on the willingness of members to meet MSI standards.
- **Many MSIs are not transparent about the extent of member compliance with standards.** Information on members' compliance with standards and discipline is often unavailable or incomplete. For example:
 - Only half of the MSIs we reviewed that monitor compliance publish monitoring reports online,

and the quality of these reports varies considerably.

- Only 11 out of the 18 MSIs with the power to discipline members provide a list of members who have been suspended or expelled.

MSIs referenced: Alliance for Water Stewardship, Better Biomass, Bonsucro, Equitable Food Initiative, Equitable Origin, Ethical Trading Initiative, Fair Labor Association, Fairtrade International, Forest Stewardship Council, Global Coffee Platform, Global Network Initiative, Global Reporting Initiative, GoodWeave International, ICTI Ethical Toy Initiative, Infrastructure Transparency Initiative, International Code of Conduct for Private Security Providers, International Sustainability and Carbon Certification, Marine Stewardship Council, Program for Endorsement for Forest Certification, Rainforest Alliance, Roundtable on Sustainable Palm Oil, Social Accountability International, Sustainable Forestry Initiative, UTZ, Worldwide Responsible Accredited Production.

Background: Context and Approach

MSIs are only effective to the extent that they change the behavior of their members. In order to do this, MSIs need to have effective mechanisms for detecting if members are complying with their standards. They also need to have mechanisms or processes in place that adequately respond to evidence of non-compliance. Without such mechanisms, which can perhaps be thought of as performing the “regulatory” or “oversight” functions of MSIs, there is little assurance that the standards that MSIs set will lead to improved compliance or changes in human rights outcomes.

The centrality of effective monitoring and compliance mechanisms is well understood. Former UN Special Representative for business and human rights, John Ruggie, has called weak or underdeveloped monitoring efforts the “Achilles heel” of voluntary regulatory initiatives.¹ In addition, as MSIs lack the clear authority of governments, commentators have noted that their credibility depends in part on their willingness and capacity to enforce their rules.² MSIs that fail to take action against recalcitrant members or to publicly disclose the level of compliance of members with their standards risk loss of credibility. Indeed, for MSIs that are not transparent about member non-compliance, “the probability of compliance by companies and their business partners decreases.”³

Yet, we have observed that many MSIs have largely retained the initial top-down monitoring systems that they first embraced at their conception—or variations thereof—despite growing evidence that top-down approaches do not reliably detect the levels of compliance by MSI members.⁴ Nor have MSIs evolved to embrace efforts to make their standards legally binding or enforceable for rights holders. Instead, they continue to use the limited tools of suspension, revocation, or expulsion if major non-compliance is detected. These have combined to limit the ability of MSIs to uphold their standards or close the governance gaps that they are often viewed as attempting to fill (see **Insight 1: Influence**).

We base our analysis in this chapter on a number of sources. This includes examining the growing body of research on MSI monitoring methods, including our previous research that looks at MSI monitoring regimes from a human rights perspective. We also illustrate this trend through an analysis of the monitoring, accountability, and transparency policies and procedures of the 10 oldest and the 10 most recently formed MSIs against the relevant “essential elements of effective MSI design” in the *MSI Evaluation Tool* and *Essential Elements of MSI Design*.⁵ We selected these MSIs to ensure a representative sample of the procedures adopted by long-established MSIs, as well as any potential evolutions that might exist in more recently-formed initiatives. Where appropriate, we also draw on examples from other MSIs, including ICTI Ethical Toy Initiative, Program for Endorsement for Forest Certification (PEFC), Roundtable on Sustainable Palm Oil (RSPO), UTZ, and Worldwide Responsible Accredited Production (WRAP).

Finally, we note that an MSI's complaint system or grievance mechanism can theoretically also operate as a compliance mechanism by alerting an MSI to alleged instances of non-compliance reported by rights holders or their allies. These mechanisms are analyzed in **Insight 5: Remedy**.

1 MSIs employ inadequate methods to detect human rights abuses

Nearly all of the MSIs in our MSI Database have a system in place that is designed to offer assurance as to whether their members are meeting initiative standards or are taking steps to implement them. Our earlier research, conducted in conjunction with the development of our MSI Database, found that 91% of the MSIs in our MSI Database (in 2016) require their members to undertake some form of external auditing or monitoring.⁶ The vast majority of these MSIs (93%) do so through third-party audits or assessments, while the remaining 7% perform their own evaluations.

This is consistent with our analysis of the monitoring procedures of the 10 oldest and the 10 most recently formed MSIs reviewed for this report: 17 assess compliance with their standards by requiring that their members submit to external monitoring. Of these 17 MSIs, 15 use a third-party monitoring system to evaluate compliance against all of the MSI's standards.⁷ The three MSIs that do not require any external monitoring instead either rely on member self-reports or do not monitor their members at all.⁸

As most MSIs, if they attempt to verify the compliance of their members at all, do so through third-party audits—both in the sample of 20 MSIs and in the MSI Database—this section focuses on analysis and research relating to third-party auditing. While different MSIs and actors give this process different names, such as “professionalized social auditing,” “third-party auditing” or “validation,” we refer to this process as “*top-down third-party monitoring*,” as a catch-all term to encompass the process by all these MSIs. Note, that in each of the 15 MSIs reviewed in this section, the third-party auditor or monitoring body is approved by either the MSI or the entity being evaluated, rather than as a result of input from rights holders. This is why we consider it top-down.

A. MSI monitoring procedures reflect inadequate attention to rights holders' vulnerabilities when reporting abuse or sharing their experiences with third-party monitors

All of the MSIs discussed in this report, including the 15 that use top-down third-party monitoring, have standards that seek to benefit or protect rights holders, such as workers or communities living near company operations. Rights holders have direct, often daily, interactions with the entities that make up an MSI's membership and thus hold critical information regarding member compliance. Indeed, they may be the best—and sometimes only—source of information as to whether certain, less visible types of abuses are occurring, such as forced labor, discrimination, harassment, or freedom of association violations.

Yet, rights holders face multiple barriers—fear of reprisal, language, lack of awareness of rights—that may prevent them from reporting abuses or sharing their experiences with external monitors. The individuals that MSIs seek to protect often have little power or few resources to fight or prevent abuse. They are often in vulnerable positions—such as women asked to report sexual harassment—and may fear retaliation for speaking honestly and openly to evaluators, like loss of employment or the risk of violent reprisal.⁹ Indeed, the power imbalances between rights holders and companies (or governments) are immense. For rights holders to risk reporting to a third-party, they would need to have sufficient trust in the monitoring process to speak openly and honestly about their experiences. As a result, when evaluators conduct interviews, a failure to ensure adequate precautions undermines their ability to ascertain the actual conditions that rights holders face. Examples of rights holders who felt unable to speak out about actual conditions during audits and monitoring visits are outlined in Spotlight 4.1.

The use of out-of-town evaluators, with no local language skills or understanding, further compounds issues with obtaining input from rights holders, as explored in later in this section. The professional backgrounds and language capabilities of auditors—and their degrees of knowledge of the industry, relevant human rights issues, and the local context—all influence the effectiveness of the monitoring process. For example, evaluators with a background in operations or human resource management may be ill-equipped to detect worker or union harassment or illegal firings.¹⁰ An evaluator who lacks knowledge of the local context may fail to distinguish between an actual absence of violations and interviewees' perception that violations were either inevitable or so common as to be normalized.¹¹ All of this can be compounded in contexts where companies exercise some control over the monitoring process, as explored in the case study on the Global Network Initiative (GNI) in Spotlight 4.2.

The 15 MSIs with monitoring procedures that we reviewed all have some elements that focus on securing rights holder input, but no single MSI has requirements that address the spectrum of issues rights holders face in disclosing their experiences, nor do they have requirements for evaluators that could help overcome those barriers, such as knowledge of the relevant human rights issues or the local social context. Of the 15 MSIs we reviewed, four do not have procedures that require interviews with rights holders. In addition, six of the MSIs we studied do not set forth any procedures, such as off-site interviews, to protect interviewees from possible reprisal. Even among the MSIs that have certain protections in place, some MSIs mandate precautions only in specific instances, such as when informants specifically request confidentiality, or where the assessor has identified sexual harassment or risks to freedom of association.¹² Only eight require broader consultation with rights holders, civil society, or affected communities as part of regular monitoring efforts. Finally, while most of the MSIs we reviewed require language skills and knowledge of human rights within the local context, only three require that females conduct or assist with interviews, despite the fact that females are far less likely to discuss highly sensitive issues such as sexual harassment in a mixed-gender setting.¹³ We note that all of these are key features identified as central to effective monitoring generally, as well as in the *MSI Evaluation Tool* and *Essential Elements of MSI Design*.¹⁴

TABLE 4.1. Monitoring procedures and evaluator requirements

	Requires interviews with rights holders	Requires stakeholder consultation during regular evaluations	Sets forth procedures to protect interviewees from reprisal	Requires evaluator ability to speak local language or use an independent interpreter	Requires a female evaluator to conduct or assist with interviews	Requires at least one evaluator with knowledge of relevant human rights issues or local social context
Alliance for Water Stewardship	No.	Yes.	No.	Yes.	No.	No.
Better Biomass	Yes.	No.	No.	Yes.	No.	No.
Bonsucro	Yes.	No.	No.	No.	Yes.	No.
Equitable Food Initiative	Yes.	No.	Yes.	No.	No.	No.
Fair Labor Association	Yes.	Yes.	Yes.	Yes.	No.	Yes.
Fairtrade International	Yes.	No.	Yes.	Yes.	No.	Yes.
Forest Stewardship Council	Yes.	Yes.	Yes.	Yes.	No.	Yes.
Global Network Initiative	No.	Yes.	No.	Yes.	No.	Yes.
Good Weave International	Yes.	Yes.	Yes.	No.	No.	Yes.
International Code of Conduct for Private Security Providers	No.	No.	Yes.	Yes.	No.	Yes.
International Sustainability and Carbon Certification	Yes.	Yes.	No.	Yes.	No.	No.
Marine Stewardship Council	Yes.	Yes.	Yes.	Yes.	No.	Yes.
Rainforest Alliance	Yes.	No.	Yes.	Yes.	Yes.	No.
Social Accountability International	Yes.	Yes.	Yes.	Yes.	Yes.	Yes.
Sustainable Forestry Initiative	No.	No.	No.	No.	No.	Yes.
TOTAL (out of 15)	11	8	9	11	3	9

Source: The source data for this information is available from the spreadsheet “MSI Trends Dataset,” which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

In addition to a lack of emphasis on securing rights holder input, the majority of the MSIs whose audit procedures we analyzed do not require unannounced monitoring in addition to scheduled visits. Research has found that pre-announced monitoring visits “enable producers to falsify records and rid facilities of unauthorized agency contractors or exploited workers.”¹⁵ Despite this, only four MSIs subject all of their members to at least some unannounced audits.¹⁶ Of the remaining 11 MSIs, 10 do not require unannounced visits at all, while one other only requires that a small percentage of auditors’ total number of audits be unannounced.¹⁷ While monitors in some situations may need to make prior arrangements to secure travel documents or ensure security or access in conflict zones, construction sites, or remote areas, exceptions can be made in those cases, and thus they do not explain why most MSIs do not require at least some unannounced visits for other sites or locations.¹⁸

As noted in Table 4.1, just over half of the MSIs require consultation with stakeholders as part of ongoing monitoring efforts. However, for those that do, their procedures vary regarding what this entails.¹⁹ For example, the Alliance for Water Stewardship merely requires that auditors check that certified operations have evidence of stakeholder commentary on their performance, but provides no guidance on who should be consulted or the procedures for doing so.²⁰ This risks making the commentary a check-the-box exercise, which is compounded by the fact that many rights holders face obstacles that prevent them from speaking out (see Spotlight 4.1). This does not need to be the case. The Forest Stewardship Council (FSC), for example, has a detailed procedure dedicated to stakeholder consultation, which sets forth who should participate, the required notice to participants, confidentiality, culturally appropriate methods of engagement, and requires that monitors report back to the stakeholder participants.²¹

The general lack of rigorous details to ensure that rights holders are able to safely and fully share their experiences suggests that many MSIs either do not perceive rights holders as a central source of information, or are failing to understand the importance of overcoming the significant risks that rights holders may face when they report abuses. If rights holders had been given an active role in designing these monitoring systems, we do not believe that this top-down third-party model would persist.

SPOTLIGHT 4.1. Rights holder voices: Inability to speak out on actual conditions

Our interviews with workers who are the intended beneficiaries of MSIs in Cameroon and the Philippines revealed how fear of retaliation, lack of knowledge of their rights or the MSI standards, pressure by management, and other barriers prevent them from reporting complaints or abuses. For example, workers at certified factories said the following during interviews:

What happens is that they prepare the staff for external evaluations, telling us: “If people come and ask you X question, this is what you answer.” They do this with every section [of staff]. And they pick the people who will answer. The impression they give to workers is that if you forget the right answer, don’t answer because then they will close the company and you will lose your job. So you have to answer with their lies.²²

Each time . . . they call the workers and tell them exactly what to say. . . . If you don’t say what they want you to say, they can fire you.²³

Most of the time, it was the Chairman and the Vice-Chairman who were interviewed because most of us had a hard time understanding the interviewers. . . . I would have been willing to speak with them if they brought translators who spoke the local dialect.²⁴

They ask questions to workers in front of the hierarchy. . . . The management will use their eyes to signal what should be said. . . . They should hold interviews like we are doing now to make sure you have a real conversation.²⁵

Before the audit, the factory prepared. They looked at the needles, they cleaned the surroundings, in the hallways. The hallways are often very full, with a lot of scrap materials. They painted; they cleaned the ceiling. They changed the fire extinguisher, the medicine box. They got us [uniforms and protective equipment]. . . . Management tells us that the auditor is coming, to wear the proper uniform, ID, mask, hairnet. Sometimes they tell us what to say.²⁶

One week before, management prepares for the inspection. All employees are given orientation about what to say to inspectors. If they have questions about wages, management told us to say that we received minimum wage. However, a lot of employees didn't actually get minimum wage. Contract workers were not getting minimum wage.²⁷

Back then I was new, I had only worked two months as a contractor. I said what the company told me to say. We were informed that when an auditor asked about overtime pay that we should say that we did get it, although we actually didn't get it. We were also told that if we were asked about safety equipment, to say that facemasks and finger protectors are always there. They're actually only there during audits. I remember that they were told that if they don't say those things that the orders won't come through. So I willingly followed those instructions to tell even if they're lies.²⁸

The factory prepares for the audit. They manipulate us, they give us a script of what to say. . . . The factory cleans, clean the machines. But what's really important is that they ask us to lie. If we don't follow the script, they will fire us.²⁹

We do very hard work. Cramped aisles. But they clear them out if there are visitors. When aisles are not cleared—which is most of the time—you can't get out of the building in three minutes due to piles of garments in the aisles. It's a safety problem if there's a fire. It's an obstacle course: you have to jump over machines which they pack into the aisles. . . . We told them about it, but they did nothing due to rushed orders, and urgency of getting shipments out.³⁰

Before the interview, management oriented workers, told them to answer in specific ways. . . . Management says to say good things so that we can have more clients.³¹

SPOTLIGHT 4.2. The Global Network Initiative: Substantial member control over external monitoring and lack of rights holder involvement

GNI requires that its internet, technology, and telecommunication member companies commit to the *GNI Principles*, which “provide high-level guidance to the ICT industry on how to respect, protect, and advance user rights to freedom of expression and privacy, including when faced with government demands for censorship and disclosure of users’ personal information.”³² However, the GNI monitoring process does not require any direct interviews with rights holders to understand how they were treated, or the consequences of any privacy or freedom of expression abuses they faced.

In 2016, concerns that the Global Network Initiative’s assessment process required changes to make it more “efficient, effective, transparent, and credible” contributed to a decision by the Center for Business and Human Rights at New York University’s Stern School of Business to withdraw from the Initiative.³³

Under a new assessment procedure adopted in 2018, companies have significant control over the process. After one year of membership and an initial self-assessment, companies undergo an independent assessment of their systems, policies, and procedures to implement the *GNI Principles*, which includes a review of case studies to illustrate whether and how those policies and procedures work in practice.³⁴ Companies select the assessor from a list of firms accredited by the GNI Board and companies and assessors must agree on the case studies that assessors review.³⁵ Although non-company GNI members have input into case selection, the company and assessor can reject those proposals, so long as they explain their reasoning in the assessment report.³⁶ A company can also withhold information if legal requirements bar them from disclosure, or “to protect attorney-client privilege, to maintain user privacy, to fulfill its contractual commitments, or for competitive reasons.”³⁷ The assessor cannot demand information, but instead states in the report whether they had sufficient access to conduct the assessment and if a company’s withholding of information materially affected the assessment.³⁸

Companies also have a degree of control over the *outcome* of the assessment process. The company can suggest revisions to the assessment report before it is shared with the GNI Board, and can identify information to be removed for confidentiality, privilege, user privacy, contractual, or competitive reasons.³⁹ If the Board makes recommendations based on its review of the assessment, a company can modify or reject them so long as it explains the basis for its decision.⁴⁰ A rejection, however, may factor into the Board’s determination of whether the company is making a good faith effort to implement the *GNI Principles* and improve over time.⁴¹

Finally, there is no requirement that members share the assessment report publicly. Rather, they need only share the outcome, “using a format of their own choosing.”⁴² GNI only provides public assessment reports with the information aggregated and anonymized to preserve confidentiality.⁴³ Thus, civil society representatives and individual rights holders who are not GNI members cannot analyze the assessment itself and are left with limited information to understand how member companies are living up to their GNI commitments.

2 A growing body of evidence points to the inherent limitations of MSI approaches to monitoring

The failure of MSIs to adopt monitoring processes that are designed to engender the trust of rights holders to report abuses is further compounded by the growing body of research that shows top-down third-party monitoring, by itself, cannot effectively prevent abuses in supply chains.⁴⁴ Many factories or certified sites have passed audits and shortly thereafter experienced catastrophes or exposure of major violations, as Figure 4.1 illustrates. Research compiled by the Business & Human Rights Resource Center and the Clean Clothes Campaign points to wide concern that this model, in its current form, has not been effective in preventing labor abuses.⁴⁵ The problems with external monitoring have been corroborated in numerous contexts, including a study on internal factory audit reports in four Southeast Asian countries, interviews with labor rights and monitoring organizations, and two recent studies on failures to detect modern slavery in cocoa and tea supply chains.⁴⁶ MSIs have also begun to recognize these shortcomings. The Fair Labor Association (FLA) has stated that “conventional auditing” methodologies, which rely heavily on checklists, “do little to prevent recurring violations or drive sustainable and progressive improvements in working conditions.”⁴⁷ The Ethical Trading Initiative has recognized a lack of progress in addressing discrimination and harassment and “that fundamental principles, such as workers’ rights to join a trade union and negotiate collectively, are not being sufficiently addressed.”⁴⁸ This section synthesizes the key lessons learned about the failures or limitations of top-down third-party monitoring.

Most monitoring visits are limited in that they present only a snapshot of some conditions at a particular location, at a specific time. Research has found that monitoring can produce basic improvements in health and safety, but that these can be “unstable in that many factories cycle in and out of compliance over time.”⁴⁹ In addition, most monitoring schemes rely on sampling. FLA, for example, audits only 5% of a participating company’s suppliers where the company accounts for a non-negligible amount of the supplier’s total production.⁵⁰ Rainforest Alliance’s requirements for group surveillance audits specify that the sample size be the square root of the total number of member farms in a group.⁵¹ A recent study on the failures of audits to detect forced labor in cocoa and tea production noted that samples can comprise as little as 5% of the farms within a cooperative.⁵² While top-down auditing can, theoretically, be supplemented with effective compliant or whistleblowing mechanisms, as **Insight 5: Remedy** explains, MSIs have failed to design effective complaint procedures.

“Most monitoring visits are limited in that they present only a snapshot of some conditions at a particular location, at a specific time.”

In addition, cost concerns and the corporate orientation of commercial auditing firms can result in a lack of focus on rights holder experiences and a concomitant failure to detect or prevent abuses. Typically, the company or entity under review selects the firm who will conduct the audit from a list of firms accredited by the MSI.⁵³ Currently, for-profit firms perform the majority of social audits, competing for market share in an industry whose value is estimated to be between US\$15–80 billion annually.⁵⁴ For example, to maintain a Social Accountability International (SAI) certification, suppliers must undergo monitoring visits every six months, which run from one day (for sites with up to 250 employees) to 3.5 days (for sites with more than 15,000 employees), at a set fee of \$400–1,500 per day.⁵⁵ This is on top of initial certification costs, and also excludes the daily travel fees and the cost of “airfare, meals, and hotels, and the cost of interpretation” that are borne by the supplier.⁵⁶ The high day-rates charged by commercial auditors creates pressure to complete audits in less time and with smaller teams, which may rule out in-depth techniques such as off-site interviews or repeated visits to build trust.⁵⁷

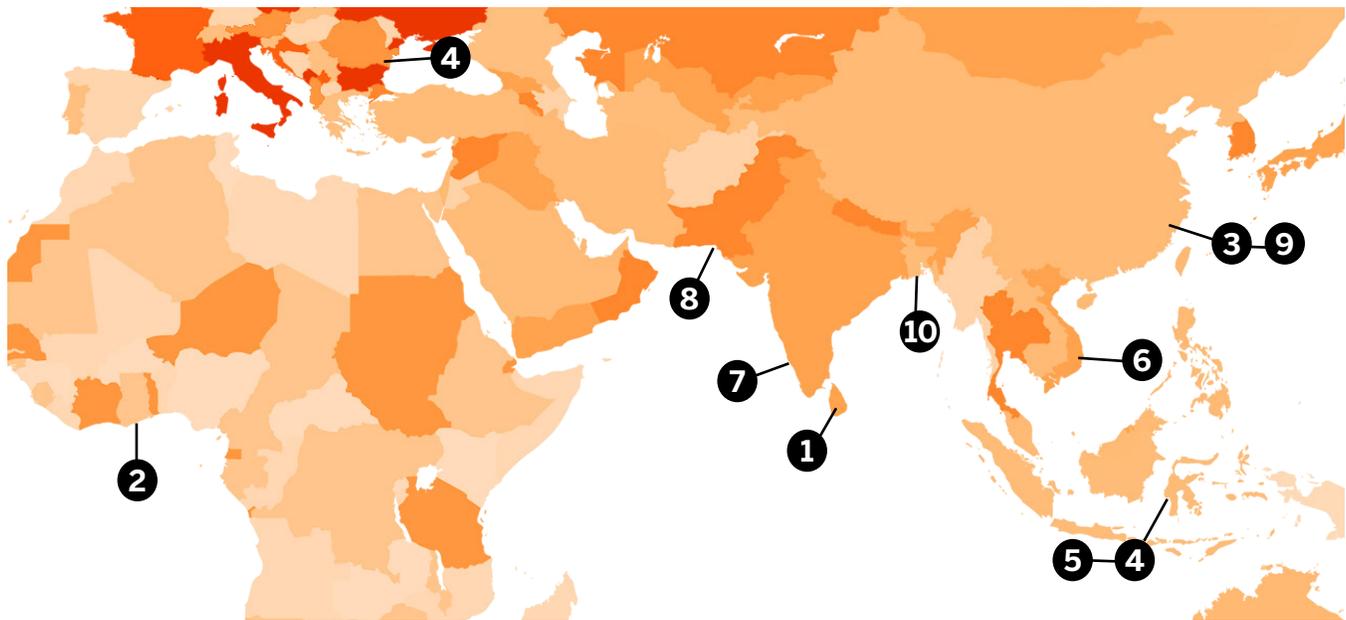


FIGURE 4.1. Prominent examples of MSI monitoring systems failing to detect abuses or non-compliance

- 1** **2019:** Thomson Reuters investigation found tea estates in **Sri Lanka** certified by Rainforest Alliance and Fairtrade International paying workers as little as US \$0.14 a day after fees and deductions levied without consent, in violation of Rainforest Alliance and Fairtrade standards;¹
- 2** **2018:** An academic study found widespread forced labor in tea plantations in India and cocoa communities in **Ghana**, including those that were certified by Fairtrade, Rainforest Alliance, UTZ and other MSIs;²
- 3** **2018:** A report by **China** Labor Watch found poor labor standards, including excessive overtime, exposure to toxic chemicals and poor living conditions, at toy factories in China certified by the ICTI Ethical Toy Initiative, in violation of its standards;³
- 4** **2017:** A France2 TV special report on the timber sector in **Romania** and **Indonesia** revealed that the Program for Endorsement for Forest Certification issued certifications for sites—including a nuclear power plant and a French nightclub— based on submissions apparently approved by mail with no questions asked;⁴
- 5** **2016:** A report by Amnesty International found severe labor abuses, including forced labor and child labor on **Indonesian** palm oil plantations certified by the Roundtable on Sustainable Palm Oil;⁵
- 6** **2016:** A journalist uncovered labor violations at a Fair Labor Association-certified factory in **Vietnam**, including wage penalties, which violate the Association's standards.⁶
- 7** **2015:** A BBC investigation uncovered child labor, crumbling housing, and other poor conditions on Rainforest Alliance-certified tea estates in **India**;⁷
- 8** **2012:** A fire at the Ali factory **Pakistan** killed nearly 300 workers three weeks after it passed a Social Accountability International inspection;⁸
- 9** **2012:** An investigation by Chinese media found that students, some as young as 14, had been coerced to work on iPhone 5 production at Foxconn in **China** after a Fair Labor Association assessment found that Foxconn's internship program participants understood that they were free to leave;⁹
- 10** **2010:** A fire in a factory alleged to have been certified by the Worldwide Responsible Accredited Production (WRAP) in **Bangladesh** killed 21 workers because failing safety provisions and blocked exits made it impossible to escape.¹⁰ WRAP refutes that it ever certified this factory.

Sources: The sources and citations for Figure 4.1 are available in the Cited Sources list at the end of this chapter.

The typical labor-focused monitoring visit—in which an external monitor spends one to three days at a site, proceeds through a checklist of items, and moves on—has limited opportunities for rights holder-focused interaction and dialogue.⁵⁸ Thus, external monitoring favors more “visible” issues, such as “blocked aisles, uncharged fire extinguishers, and irregular personnel records,” but fails to reliably detect “invisible” issues, such as harassment, illegal firings, discrimination, and restrictions on freedom of association or the right to unionize,⁵⁹ despite the fact that the ability to organize is key to workers’ ability to safeguard their rights. Research commissioned by the Ethical Trading Initiative acknowledged this shortcoming, recognizing that “results directly affecting the lives of workers” were “largely limited to the more ‘visible’ (and readily accessible)” aspects of their standards, such as child labor or health and safety violations.⁶⁰ Others have noted that monitoring may fail to detect forced labor, or reach home workers and other temporary or informal workers because these take place outside of formal employment relationships, which means the most vulnerable workers are often overlooked.⁶¹

SPOTLIGHT 4.3. Worldwide Responsible Accredited Production: Failure to detect freedom of association violations

WRAP focuses on factories in the supply chains of the garment and footwear industry. There are currently over 2,200 WRAP-certified facilities employing over two million workers.⁶² To become certified, facilities must commit to WRAP’s standards—which include compliance with local labor laws and respect for employees’ rights to freedom of association and collective bargaining—and undergo an audit by a WRAP-accredited external monitor.⁶³ WRAP requires that monitors have knowledge of relevant labor laws where the factory is located, the local language, and the predominant language(s) used by employees.⁶⁴ Once certified, factories are subject to random, unannounced audits during the certification period.⁶⁵

In 2017, MSI Integrity staff interviewed employees of a garment factory in the Philippines, which at the time was WRAP-certified as “Platinum,” its highest level. Those interviews indicated that factory management coached workers to lie to monitors about working conditions.⁶⁶ Interviewees also indicated that management violated the *WRAP Principles* addressing respect for freedom of association and collective bargaining. In particular, multiple interviewees confirmed that management had threatened workers with factory closure if they voted to form a union.⁶⁷ One union member also reported that management placed all pro-union employees on one factory line together to separate them from the other workers,⁶⁸ while others indicated that the factory had shut down months earlier in response to organizing efforts.⁶⁹

After MSI staff had completed their field research and departed, workers held an election to form a union. Weeks later, the factory shut down again, affecting 400 workers.⁷⁰ According to union officers, when the factory reopened, they were not allowed to return to work, even as 200 workers, all non-union, were rehired.⁷¹

The factory is no longer listed as a certified facility on the WRAP website, but we are not aware of the circumstances that led to its removal. This case nonetheless serves to illustrate that monitoring can fail to detect even flagrant freedom of association violations, such as those described by the workers we interviewed, as well as to point to the lack of transparency in WRAP’s decision-making and accountability practices.

In addition, while such firms may be skilled at assessing corporate practices such as procurement processes, financial procedures, or other internal controls, they are unlikely to have expertise in conducting human-rights focused interviews among vulnerable workers, indigenous communities, or others who have experienced rights abuses.⁷² Indeed, evidence from focus groups on sexual harassment has illustrated how commercial auditors may assume companies are in compliance unless they find evidence to the contrary, and as a result, take workers' statements about the lack of abuses at face value, rather than explore whether workers understand their rights and feel comfortable talking about violations.⁷³ Another study concluded that monitors perceive codes of conduct "as standards that relate to labour as a disembodied factor of production, not to people with rights."⁷⁴

Finally, social audit firms currently lack the legal accountability of their counterparts in the financial auditing industry.⁷⁵ Professional auditing firms accredited by MSIs often openly state that their priority is mitigating reputational damage and business risks, rather than actually exposing and solving workplace violations.⁷⁶ Some critics ascribe this narrow approach to a corporate bias among commercial auditors, noting, for example, that "[c]ommercial firms are not naturally inclined to explore the socially constructed realities of workers and seek to empower people for change—it might upset their clients."⁷⁷ There is a lack of strong oversight that is necessary to counter the risk of companies producing flattering social audit reports to appease clients, and MSIs have so far failed to fulfill this role.⁷⁸

Taken together, these shortcomings—particularly the lack of worker involvement and direction, the lack of transparency and accountability, and the inability of workers or local civil society organizations (CSOs) to verify results—undermine the ability of monitoring processes to reliably detect abuses, to improve conditions, or to prevent abuses. We believe, as do a growing chorus of researchers, that "audits are ineffective tools for detecting, reporting, or correcting environmental and labour problems in supply chains," and instead, "reinforce existing business models and preserve the global production status quo."⁷⁹

While much of the research into monitoring is focused on social auditing in the labor context—and, indeed, much of our focus in this section has been on MSIs with a labor focus because they make up a significant portion of MSIs—we have noticed that the concerns and critiques of monitoring apply to other contexts where there is also professionalized monitoring without rights holders' engagement. The case study on GNI in Spotlight 4.2 is one example. Another is the Extractive Industries Transparency Initiative (EITI), which we have closely studied and critiqued for its failure to reliably detect threats to the freedom of expression and movement, the right to privacy and ability to act free from reprisal, all of which are part of its standard.⁸⁰ Their approach, as well as GNI's, mirrors that of social auditing. In both scenarios, rights holders are not part of the design of the evaluation and little is done to engender trust with local CSOs or rights holders.⁸¹ In the case of EITI, there are no requirements to protect individuals speaking with auditors (who they refer to as "validators") against reprisal for reporting abuses or that interviews will be confidential—indeed, there are no requirements at all that rights holders are spoken to directly or even that field visits to regions affected by extractive activity occur.⁸²

This is not to suggest that all approaches to external monitoring are inherently problematic. As the discussion in Spotlight 4.4 highlights, independent monitoring may be effective if it empowers and centers rights holders, is sufficiently transparent and inclusive, and enables CSOs and rights holders to verify or comment on the results.⁸³ However, MSIs have not adopted such rights holder-centered approaches.

SPOTLIGHT 4.4. New monitoring approaches: Potential effectiveness hinges on rights holder empowerment

We note that there are emerging options that move “beyond social auditing” toward approaches that place more focus on the needs and interests of rights holders.⁸⁴ In particular, technology-enabled “worker voice” tools have emerged to promote worker engagement in the monitoring process.⁸⁵ These tools use technology such as smartphones to improve grievance and reporting mechanisms across global supply chains.⁸⁶ Laborlink, for example, is a mobile worker survey and grievance tool that allows workers to directly and anonymously report on working conditions.⁸⁷ Another alternative strategy gaining traction in other private governance efforts is the creation of “participation committees,” which are loosely defined groups of rights holders—workers or otherwise—who external auditors can then engage with directly.⁸⁸

While it is encouraging that these alternatives are emerging, unless they address rights holder knowledge and empowerment, these new tools will ultimately fail to address—and may even replicate—the limitations of existing efforts.⁸⁹ For example, “worker voice” technology is a modern twist on hotlines or online complaint forms, which some MSIs have had for a long time.⁹⁰ Even proponents of “worker voice” technology recognize that these tools often “lead to a one-way collection of feedback, rather than a dialogue that enables workers to become directly involved in using data for meaningful change.”⁹¹ The Worker Engagement Supported by Technology Principles attempts to address these issues by identifying best practices for creation of such tools, which include involving workers in design, building worker trust through engagement, managing security risks, and communicating results back to workers.⁹² Similarly, the “participation committees” parallel or substitute the role of unions or pre-existing community-based organizations, and have been criticized in practice as being “unrepresentative groups that are often controlled by management,”⁹³ and which may even undermine efforts to establish unions or promote community empowerment.⁹⁴

The rights holder centrality to monitoring that is key to the Worker-driven Social Responsibility model is also an alternative approach that seeks to overcome the power imbalances that characterize traditional social auditing. This is discussed further in **Insight 1: Influence**.

3 MSIs have weak measures for upholding or enforcing compliance with their standards

A. MSIs have remained voluntary despite innovations in enforceability

Membership in MSIs is voluntary. For those entities that do decide to join, they are encouraged and expected to comply with an MSI’s standards. If they do not, they generally risk suspension, expulsion, or other internal measures. Ultimately, however, a member’s commitments are not binding and enforceable.

This is despite the fact that innovations around enforceability of private governance standards have emerged over the last decade. For example, the Corporate Accountability Lab is piloting a program where corporate buyers enter into contracts with suppliers that mandate rights holder protections, and explicitly grant rights holders the power to enforce those provisions in court as third-party beneficiaries

of those contracts.⁹⁵ In the MSI context, this could translate to requiring members to put MSI standards in their contracts, with right holders as third-party beneficiaries. Another example are the Worker-driven Social Responsibility initiatives, discussed in **Insight 1: Influence**. These require members to adopt legally binding standards that rights holders can legally enforce outside the initiatives. In the Accord on Fire and Building Safety in Bangladesh, for example, corporations who voluntarily join must enter into legally binding agreements with trade unions that require the companies to finance and implement a fire and building safety program at their supplier factories.⁹⁶ Under the Agreement, parties with unresolved disputes submit to a final and binding arbitration process, the outcome of which is enforceable in court.⁹⁷ Other possibilities can also be imagined relevant to different MSIs. Yet none of the MSIs in our MSI Database have chosen to revise their approach to include mechanisms that would legally compel their members to comply with the MSI's standards.⁹⁸

B. MSIs have weak mechanisms for responding to contested cases of non-compliance

In the event of non-compliance, rather than give rights holders the power to enforce standards, MSIs generally have rules that allow them to suspend or revoke membership or certification as the ultimate consequence for repeated or grave failures to comply with standards. This decision is left to the monitoring agency or the MSI board or relevant subcommittee. Among the 20 MSIs that we analyzed for this chapter (the 10 oldest and 10 newest MSIs in our MSI Database), 18 have procedures to suspend or expel members for violations.⁹⁹ The two that do not have this power are the Global Coffee Platform and the Global Reporting Initiative.¹⁰⁰ This is broadly consistent with our earlier research, conducted in conjunction with the development of our MSI Database, which found that the majority (78%) of international standard-setting MSIs sanction members in this way, while the remainder (22%) do not sanction members at all.¹⁰¹

While these formal suspension or expulsion processes exist, in our observation, the culture and modality of many MSIs is to, where possible, constructively engage with members who are in non-compliance to help them address the behaviors or practices that are causing harm or otherwise violating their standards, rather than to default to formal or adversarial processes. In cases where these issues are not contested and there exists a genuine willingness on the part of the company to reform or address the concern, this approach can be very useful and effective. We are aware of a considerable number of such cases—many of which never become matters that are publicly discussed by the MSI, but rather were resolved between participants.

It is when members dispute the allegations or do not wish to change their practices that MSI's accountability processes are vulnerable to breaking down. In many certification MSIs, allegations of non-compliance are initially, and sometimes exclusively, issues for the third-party auditor who monitored the site to investigate or resolve.¹⁰² Given the large financial interests at stake in these relationships, in practice such investigations have been charged as lacking sufficient impartiality to be credible.¹⁰³ For those MSIs that instead examine cases through a multi-stakeholder process—or who have multi-stakeholder panels for appeals—we have observed that tensions rise and constituency-based factions are more likely to emerge. As our analysis in **Insight 2: Stakeholder Participation** explains, in such contested cases MSIs tend to favor the status quo: a majority or consensus of votes is ordinarily required if the board or a board sub-committee is needed, while civil society—the constituency who most consistently, in our observation, support pro-human rights outcomes—faces disadvantages in rallying support from other constituencies, and so forth. The question of whether to hold a member to account can also spill over to encompass wider issues about retaining membership and the relationship dynamics within the initiative.¹⁰⁴

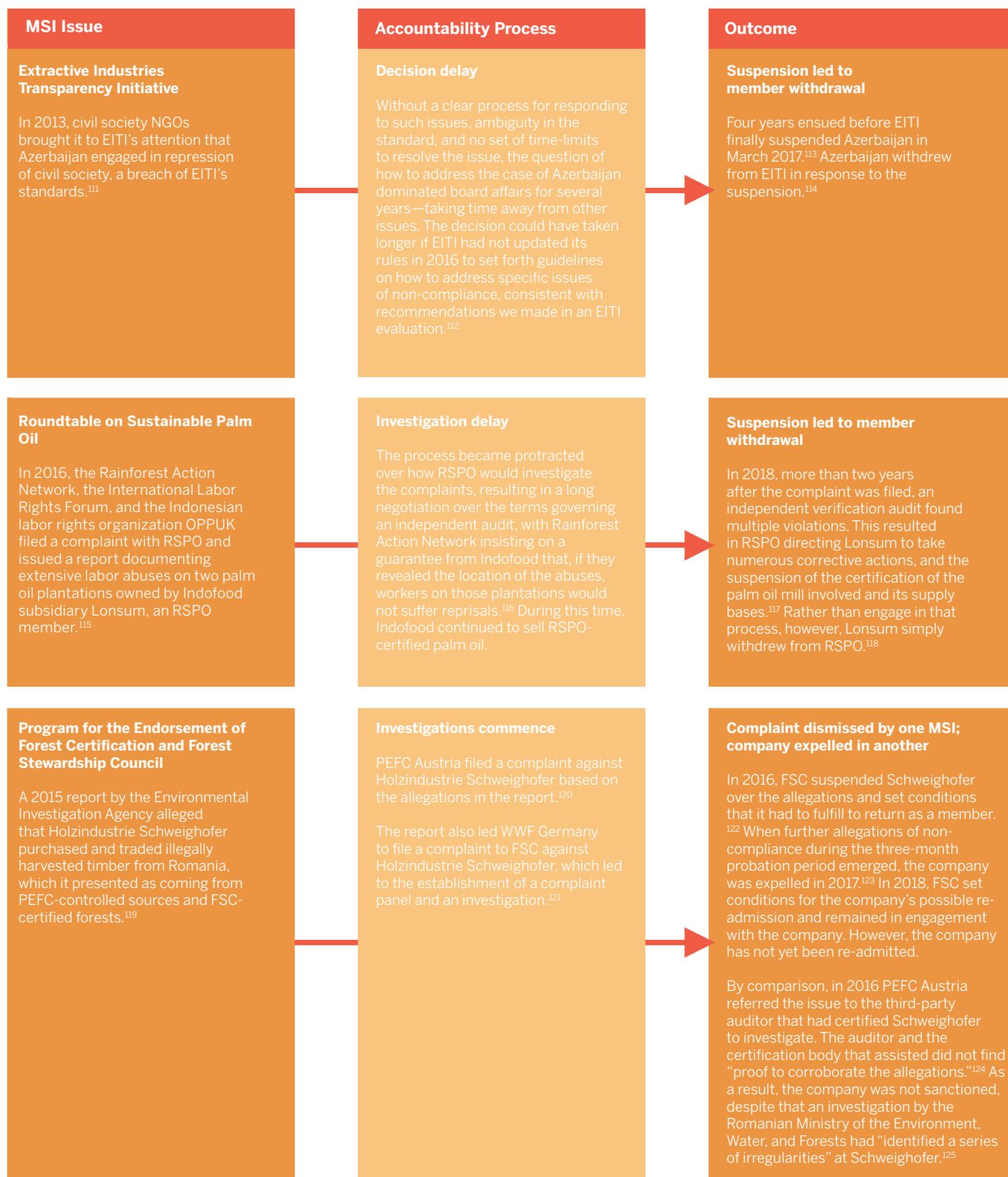
The steps an MSI or auditor will take when faced with evidence or allegations of non-compliance depends on a host of factors. These may include how the non-compliance has come to the attention of the initiative—through a complaint filed in an MSI's grievance mechanism (see **Insight 5: Remedy**), an

audit, or perhaps if a CSO participant directly raises allegations to the board—as well as the severity of the issue and the MSI’s specific procedures and policies. While in some circumstances, the response is clearly prescribed—for example, an MSI might require that if a critical or major violation is found by an external monitor then the MSI member loses its certification, or that minor issues must be corrected within a specific timeframe¹⁰⁵—however, in general, finding that a member has violated an MSI’s standards does not necessarily promptly lead to the member’s suspension or expulsion. This is because the multi-stakeholder process can often result in protracted decision-making. This is compounded by the fact that, out of the 18 MSIs we studied that have the power to suspend or expel members, 12 allow an appeal, heard by the full board or a subcommittee or panel. Only 3 out of those 12 impose a deadline on the final decision. In addition, only 5 out of the 12 explicitly state that suspension or expulsion remains in effect during the appeal process.¹⁰⁶

The decision to suspend or remove non-complying members can thus be bogged down in committee reviews, and risks being further compounded if an MSI uses ambiguous language about the grounds on which suspension or expulsion are appropriate. For example, GNI requires its Board to consider whether the member made “good faith efforts to implement the Principles with improvement over time” before determining a response to member non-compliance, and its charter requires a supermajority (two-thirds of the Board, and at least 50% of each constituent group) to terminate a member.¹⁰⁷ FLA looks to whether a member “fails to meet or maintain” participation criteria and also requires a supermajority, defined as at least two-thirds of each constituent group.¹⁰⁸ In both MSIs, the board can vote to extend the review and delay the decision indefinitely.¹⁰⁹ Other MSIs also have vague language for when suspension or expulsion is warranted—such as a “serious failure” to meet membership obligations, behavior that “jeopardizes the integrity” of the initiative, or for “flagrant non-conformity” with the standard.¹¹⁰

Ultimately, in the absence of binding legal obligations—which MSIs have failed to adopt—if a member does not want to accept responsibility, rectify their behavior, or provide a remedy to a rights holder, they can simply withdraw from the initiative. Due to the lack of transparency around compliance or breaches (explored further in the following section of this chapter), or the decision-making related to it, it is difficult to accurately analyze how frequently such withdrawal has occurred. However, we include some examples of this in Figure 4.2. These are not intended to be comprehensive, and only represent a tiny fraction of the hundreds of allegations of non-compliance MSIs have investigated, but rather to illustrate how some of these issues manifest in practice. The RSPO case study on our website also illustrates how severe delays in responding to non-compliance allegations can undermine the effectiveness and credibility of an MSI. It outlines how nearly a decade after a Liberian NGO presented a complaint to RSPO against a palm oil company for a range of abuses, including failure to obtain the free, prior, and informed consent of local communities, these abuses continue and the matter is still under investigation.

FIGURE 4.2. Examples highlighting the vulnerabilities of MSIs in responding to evidence or allegations of non-compliance



MSI Issue	Accountability Process	Outcome
<p>Social Accountability International</p> <p>In 2010, Dolefil, an SAI-certified Dole subsidiary, refused to comply with an order by the Philippines Department of Labor to reinstate recognition of the democratically elected union in advance of upcoming elections. The union: (1) sought a resolution through SAI's complaint management system by filing an informal complaint against the parent company Dole; (2) filed a complaint against the auditor with the SAI body that accredited it, for allowing labor violations to continue at Dolefil over several years of audits; and (3) complained to the SAI-certified auditor seeking another audit at Dolefil and a corrective action plan.¹²⁶</p>	<p>Procedural confusion</p> <p>In response to the first two types of complaints (the complaint against Dole and the complaint against the auditor), an assessment eventually concluded that Dole had violated its SAI commitments. The SAI Advisory Board, however, dismissed the case on the grounds that the complaint to the auditor was the proper venue for the union to pursue the issues.</p> <p>In response to the union complaint with the auditor, however, the parent company Dole responded to the auditor's finding that Dolefil had violated workers' associational rights by filing its own complaint against the auditor—resulting in a process that excluded the union.¹²⁷</p>	<p>No disciplinary action</p> <p>After more than two years of investigation, SAI let Dolefil keep its certification: "in the end, the workers' complaints were dismissed without a clear resolution and the workers were without any further recourse or appeal of the decision."¹²⁸</p>
<p>Bonsucro</p> <p>In 2011, international and Cambodian NGOs jointly submitted a complaint to Bonsucro, alleging that, in 2008 and 2009, Bonsucro member Mitr Phol had forcibly confiscated land to make way for a sugar plantation and did not provide fair compensation to the hundreds of families that were displaced.¹²⁹</p>	<p>Procedural confusion and withdrawal</p> <p>A year after the complaint, Mitr Phol withdrew from Bonsucro.¹³⁰ Three years after the withdrawal, however, Bonsucro reinstated Mitr Phol, without restarting the complaint process.¹³¹ Three NGOs then filed another complaint with Bonsucro on behalf of the victims.¹³² Almost three years later, in 2018, Bonsucro dismissed the complaint on the grounds that the events took place before Mitr Phol first became a member, and it would only consider the actions of Mitr Phol during its membership.¹³³</p>	<p>No disciplinary action; Complaint filed with UK National Contact Point</p> <p>Mitr Phol remains a member of Bonsucro.</p> <p>The victims have since filed a complaint with the United Kingdom National Contact Point (NCP), under the Organization for Economic Co-operation and Development (OECD) <i>Guidelines for Multinational Enterprise</i>, alleging that Bonsucro, rather than hold Mitr Phol to its standards, helped to whitewash its human rights abuses.¹³⁴ The UK NCP has decided that the <i>OECD Guidelines</i> apply to Bonsucro and has accepted the complaint.¹³⁵ The case was still pending as at the time of writing.</p>
<p>Roundtable on Sustainable Palm Oil</p> <p>Since 2012, Transformation for Justice Indonesia (TuK Indonesia), an Indonesian community rights group, has pursued a complaint with the RSPO against PT Mitra Austral Sejahtera (PT MAS), a subsidiary of the palm oil giant Sime Darby, regarding confiscation of indigenous villagers' land in West Kalimantan.¹³⁶</p>	<p>Decision delay</p> <p>After more than five years of discussions with no resolution, TuK Indonesia asked RSPO to issue an injunction preventing Sime Darby from selling its stake in PT MAS before the conflict was resolved.¹³⁷ The sale proceeded in June 2019, however, despite a resolution passed by RSPO in November 2018, which called on members subject to complaints not to avoid accountability by divesting or withdrawing their membership.¹³⁸</p>	<p>Complaint remains under investigation since 2012; Additional complaint filed with the National Contact Point of Switzerland in 2018</p> <p>TuK Indonesia has filed a complaint against RSPO with the NCP of Switzerland, under the <i>OECD Guidelines</i>, alleging that RSPO has failed to address its complaint within a reasonable period. The Swiss NCP accepted the complaint, reasoning that the RSPO, though not a traditional multinational enterprise, is covered by the <i>OECD Guidelines</i> because it has commercial activities.</p> <p>The Swiss NCP facilitated a discussion between TuK Indonesia and RSPO that resulted in the two parties agreeing on a process for a pending legal review of the complaint by the RSPO Complaints Panel, a joint action plan to conclude the complaint, commitments for continued communication, and a follow up on the process with the Swiss NCP.¹³⁹</p>

4 Information on compliance and discipline is often unavailable or incomplete

Transparency about the level and extent of compliance by members with an MSI's standards is crucial. It allows external actors to independently understand and scrutinize whether particular member companies or governments are meeting their human rights commitments, and can incentivize members to follow through on their commitments to the initiative in a rigorous and rights-compatible way.¹⁴⁰ In addition, transparency regarding members' compliance aids an understanding of whether MSIs have changed the behavior of their members in the ways that they intend.

However, despite the importance of such transparency to MSI legitimacy, most MSIs either do not disclose key information about member compliance, or if they do, it is highly inaccessible .

	Provides online access to monitoring/ compliance reports of current members	Provides a list of suspended or canceled members
Alliance for Water Stewardship	Yes.	No.
Better Biomass	Yes.	Yes.
Bonsucro	No.	Yes.
Equitable Food Initiative	No.	No.
Equitable Origin*	Yes.	Yes.
Ethical Trading Initiative	No.	Yes.
Fair Labor Association	Yes.	No.
Fairtrade International	No.	Yes.
Forest Stewardship Council	Yes.	Yes.
Global Coffee Platform***	N/A	N/A
Global Network Initiative	No.	N/A
Global Reporting Initiative***	N/A	N/A
Good Weave International	No.	Yes.
Infrastructure Transparency Initiative	Yes.	No.
International Code of Conduct for Private Security Providers	No.	No.
International Sustainability and Carbon Certification	Yes.	Yes.
Marine Stewardship Council	No.	Yes.

	Provides online access to monitoring/ compliance reports of current members	Provides a list of suspended or canceled members
Rainforest Alliance	Yes.	Yes.
Social Accountability International	No.	Yes.
Sustainable Forestry Initiative**	Yes.	Yes.
Total (of 20)	9	11

* Equitable Origin has only certified one site but has fully disclosed sanction information for that site.

** FLA and Sustainable Forestry Initiative provide monitoring reports, but it is not possible to search them to determine if they include suspended or withdrawn members.

*** Does not monitor or audit members.

**** Based on a review of the available company assessment reports, GNI has not suspended or withdrawn any members.

Source: The source data for this information is available from the spreadsheet “MSI Trends Dataset,” which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

Most MSIs, if they disclose compliance with standards at all, do so through the release of their monitoring reports or other board-approved reports. However, the incidence of this is very low. As Table 4.2 demonstrates, only nine out of the 18 MSIs that monitor compliance (either externally or through self-reports) publish their monitoring or audit reports online. Moreover, even among those MSIs that make audit reports available to the public, the level of detail available varies widely, both from auditor to auditor and from MSI to MSI. For example, in two recent audit reports for the Alliance for Water Stewardship, one auditor merely created a checklist that indicates whether criteria were met,¹⁴¹ whereas the other by a different auditor on the same standards went into much greater detail around decisions.¹⁴² The lack of sufficient requirements about the quality and content of reporting can mean it is difficult to comprehend the true level of compliance, or the significance of reported breaches. In the case of a company that meets an indicator based on discrimination, for example, this might be because it has a discrimination policy, or because there is no evidence of widespread discrimination against vulnerable groups. These are very different scenarios from a rights protection perspective, yet unless reports disclose sufficient details, these important distinctions are lost and remain outside of public scrutiny.

“Only 9 out of the 18 MSIs that monitor compliance . . . publish their monitoring or audit reports online.”

In addition, many of the MSIs we reviewed do not systematically disclose information on disciplinary actions against members. For example, of the 18 MSIs we reviewed that monitor member performance, only 11 provide a list of members who are suspended or expelled, and in most instances, this comprises a list of names without the bases for the decisions. Only seven MSIs allow the public to see the related monitoring report to determine the basis for a suspension or expulsion. Among these MSIs, two of them—FLA and the Sustainable Forestry Initiative—have all monitoring reports available, but a user would need to have already known that a company has been suspended or expelled, because it is not possible to filter through the reports by this variable.

Even when these lists or details of member compliance are technically available, the information is often very difficult to locate. Most of the MSIs we reviewed who provide compliance information do not have it easily accessible from their website homepage or in the main site navigation, which means

users often need to know where or what to search for. For example, on the website for SAI, users have to follow a circuitous route: clicking “SA8000 Standard” and then “Certified Organizations,” to access “the full SA8000-Certified Organizations list,” which is an Excel sheet that contains information on current as well as suspended, cancelled, or expired certifications.¹⁴³ The website for the Infrastructure Transparency Initiative requires a search on the “Resources” webpage to access monitoring reports.¹⁴⁴ It is quite possible that, unless individuals or actors knew such reports or details were available, they might not find them. This is very different from clearly and publicly providing transparent information about member compliance.

Finally, among supply chain MSIs, most provide compliance information for producers only, not for brands or corporate buyers. This is in keeping with an overall emphasis on producer conduct, rather than on actors that create and sell final products. For example, of the four MSIs in our MSI Database that primarily focus on the garment industry, two do not provide any reporting on the practices of brands, and another provides only limited and irregular reports on brand compliance (see Spotlight 3.6 in **Insight 3: Standards & Scope**). The exception is the Fair Wear Foundation, which produces an annual scorecard that is easily accessible, standardized, and includes evaluations against key standards. Indeed, its reporting is a good model for other MSIs.

If an MSI was committed to highlighting the level of respect for human rights by its members, and for holding those companies who did not respect rights to account, the quality and accessibility of this information would be high. It is not. Instead, the lack of transparency about suspended members, along with an absence of comprehensive reporting that details the level of compliance with each of an MSI’s standards, risks obscuring the degree of compliance by MSI members, and thus the degree of abuses that may be occurring both individually and across the industry. It risks allowing some members to gain reputational benefits despite abuses still occurring.

Our Insights

MSIs put considerable emphasis on the standards that they set, but have not developed effective mechanisms for detecting abuses, enforcing compliance with those standards, or transparently disclosing levels of compliance. Despite the emergence of models that enable rights holders to legally enforce MSIs' standards or to be actively engaged in monitoring companies for abuses, MSIs have not adopted them. By focusing on setting standards without adequately ensuring if members are following those standards, MSIs risk providing companies and governments with powerful reputational benefits despite the persistence of rights abuses.

The prevailing MSI model for external monitoring is ineffective at detecting abuses because it is not centered on understanding the perspectives and experiences of rights holders. Most monitoring regimes do little to engender awareness of rights, build trust, and overcome power dynamics—all of which are required before vulnerable individuals can speak plainly about rights violations. Put simply, rights holders have not been put in the center of the design or implementation of MSI monitoring or compliance systems.

The resulting experience for rights holders is often fairly similar—regardless of whether they are workers, local residents, activists, or members of an indigenous community. During the typical monitoring visit, an outside professional arrives for a few days, is unknown to rights holders, and may not share their language, class, race, or gender. Management may have announced the pending arrival, made preparations, or even coached people on what to say. The professional has initial meetings with management or officials and then summons certain individuals for conversations, in which they are asked questions about sensitive human rights issues that—if answered honestly—may result in them losing their job, cause division or economic damage in the community, or reveal traumatizing or stigmatizing abuses that they or others have experienced. Even in a best-case scenario, when rights holders know about their rights and the purpose of the evaluation, and are discreetly invited off-site for confidential interviews, the benefits of speaking frankly are often unclear—what remedial assurances can the MSI offer that offset the risk of whistleblowing?

Generally, the answer is that little can be assured because MSIs' accountability and compliance procedures are inherently weak. A key component necessary to overcome the barriers to reporting non-compliance to a third-party monitor (or through a grievance mechanism, as discussed in **Insight 5: Remedy**) is an understanding of what changes or consequences might occur as a result of reporting. Without the possibility of meaningful reform arising from rights holders reporting abuses, even with strong trust and support in the safety of the system, the risks of whistleblowing may not be worth pursuing. However, the systems and policies that MSIs have for enforcing or encouraging compliance have key vulnerabilities that undermine the ability of MSIs to assure rights holders that there will be meaningful consequences for reporting abuses. MSIs have not required their members to adopt binding commitments that are legally enforceable by rights holders. Instead, MSIs operate by primarily seeking to work with and encourage members to change the practices that may be leading to abuse. In instances when there exist such goodwill and sufficient resources to reform, rights holders may experience an improvement in their livelihoods. However, if a member contests an allegation of non-compliance or is not willing to change their practices, there is often little that an MSI can do. Ultimately, if a company or government does not want to comply with the MSI's standards, it can simply withdraw

from the initiative, as has occurred in a number of different MSIs.

This vulnerability leaves MSIs in a position where they need to internally decide whether to create clear and concrete consequences for wrongdoing—at the risk of possibly losing members—or if they prefer to retain their members even if there is evidence of non-compliance, presumably in the hope of continuous improvement through internal engagement. This inherent tension risks undermining an MSI's ability to consistently and reliably enforce its standards, while also excluding rights holders from opportunities to enforce their own standards.

A central assumption in the creation of MSIs was that the reputational cost and public relations harm of suspension or withdrawal from an MSI would be enough to incentivize reform. However, this generally has not deterred the worst-offending actors: companies and countries have withdrawn without major consequence. This is exacerbated by the fact that most MSIs are not fully forthcoming about compliance monitoring or disciplinary information, so that compliance failures, when they happen, remain hidden. Without transparent disclosures of the level of compliance, it is impossible to understand the extent to which members are meeting an MSI's standards. This creates a credibility issue because it obscures the performance of individual members, making it unclear whether the initiative is succeeding at improving practices across an industry—placing the voluntary scheme into question.

To us, the key design features of MSIs—premised on voluntariness, top-down monitoring and internally-controlled accountability mechanisms—mirror the same issues as underpinned in **Insight 3: Standards & Scope**: that MSIs have had to develop in ways that are satisfactory to, and will attract, corporate members. As robust monitoring and accountability present major litigation, reputation, and financial threats to companies, the multi-stakeholder nature of MSIs has meant that they have been unable to adopt them.

Ultimately, the shortcomings of MSI monitoring and enforcement compromise their legitimacy. MSIs all experimented with voluntary and top-down systems, and the results are highly dissatisfactory. Without robust monitoring and enforcement that facilitate rights holder participation, members may be able to reap the reputational benefits of an MSI without actually meeting its standards—while rights holders continue to suffer abuses.

Cited Sources

- Accord on Fire and Building Safety in Bangladesh. *2018 Accord on Fire and Building Safety in Bangladesh: May 2018*. IndustriALL Global Union and UNI Global Union, Amsterdam: The Accord, June 21, 2017. <https://admin.bangladeshaccord.org/wp-content/uploads/2018/08/2018-Accord.pdf>.
- AFL-CIO. *Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights*. Washington, DC: AFL-CIO, 2014. <https://aflcio.org/sites/default/files/2017-03/CSReport.pdf>.
- Amnesty International. *The Great Palm Oil Scandal: Labour Abuses behind Big Brand Names*. London: Amnesty International, 2016. <https://www.amnesty.org/download/Documents/ASA2151842016ENGLISH.PDF>.
- Anner, Mark. "CSR Participation Committees, Wildcat Strikes and the Sourcing Squeeze in Global Supply Chains." *British Journal of Industrial Relations* 56, no. 1 (2017): 75–98.
- Barlow, Henry. *Henry Barlow to Benny Tjoeng, President Director, PT PP London Sumatra Tbk, November, 2, 2018*. Letter. RSPO. <https://ap8.salesforce.com/sfc/p/#90000000YoJi/a/90000000PYaf/6mJ.T1HSMNHdkSdhiOT8z3ldAHk8eJ6fHGUelpz9jB0>.
- Barrientos, S., and S. Smith. "Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems." *Third World Quarterly* 28, no. 4 (2007): 713–39.
- Bendell, Jem. "In Whose Name? The Accountability of Corporate Social Responsibility." *Development in Practice* 15, nos. 3 and 4 (2005): 362–74.
- _____. *Towards Participatory Workplace Appraisal: Report from a Focus Group of Women Banana Workers*. Occasional Paper. New Academy of Business, 2001. https://www.participatorymethods.org/sites/participatorymethods.org/files/participatory%20workplace%20appraisal_Bendell.pdf.
- Bernstein, L., and P. Scott. *Audit Requirements for Accredited Certification Bodies for the SA8000 Program*. Vers. 3.1. New York: Social Accountability Accreditation Services, 2017. http://www.saasaccreditation.org/sites/default/files/u4/SAAS_Procedure_200_v3.1_February.2017.pdf.
- Bonsucro. "Public Notification in the Matter of the Inclusive Development International (IDI), Equitable Cambodia (EC), and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) Complaint against Mitr Phol." December 21, 2018. <https://www.bonsucro.com/public-notification-of-decision-idi-ec-licadho/>.
- Business & Human Rights Resource Center. "Beyond Social Auditing: Background Materials and Analysis." Accessed January 15, 2020. <https://www.business-humanrights.org/en/beyond-social-auditing/beyond-social-auditing-background-materials-analysis>.
- China Labor Watch. *A Nightmare for Workers: Appalling Conditions in Toy Factories Persist*. New York: CLW, 2018. http://www.chinalaborwatch.org/upfile/2018_12_04/20181207.pdf.
- Clean Clothes Campaign. *Fig Leaf for Fashion: How Social Auditing Protects Brands and Fails Workers*. Amsterdam: CCC, 2019. <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>.
- Cockayne, James, and Emily Speers Mears. *Private Military and Security Companies: A Framework for Regulation*. New York: IPI, 2009. <http://www.ipacademy.org/publication/policy-papers/detail/81-private-military-and-security-companies-a-framework-for-r-regulation.html>.
- Corporate Accountability Lab. "CAL Victory! Test Case Offers Solution for Global Worker Exploitation." December 19, 2018. <https://legaldesign.org/calblog/victory-test-case-offers-solution>.
- _____. *Empty Promises: The Failure of Corporate Social Responsibility Initiatives to Improve Farmer Incomes in the Ivorian Cocoa Sector*. Chicago: CAL, 2019. https://static1.squarespace.com/static/5810dda3e3df28ce37b58357/t/5d321076f1125e0001ac51ab/1563562117949/Empty_Promises_2019.pdf.
- Egels-Zandén, Niklas, and Henrik Lindholm. "Do Codes of Conduct Improve Worker Rights in Supply Chains? A Study of Fair Wear Foundation." *Journal of Cleaner Production* 107 (November 16, 2015): 31–40.
- Environmental Investigation Agency. *Stealing the Last Forest: Austria's Largest Timber Company, Land Rights, and Corruption in Romania*. Washington, DC: EIA, 2015. https://s3.amazonaws.com/environmental-investigation-agency/assets/2015/10/Stealing_the_Last_Forest/EIA_2015_Report_Stealing_the_Last_Forest.pdf.
- _____. "PEFC: A Fig Leaf for Stolen Timber." June 5, 2017. <https://eia-global.org/blog-posts/PEFC-fig-leaf-for-stolen-timber>.
- Ethical Trading Initiative. "Our Impact on Workers." Accessed May 2, 2019. <https://www.ethicaltrade.org/about-eti/our-impact-workers>.
- Extractive Industries Transparency Initiative. *Minutes*. 23rd EITI Board Meeting, Sydney, Australia, May 22, 2013. Oslo: EITI International Secretariat, June 27, 2013. https://eiti.org/files/documents/boardmeeting_023_minutes.pdf.

- _____. "Overview of Validation." Accessed February 9, 2020. <https://eiti.org/overview-of-validation>.
- _____. "Status of Azerbaijan." Updated December 20, 2018. <https://eiti.org/azerbaijan>.
- Fair Labor Association. "Our Methodology." Accessed January 15, 2020. <http://www.fairlabor.org/our-methodology>.
- Farbenblum, Bassina, Laurie Berg, and Angela Kintominas. *Transformative Technology for Migrant Workers: Opportunities, Challenges, and Risks*. New York: Open Society, 2018. <https://www.opensocietyfoundations.org/uploads/dfe50370-e15a-4a78-99f9-3954c0e73bb3/transformative-technology-for-migrant-workers-20181107.pdf>.
- Forest Stewardship Council. "Holzindustrie Schweighofer." Accessed February 7, 2020. <https://fsc.org/en/node/18810>.
- _____. *Stakeholder Consultation for Forest Evaluations*. Ref. code FSC-STD-20-006. Vers. 3.0. Bonn: FSC, 2009. <https://ic.fsc.org/en/document-center/id/66>.
- _____. *WWF Germany vs. Holzindustrie Schweighofer—Case Summary*. Bonn, Germany: FSC, 2017. https://fsc.org/sites/fsc.org/files/2019-06/Case%20summary_Schweighofer%20Group_December%202017.pdf.
- Fuller, Lisa. "Exclusive—Some Workers at Tea Estates Certified by Rainforest Alliance and Fairtrade Take Home as Little as 14 U.S. Cents a Day after Fees and Deductions." Thompson Reuters Foundation. March 27, 2019. <http://news.trust.org//item/20190327004859-frjnm/>.
- Global Network Initiative. "Company Assessments." <https://globalnetworkinitiative.org/company-assessments/>.
- _____. "Core Commitments." Accessed October 14, 2019. <https://globalnetworkinitiative.org/core-commitments/>.
- _____. *GNI Assessment Toolkit*. Washington, DC: GNI, 2018. <https://globalnetworkinitiative.org/wp-content/uploads/2019/04/AssessmentToolkit.pdf>.
- _____. *Public Report on the Independent Assessment Process for Google, Microsoft, and Yahoo*. Washington, DC: GNI, 2014. <https://globalnetworkinitiative.org/wp-content/uploads/2016/10/GNI-Assessments-Public-Report.pdf>.
- Hengeveld, Maria. "Nike Boasts of Empowering Women around the World." *Slate*. August 26, 2019. <https://slate.com/business/2016/08/nikes-supply-chain-doesnt-live-up-to-the-ideals-of-its-girl-effect-campaign.html>.
- Heuty, Antoine. "Is 'Worker Voice' Technology More Than Just Kabuki Theatre in the Struggle for Labour Rights?" Business & Human Rights Center. April 26, 2019. <https://www.business-humanrights.org/en/is-worker-voice-technology-more-than-just-kabuki-theatre-in-the-struggle-for-labour-rights>.
- Heron, Robert, Henrick Vistisen, and Kazuo Yamazaki. *Conducting Labour Inspection Visits: A Practical Guide*. Geneva: ILO, 1998. https://www.ilo.org/asia/publications/WCMS_BK_PB_261_EN/lang-en/index.htm.
- Human Rights Watch. "Combating Sexual Harassment in the Garment Industry." February 12, 2019. <https://www.hrw.org/news/2019/02/12/combating-sexual-harassment-garment-industry>.
- ICTI Ethical Toy Program. *ICTI Ethical Toy Program Response to China Labor Watch Report—December 2018*. January 2019. https://wdr-test-icti.cdn.prismic.io/wdr-test-icti%2F8b7d6ade-b2e1-4f83-9737-c85ac4b8507a_ietp+special+investigation+report+-+clw+response+jan+2019+%281+feb%29.pdf.
- _____. *Worker Helpline: Successfully Addressing Factory Worker Concerns*. Accessed November 10, 2019. https://wdr-test-icti.cdn.prismic.io/wdr-test-icti%2F4693e764-fde2-4e83-9098-6a0290e745e1_ietp+worker+helpline+briefing+-+feb+2019.pdf.
- International Organization Development. *Ethical Training Initiative External Evaluation Report*. Sheffield: IOD PARC, 2015. https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_external_evaluation_report_-_iod-parc_2015.pdf.
- Inclusive Development International. "Human Rights Complaint Filed to UK Government against Ethical Sugar Association Bonsucro." March 11, 2019. <https://www.inclusivedevelopment.net/human-rights-complaint-filed-to-uk-government-against-ethical-sugar-association-bonsucro/>.
- _____. "Mitr Phol Land Grab." Accessed February 9, 2020. <https://www.inclusivedevelopment.net/mitr-phol/>.
- Infrastructure Transparency Initiative. "Resources." Accessed August 22, 2019. <http://infrastructuretransparency.org/resources/>.
- Islam, Muhammad Azizul. "Tackling Modern Slavery: What Role Can Accountants Play?" International Federation of Accountants. February 12, 2018. <https://www.ifac.org/knowledge-gateway/supporting-international-standards/discussion/tackling-modern-slavery-what-role>.
- Issara Institute. *What is 'Worker Voice' in the Context of Global Supply Chains?* Issara Institute, 2017. https://44f2713d-a205-4701-bba3-8d419653b4b6.filesusr.com/ugd/5bf36e_29160d3cfe05485e835b14c4d3dc43de.pdf.

- Kyritsis, Penelope, and Mark Anner. "New Buzzword, Same Problem: How 'Worker Voice' Initiatives Are Perpetuating the Shortcomings of Traditional Social Auditing." Business & Human Rights Center. December 3, 2019. <https://www.business-humanrights.org/en/new-buzzword-same-problem-how-worker-voice-initiatives-are-perpetuating-the-shortcomings-of-traditional-social-auditing>.
- Lam, Bouree. "Cellphones Are Letting Companies Learn What Their Factories Are Really Like." *The Atlantic*. February 1, 2016. <https://www.theatlantic.com/business/archive/2016/02/laborlink-factory-survey/434004/>.
- LeBaron, Genevieve. *The Global Business of Forced Labor: Report of Findings*. Sheffield: SPERI, 2018. <http://globalbusinessofforcedlabour.ac.uk/wp-content/uploads/2018/05/Report-of-Findings-Global-Business-of-Forced-Labour.pdf>.
- LeBaron, Genevieve, and Ellie Gore. "Gender and Forced Labour: Understanding the Links in Global Cocoa Supply Chains." *The Journal of Development Studies*, (2019): 17–18.
- LeBaron, Genevieve, and Sharon Lister. *Ethical Audits and Supply Chains of Global Corporations*. Sheffield: SPERI, 2016. <http://speri.dept.shef.ac.uk/wp-content/uploads/2016/01/Global-Brief-1-Ethical-Audits-and-the-Supply-Chains-of-Global-Corporations.pdf>.
- Locke, Richard, Matthew Amengual, and Akshay Mangla. "Virtue Out of Necessity? Compliance, Commitment, and the Improvement of Labor Conditions in Global Supply Chains." *Politics and Society* 37, no. 3 (2009): 319–51.
- Mena, S., and G. Palazzo. "Input and Output Legitimacy of Multi-Stakeholder Initiatives." *Business Ethics Quarterly* 22, no. 3 (2012): 527–56.
- Minister of the Environment, Water and Forest, Directorate of Communications. "Press Release." Government of Romania. July 30, 2015. http://www.mmediu.ro/app/webroot/uploads/files/2015-07-30_CP_controale_paduri.pdf.
- MSI Integrity. *The Essential Elements of MSI Design*. Berkeley: MSI Integrity, 2017. http://www.msi-integrity.org/wp-content/uploads/2017/11/Essential_Elements_2017.pdf.
- _____. "The Multi-Stakeholder Initiative Database." Accessed February 24, 2020. <https://msi-database.org>.
- _____. *The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives*. Berkeley: MSI Integrity, 2017. <https://msi-database.org/data/The%20New%20Regulators%20-%20MSI%20Database%20Report.pdf>.
- MSI Integrity and the International Clinic for Human Rights at Harvard Law School. *MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives*. Version 1.0. Berkeley: MSI Integrity and ICHR, 2017. http://www.msi-integrity.org/wp-content/uploads/2017/11/MSI_Evaluation_Tool_2017.
- _____. *2013 MSI Evaluation Report: Working Draft*. Berkeley: MSI Integrity, 2013. <http://www.msi-integrity.org/wp-content/uploads/2013/04/EITI-Working-Evaluation-Report-FINAL.pdf>.
- Nova, Scott, and Isaac Shapiro. *Polishing Apple: Fair Labor Association Gives Foxconn and Apple Undue Credit for Labor Rights Progress*. Economic Policy Institute Briefing Paper 352. Washington, DC: EPI, 2012. <https://www.epi.org/files/2012/polishing-apple-fla-foxconn-apple-undue.pdf>.
- NYU Stern: Center for Business and Human Rights. "Why We're Leaving the Global Network Initiative." February 1, 2016. <https://bhr.stern.nyu.edu/blogs/why-were-leaving-the-gni>.
- OECD Watch. "IDI, EC, and LICADHO v. Bonsucro." Accessed February 9, 2020. https://complaints.oecdwatch.org/cases/Case_534.
- O'Rourke, Dara. *Monitoring the Monitors: A Critique of PriceWaterhouseCoopers (PwC) Labor Monitoring*. Cambridge: MIT, 2000. <https://nature.berkeley.edu/orourke/PDF/pwc.pdf>.
- Outhwaite, Opi, and Olga Martin-Ortega. *Monitoring Human Rights in Global Supply Chains: Insights and Policy Recommendations for Civil Society*. BHRE Research Series Policy Paper no. 3. London: University of Greenwich, 2017. <https://static1.squarespace.com/static/56e9723a40261dbb18ccd338/t/590c593bff7c502a077939fc/1493981502635/Monitoring+Human+Rights+in+Global+Supply+Chains+BHRE+Policy+Paper+3+May+2017.pdf>.
- Partido Manggagawa. "Sein Together Union Officers Reinstated after Month-Long Fight." Partido Manggagawa. November 19, 2017. <http://partidongmanggagawa2001.blogspot.com/2017/11/sein-together-union-officers-reinstated.html>.
- Pasion, Patty. "Cavite Workers Seek Gov't Intervention on Shut Down." *Rappler*. October 17, 2017. <https://www.rappler.com/nation/185474-cavite-workers-government-intervention-temporary-factory-shutdown>.
- Pfungen, Lorenz. "Schweighofer Gets to Keep PEFC Certificate." Trans. by Susanne Höfler. Timber-online.net. October 6, 2015. https://www.timber-online.net/schnittholz/2015/10/schweighofer_getstokeeppecertificate.html.
- Rainforest Alliance. *Rules for Planning and Conducting Audits: Farms and Producer Groups Involved in Crop and Cattle Production*. Vers. 1. New York: Rainforest Alliance, 2018. https://www.rainforest-alliance.org/business/wp-content/uploads/2018/03/85_rules-planning-conducting-audits_en.pdf.

- Rainforest Action Network, OPPUK, and International Labor Rights Forum. *The Human Cost of Conflict Palm Oil: Indofood: Pepsico's Hidden Link to Worker Exploitation in Indonesia*. 2016. https://www.ran.org/wp-content/uploads/rainforestactionnetwork/pages/15889/attachments/original/1467043668/The_Human_Cost_of_Conflict_Palm_Oil_RAN.pdf?1467043668
- _____. *The Human Cost of Conflict Palm Oil Revisited: How PepsiCo, Banks, and the Roundtable on Sustainable Palm Oil Perpetuate Indofood's Worker Exploitation*. 2017. https://www.ran.org/wp-content/uploads/2018/06/Human_Cost_Revisited_vWEB.pdf.
- Rogan, Dvveke, ed. *The EITI Standard 2016*. Oslo: EITI International Secretariat, 2017. https://eiti.org/files/documents/the_eiti_standard_2016_-_english.pdf.
- Roundtable on Sustainable Palm Oil. "PT Mitra Austral Sejahtera (a Subsidiary of Sime Darby Plantation Berhad)—(Respondent), The Communities of Sanggau (Kerunang & Entapang), Transparansi untuk Keadilan (TuK)—(Complainant)." Accessed February 9, 2020. <https://askrspo.force.com/Complaint/s/case/50090000028ErzsAAC/>.
- _____. "RSPO 15th Annual General Assembly (GA15) Summary Report and Voting Results." November 30, 2018. <https://rspo.org/news-and-events/announcements/rspo-15th-annual-general-assembly-ga15-summary-report-and-voting-results>.
- Rowlatt, Justin, and Jane Deith. "The Bitter Story behind the UK's National Drink." *BBC*. September 8, 2015. <https://www.bbc.com/news/world-asia-india-34173532>.
- Ruggie, John Gerard. "Business and Human Rights: The Evolving International Agenda." *The American Journal of International Law* 101, no. 4 (2007): 819–40. <https://www.jstor.org/stable/40006320>.
- Sanders, Scott R., Michael R. Cope, and Elizabeth R. Pulsipher. "Do Factory Audits Improve International Labor Standards? An Examination of Voluntary Corporate Labor Regulations in Global Production Networks." *MDPI Social Sciences* May 30, 2018: 84.
- SGS. *Audit Checklist—AWS Standard V1.0*. March 13, 2018. <https://a4ws.org/wp-content/uploads/2019/01/AWS-Audit-Checklist-PMI-130318-UA-y-LS.pdf>.
- Sinkovics, Noemi, Samia Ferdous Hoque, and Rudolf R. Sinkovics. "Rana Plaza Collapse Aftermath: Are CSR Compliance and Auditing Pressures Effective?" *Accounting, Auditing & Accountability Journal* 29, no. 4 (2016): 617–49. <https://www.emerald.com/insight/content/doi/10.1108/AAAJ-07-2015-2141/full/html>.
- Shen, A. "Worker Voice without Worker Agency Fails Seafood Workers." International Labor Rights Forum Blog. May 4, 2018. <http://w.sweatfree.org/blog/201805/worker-voice-without-worker-agency-fails-seafood-workers>.
- Social Accountability Accreditation Services. "Accreditation Fees." Accessed January 14, 2020. <http://www.saasaccreditation.org/fees>.
- _____. "SA8000 Certified Organisations." Accessed January 9, 2020. <http://www.saasaccreditation.org/certifacilitieslist>.
- _____. "Unannounced SA8000 Audits." Accessed January 14, 2020. <http://www.saasaccreditation.org/unannouncedsa8000audits>.
- Social Accountability International. "Certified Organizations." Accessed January 9, 2020. <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=1843>.
- _____. "SA8000 Certification Costs." Accessed January 14, 2020. [http://www.sa-intl.org/_data/global/files/SA8000CertificationCosts\(1\).pdf](http://www.sa-intl.org/_data/global/files/SA8000CertificationCosts(1).pdf).
- The Star*. "SDP Units Sell Stake in PT MAS." June 27, 2019. <https://www.thestar.com.my/business/business-news/2019/06/27/sdp-units-sell-stake-in-pt-mas>.
- Taylor, Lisa Rende, and Elena Shih. "Worker Feedback Technologies and Combatting Modern Slavery in Global Supply Chains: Examining the Effectiveness of Remediation-Oriented and Due-Diligence-Oriented Technologies in Identifying and Addressing Forced Labour and Human Trafficking." *Journal of the British Academy* 7, sup. 1 (2019): 131–65.
- Terwindt, Carolijn, and Amy Armstrong. "Oversight and Accountability in the Social Auditing Industry: The Role of Social Compliance Initiatives." *International Labor Review*.
- Terwindt, Carolijn, and Gisela Burckhardt. "Beyond Social Auditing." Business & Human Rights Center. Accessed July 20, 2019. <https://www.business-humanrights.org/en/beyond-social-auditing>.
- _____. "Social Audits in the Textile Industry: How to Control the Controllers?" Business & Human Rights Center. April 2, 2019. <https://www.business-humanrights.org/en/social-audits-in-the-textile-industry-how-to-control-the-controllers>.
- Theuws, Martje, Mariette van Huijstee, Pauline Overeem, Jos van Seters, and Tessel Pauli. *Fatal Fashion: Analysis of Recent Factory Fires in Pakistan and Bangladesh: A Call to Protect and Respect Garment Workers' Lives*. Amsterdam: SOMO and CCC, 2013. <https://cleanclothes.org/resources/publications/fatal-fashion.pdf>.
- TÜV Rheinland. *Alliance for Water Stewardship Assessment Report as per AWS Standard Version 1.0 for Suntory Products Limited Okudaise n Bunanomori Water Plant*. Cologne: TÜV Rheinland, 2018. <https://a4ws.org/wp-content/uploads/2019/01/AWS-Suntory-final-20181124-public.pdf>.

- TV5Monde. "Cash Investigation: Razzia sur le bois, les promesses en kit des géants du meuble." L'épisode 15. Accessed February 24, 2020. <http://www.tv5monde.com/programmes/fr/programme-tv-cash-investigation-razzia-sur-le-bois-les-promesses-en-kit-des-geants-du-meuble/19703/>.
- Vuthy, Eang, David Pred, and Naly Pilorge. *David Pred, and Naly Pilorge to Complaints Manager, Bonsucro, February 5, 2016*. Letter. Equitable Cambodia, Inclusive Development International, and LICADHO. <https://www.inclusivedevelopment.net/wp-content/uploads/2016/02/Amended-Complaint-to-Bonsucro-re-Mitr-Phol-Group-05-February-2016.pdf>.
- Waras, Muhammad. *Muhammad Waras to Datuk Darrel Webber, CEO, RSPO, January 17, 2019*. Letter. PP PT London Sumatra Tbk. http://indofoodagri.listedcompany.com/newsroom/withdrawal_from_RSPO_certification_scheme.pdf.
- Worker Engagement Supported by Technology Principles. *White Paper: Realizing the Benefits of Worker Reporting*. WEST Principles, 2019. https://westprinciples.org/wp-content/uploads/2019/03/west_principles_white_paper-realizing_the_benefits_of_worker_reporting_digital_tools.pdf.
- Worldwide Responsible Accredited Production. "Certification Process." Accessed July 31, 2019. <http://wrapcompliance.org/en/certification#process>.
- _____. "History." Accessed January 14, 2020. <http://wrapcompliance.org/en/history>.
- _____. "Monitor Information." Accessed January 14, 2020. <http://wrapcompliance.org/en/monitor-information>.
- _____. "WRAP's 12 Principles." Accessed January 14, 2019. <http://wrapcompliance.org/en/12-principles>.

Sources Cited in Figure 4.1

1. Lisa Fuller, "Exclusive—Some Workers at Tea Estates Certified by Rainforest Alliance and Fairtrade Take Home as Little as 14 U.S. Cents a Day after Fees and Deductions," Thompson Reuters Foundation, March 27, 2019, <http://news.trust.org/item/20190327004859-frjnm/>.
2. Genevieve LeBaron, *The Global Business of Forced Labor: Report of Findings* (Sheffield, UK: Speri and University of Sheffield, 2018), 3, <http://globalbusinessofforcedlabour.ac.uk/wp-content/uploads/2018/05/Report-of-Findings-Global-Business-of-Forced-Labour.pdf>
3. China Labor Watch, *A Nightmare for Workers: Appalling Conditions in Toy Factories Persist*, December 6, 2018, http://www.chinalabor-watch.org/upfile/2018_12_04/20181207.pdf. See also ICTI Ethical Toy Program, *ICTI Ethical Toy Program Response to China Labor Watch Report—December 2018*, January 2019, https://wdr-test-icti.cdn.prismic.io/wdr-test-icti%2F8b7d6ade-b2e1-4f83-9737-c85ac4b8507a_ietp+special+investigation+report+-+clw+response+jan+2019+%281+feb%29.pdf.
4. TV5Monde, "Cash Investigation: Razzia sur le bois, les promesses en kit des géants du meuble," l'épisode 15, February 24, 2020, <http://www.tv5monde.com/programmes/fr/programme-tv-cash-investigation-razzia-sur-le-bois-les-promesses-en-kit-des-geants-du-meuble/19703/>; see also "PEFC: A Fig Leaf for Stolen Timber," EIA, blog post, June 5, 2017, <https://eia-global.org/blog-posts/PEFC-fig-leaf-for-stolen-timber>.
5. Amnesty International, *The Great Palm Oil Scandal: Labour Abuses behind Big Brand Names*, 2016, 11, <https://www.amnesty.org/download/Documents/ASA2151842016ENGLISH.PDF>.
6. Maria Hengeveld, "Nike Boasts of Empowering Women around the World," *Slate*, August 26, 2019, <https://slate.com/business/2016/08/nikes-supply-chain-doesnt-live-up-to-the-ideals-of-its-girl-effect-campaign.html>.
7. Justin Rowlett and Jane Deith, "The Bitter Story behind the UK's National Drink," *BBC*, September 8, 2015, <https://www.bbc.com/news/world-asia-india-34173532>.
8. AFL-CIO, *Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights*, August 1, 2014, 7, <https://aflcio.org/sites/default/files/2017-03/CSReport.pdf>.
9. Scott Nova and Isaac Shapiro, *Polishing Apple: Fair Labor Association Gives Foxconn and Apple Undue Credit for Labor Rights Progress*, Economic Policy Institute Briefing Paper 352, November 8, 2012, 4–5, <https://www.epi.org/files/2012/polishing-apple-fla-foxconn-apple-undue.pdf>.
10. Clean Clothes Campaign, *Fig Leaf for Fashion: How Social Auditing Protects Brands and Fails Workers*, 2019 Report, 24, <https://clean-clothes.org/file-repository/figleaf-for-fashion.pdf/view>.

Endnotes

- 1 John Gerard Ruggie, "[Business and Human Rights: The Evolving International Agenda](#)," *The American Journal of International Law* 101, no. 4 (2007): 836.
- 2 S. Mena and G. Palazzo, "Input and Output Legitimacy of Multi-Stakeholder Initiatives," *Business Ethics Quarterly* 22, no. 3 (2012): 527–56.
- 3 Mena and Palazzo, "Input and Output Legitimacy," 546.
- 4 MSIs may use different terms for ongoing member oversight, such as public assurance, validation, monitoring, surveillance audits, or assessment, and for the people who perform it, such as certification body, monitor, auditor, or compliance assessment body. For the sake of clarity, we use the generic terms "monitoring" and "evaluator" to refer to MSI oversight procedures and those who perform them, respectively. Our use of these terms is not intended to denote a value judgment concerning the type or quality of monitoring.
- 5 The source data for this information is available from the spreadsheet, "[MSI Trends Dataset](#)," which is available on our website and contains information current as of June 30, 2019. The list of MSIs in order of date launched is contained in Appendix 2. The essential elements of effective MSI design are contained in: MSI Integrity and the International Clinic for Human Rights at Harvard Law School, [MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives](#), vers. 1.0, (Berkeley: MSI Integrity and ICHR, 2017), 29–32; MSI Integrity, [The Essential Elements of MSI Design](#), (Berkeley: MSI Integrity, 2017), 10, 12.
- 6 MSI Integrity, [The New Regulators? Assessing the Landscape of Multi-Stakeholder Initiatives](#) (Berkeley: MSI Integrity, 2017), 13.
- 7 The source data for this information is available from the spreadsheet "[MSI Trends Dataset](#)," which is available on our website at and contains information current as of June 30, 2019. According to this data, Equitable Origin does not publish its procedures for monitoring. In the case of Infrastructure Transparency Initiative (CoST), the initiative has two levels of standards that member governments are supposed to meet. The first are a set of "principles," which includes expecting that member government will set up a multi-stakeholder group; this multi-stakeholder group is then expected to implement the MSI's "standards," which represent the second set of obligations. See Infrastructure Transparency Initiative, [Guidance Note: Joining CoST](#) (London: CoST, 2020), 2. With respect to the "principles," the monitoring is done through periodic reporting to the CoST International Secretariat and Board. See Infrastructure Transparency Initiative, [Monitoring the performance of CoST National Programmes](#) (London: CoST, 2016), 1. With respect to the "standards," the initiative requires members to set up an "assurance process." However, unlike other MSIs, which set out the process for this monitoring, it is up to countries to establish an assurance process. CoST only provides guidance on "core steps that are essential to the Assurance Process and a number of optional steps to consider." See Infrastructure Transparency Initiative, [Guidance Note: 7. Designing an Assurance Process](#), vers. 1, (London: CoST, 2013), 1. As the MSI uses this hybrid approach and does not have prescribed minimum standards for the monitoring, we exclude it from the analysis in this report as it is not representative of most MSIs.
- 8 Of these three, the Ethical Trading Initiative relies on member self-reports, while the Global Coffee Platform and the Global Reporting Initiative do not monitor members' performance with their standards. The source data for this information is available from the spreadsheet "[MSI Trends Dataset](#)," which is available on our website and contains information current as of June 30, 2019.
- 9 See, e.g., "[Combating Sexual Harassment in the Garment Industry](#)," Human Rights Watch, February 12, 2019; A. Shen, "[Worker Voice without Worker Agency Fails Seafood Workers](#)," International Labor Rights Forum Blog, May 4, 2018; see also Genevieve LeBaron and Ellie Gore, "Gender and Forced Labour: Understanding the Links in Global Cocoa Supply Chains," *The Journal of Development Studies*, (2019): 17–18.
- 10 Richard Locke, Matthew Amengual, and Akshay Mangla, "Virtue Out of Necessity? Compliance, Commitment, and the Improvement of Labor Conditions in Global Supply Chains," *Politics and Society* 37, no. 3 (2009): 333–34.
- 11 Jem Bendell, "[In Whose Name? The Accountability of Corporate Social Responsibility](#)," *Development in Practice* 15, nos. 3 and 4 (2005): "In Whose Name?" 365–68.
- 12 Forest Stewardship Council, [Stakeholder Consultation for Forest Evaluations](#), ref. code FSC-STD-20-006, vers. 3.0, (Bonn: FSC, 2009); Rainforest Alliance, [Rules for Planning and Conducting Audits: Farms and Producer Groups Involved in Crop and Cattle Production](#), vers. 1, (New York: Rainforest Alliance, 2018).
- 13 See, e.g., Human Rights Watch, "Combating Sexual Harassment."
- 14 See, e.g., James Cockayne and Emily Speers Mears, [Private Military and Security Companies: A Framework for Regulation](#) (New York: IPI, 2009), 9; Robert Heron, Henrick Vistisen, and Kazuo Yamazaki, [Conducting Labour Inspection Visits: A Practical Guide](#) (Geneva: ILO, 1998), 10–11; Bendell, "In Whose Name?" 365–67. *The MSI Evaluation Tool* and *Essential Elements of MSI Design* identify the following as essential for effective MSI monitoring regimes to encourage compliance and accountability: conducting secure interviews with rights holders; consulting rights holders and other relevant stakeholders; engaging an unbiased evaluator with relevant training (e.g. related to the industry and potential human rights issues) as well as an understanding of the local context; and undertaking at least some unannounced site visits. MSI Integrity and the International Clinic for Human Rights at Harvard Law School, *MSI Evaluation Tool*, 29–32; MSI Integrity, *The Essential Elements*, 10, 12.
- 15 Genevieve LeBaron and Sharon Lister, [Ethical Audits and Supply Chains of Global Corporations](#) (Sheffield: SPERI, 2016), 3.
- 16 Good Weave requires that all audits be unannounced. Fairtrade International, the Marine Stewardship Council, and Social Accountability International all require at least some unannounced audits. The source data for this information is available from the spreadsheet "[MSI Trends Dataset](#)," which is available on our website and contains information current as of June 30, 2019.
- 17 The source data for this information is available from the spreadsheet "[MSI Trends Dataset](#)," which is available on our website and contains information current as of June 30, 2019.
- 18 See "[Unannounced SA8000 Audits](#)," Social Accountability International, accessed January 14, 2020.
- 19 Some MSIs require stakeholder consultation as part of an initial certification decision, but do not include that as a requirement for regular monitoring to maintain certification or membership.
- 20 Alliance for Water Stewardship, [AWS Certification Requirements](#), vers. 1.0 (North Berwick: AWS, 2015), 17.
- 21 Forest Stewardship Council, [Stakeholder Consultation Evaluation](#).
- 22 Interview 42, farm worker, Cameroon, June 6, 2017.
- 23 Interview 52, farm worker, Cameroon, June 6, 2017.
- 24 Interview 90, factory worker, Philippines, August 29, 2017.
- 25 Interview 51, farm worker, Cameroon, June 6, 2017.
- 26 Interview 70, factory worker, Philippines, August 16, 2017.

- 27 Interview 85, factory worker, Philippines, August 19, 2017.
- 28 Interview 76, factory worker, Philippines, August 16, 2017.
- 29 Interview 71, factory worker, Philippines, August 16, 2017.
- 30 Interview 72, factory worker, Philippines, August 16, 2017.
- 31 Interview 84, factory worker, Philippines, August 19, 2017.
- 32 "Core Commitments," Global Network Initiatives, accessed October 14, 2019, <https://globalnetworkinitiative.org/core-commitments/>.
- 33 "Why We're Leaving the Global Network Initiative," NYU Stern Center for Business and Human Rights, February 1, 2016, <https://bhr.stern.nyu.edu/blogs/why-were-leaving-the-gni>.
- 34 Global Network Initiative, *GNI Assessment Toolkit* (Washington, DC: GNI, 2018), 6.
- 35 Global Network Initiative, *GNI Assessment Toolkit*, 6, 8.
- 36 Global Network Initiative, *GNI Assessment Toolkit*, 8. According to information provided to MSI Integrity by GNI, there has only been one case to date in which a non-company GNI member recommended a case study that was not included in a report. GNI feedback to MSI Integrity, November 4, 2019, on file, citing Global Network Initiative, *Public Report on the Independent Assessment Process for Google, Microsoft, and Yahoo* (Washington, DC: GNI, 2014), 14.
- 37 Global Network Initiative, *GNI Assessment Toolkit*, 9–10.
- 38 Global Network Initiative, *GNI Assessment Toolkit*, 10.
- 39 Global Network Initiative, *GNI Assessment Toolkit*, 10.
- 40 Global Network Initiative, *GNI Assessment Toolkit*, 10.
- 41 Global Network Initiative, *GNI Assessment Toolkit*, 12.
- 42 Global Network Initiative, *GNI Assessment Toolkit*, 12.
- 43 See, e.g., Global Network Initiative, *Public Report*.
- 44 See, e.g., Scott R. Sanders, Michael R. Cope, and Elizabeth R. Pulsipher, "Do Factory Audits Improve International Labor Standards? An Examination of Voluntary Corporate Labor Regulations in Global Production Networks," *MDPI Social Sciences*, (May 30, 2018): 3; Noemi Sinkovics, Samia Ferdous Hoque, and Rudolf R. Sinkovics, "Rana Plaza Collapse Aftermath: Are CSR Compliance and Auditing Pressures Effective?" *Accounting, Auditing & Accountability Journal* 29, no. 4 (2016): 642–45; LeBaron and Lister, *Ethical Audits*, 1, 3–5; Opi Outhwaite and Olga Martin-Ortega, *Monitoring Human Rights in Global Supply Chains: Insights and Policy Recommendations for Civil Society, Global Brands and Academics*, BHRE Research Series Policy Paper no. 3, (London: University of Greenwich, School of Law, 2017), 3; Locke et al., "Virtue Out of Necessity?" 333–34.
- 45 "[Beyond Social Auditing: Background Materials and Analysis](#)," Business & Human Rights Resource Center, accessed January 15, 2020.
- 46 Sanders, Cope, and Pulsipher, "Do Factory Audits?" 5, 10, studying audits in Southeast Asia; Outhwaite and Martin-Ortega, *Monitoring Human Rights*, 2, interviews with labor rights and monitoring organizations; Genevieve LeBaron, *The Global Business of Forced Labor: Report of Findings* (Sheffield: SPERI, 2018), studying forced labor in tea and cocoa supply chains; Corporate Accountability Lab, *Empty Promises: The Failure of Corporate Social Responsibility Initiatives to Improve Farmer Incomes in the Ivorian Cocoa Sector* (Chicago: CAL, 2019).
- 47 "[Our Methodology](#)," Fair Labor Association, accessed January 15, 2020.
- 48 "[Our Impact on Workers](#)," Ethical Trading Initiative, accessed May 2, 2019.
- 49 Locke et al., "Virtue Out of Necessity?" 323.
- 50 Fair Labor Association, *Charter* (Washington, DC: FLA, 2014), 24, indicating that the initial level of monitoring will be 5% of the member company's "applicable facilities." "Applicable facilities" are those that are not *de minimus*. Fair Labor Association, *Charter*, 4. "De minimus facilities" are those in which the member company contracts for production for six months or less in any 24-month period or the member company accounts for 10% or less of the annual production. Fair Labor Association, *Charter*, 6.
- 51 Rainforest Alliance, *Rules for Planning*, 18; "The sample shall be the square root of the member farms included in the Farm Member List, of which 30% should be members evaluated in the previous audit."
- 52 LeBaron, *Global Business*, 44.
- 53 Clean Clothes Campaign, *Fig Leaf for Fashion: How Social Auditing Protects Brands and Fails Workers*, Amsterdam: CCC, 2019), 17–18, <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>.
- 54 Carolijn Terwindt and Amy Armstrong, "Oversight and Accountability in the Social Auditing Industry: The Role of Social Compliance Initiatives," *International Labour Review*, 4.
- 55 L. Bernstein and P. Scott, [Audit Requirements for Accredited Certification Bodies for the SA8000 Program](#), vers. 3.1 (New York: Social Accountability Accreditation Services, 2017), 77; Social Accountability International, *SA8000 Certification Costs*, accessed January 20, 2020.
- 56 See "[Accreditation Fees](#)," Social Accountability Accreditation Services, accessed January 20, 2020.
- 57 Bendell, "In Whose Name?" 366; Locke et al., "Virtue Out of Necessity?" 332–33.
- 58 Locke et al., "Virtue Out of Necessity?" 332–33; Clean Clothes Campaign, *Fig Leaf for Fashion*, 76–77.
- 59 Sinkovics et al., "Rana Plaza," 643; Niklas Egels-Zandén and Henrik Lindholm, "Do Codes of Conduct Improve Worker Rights in Supply Chains? A Study of Fair Wear Foundation," *Journal of Cleaner Production* 107 (November 16, 2015): 34–35.

- 60 International Organization Development, [Ethical Training Initiative External Evaluation Report](#) (Sheffield: IOD PARC, 2015), 17.
- 61 LeBaron and Lister, *Ethical Audits*, 3; Muhammad Azizul Islam, "[Tackling Modern Slavery: What Role Can Accountants Play?](#)" IFAC, February 12, 2018.
- 62 "[History](#)," Worldwide Responsible Accredited Production, accessed January 14, 2020.
- 63 "[WRAP's 12 Principles](#)," Worldwide Responsible Accredited Production, accessed January 14, 2019; "[Certification Process](#)," Worldwide Responsible Accredited Production, accessed July 31, 2019.
- 64 "[Monitor Information](#)," Worldwide Responsible Accredited Production, accessed January 14, 2020.
- 65 Worldwide Responsible Accredited Production, "Certification Process."
- 66 Interviews 70, 71, 76, factory workers, Philippines, August 16, 2017; Interviews 84 and 85, factory workers, Philippines, August 19, 2017.
- 67 Interviews 70, 72, 73, 74, 76, factory workers, Philippines, August 16, 2017; Interviews 82 and 85, factory workers, Philippines, August 19, 2017.
- 68 Interview 69, factory worker, Philippines, August 16, 2017.
- 69 Interviews 68, 69, 74, factory workers, Philippines, August 16, 2017.
- 70 Patty Pasion, "Cavite Workers Seek Gov't Intervention on Shut Down," *Rappler*, October 17, 2017, <https://www.rappler.com/nation/185474-cavite-workers-government-intervention-temporary-factory-shutdown>.
- 71 "<http://partidongmanggagawa2001.blogspot.com/2017/11/sein-together-union-officers-reinstated.html>," Partido Manggagawa, November 19, 2017.
- 72 Partido Manggagawa, "Sein Together"; S. Barrientos and S. Smith, "Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems," *Third World Quarterly*, 28, no. 4 (2007): 725.
- 73 Jem Bendell, [Towards Participatory Workplace Appraisal: Report from a Focus Group of Women Banana Workers](#), Occasional Paper, (New Academy of Business, 2001), 23.
- 74 Barrientos and Smith, "Do Workers Benefit," 725.
- 75 Terwindt and Armstrong, "Oversight and Accountability," 22–23.
- 76 Clean Clothes Campaign, *Fig Leaf for Fashion*, 37.
- 77 Bendell, *Workplace Appraisal*, 26.
- 78 Terwindt and Armstrong, "Oversight and Accountability," 22–23; Clean Clothes Campaign, *Fig Leaf for Fashion*, 93–94.
- 79 LeBaron and Lister, *Ethical Audits*, 1.
- 80 MSI Integrity, [Submission on EITI Validation Process](#) (Berkeley: MSI Integrity, 2015).
- 81 See Global Network Initiative, [GNI Assessment Toolkit](#); "Overview of Validation," Extractive Industries Transparency Initiative, accessed February 9, 2020.
- 82 MSI Integrity, *Submission on EITI Validation Process*, 3-4.
- 83 Dara O'Rourke, [Monitoring the Monitors: A Critique of PriceWaterhouseCoopers \(PwC\) Labor Monitoring](#) (Cambridge: MIT, 2000), 1: "Independent monitoring can play a positive role in improving factory conditions, but only if it is much more transparent and accountable, includes workers more fully, and can be verified by local NGOs and workers themselves."
- 84 Carolijn Terwindt and Gisela Burckhardt, "[Beyond Social Auditing](#)," Business & Human Rights Resource Center, accessed July 20, 2019.
- 85 See, e.g., Bassina Farbenblum, Laurie Berg, and Angela Kintominas, [Transformative Technology for Migrant Workers: Opportunities, Challenges, and Risks](#) (New York: Open Society, 2018); Lisa Rende Taylor and Elena Shih, "Worker Feedback Technologies and Combatting Modern Slavery in Global Supply Chains: Examining the Effectiveness of Remediation-Oriented and Due-Diligence-Oriented Technologies in Identifying and Addressing Forced Labour and Human Trafficking," *Journal of the British Academy* 7, sup. 1 (2019): 131–65.
- 86 Issara Institute, [What is "Worker Voice" in the Context of Global Supply Chains?](#) (Issara Institute, 2017), 1.
- 87 Bourée Lam, "[Cellphones Are Letting Companies Learn What Their Factories Are Really Like](#)," *The Atlantic*, February 1, 2016.
- 88 See Penelope Kyritsis and Mark Anner, "[New Buzzword, Same Problem: How 'Worker Voice' Initiatives Are Perpetuating the Shortcomings of Traditional Social Auditing](#)," Business & Human Rights Center, December 3, 2019.
- 89 See Kyritsis and Anner, "New Buzzword."
- 90 For example, the ICTI Ethical Toy Program has had a hotline for complaints where over 15,600 calls have been received in the last nine years. Details on what happened to the 1,000 complaints that the initiative investigated are not public. ICTI Ethical Toy Program, [Worker Helpline: Successfully Addressing Factory Worker Concerns](#), accessed November 10, 2019, 2.
- 91 Antoine Heuty, "[Is 'Worker Voice' Technology More Than Just Kabuki Theatre in the Struggle for Labour Rights?](#)" Business & Human Rights Center, April 26, 2019.
- 92 Worker Engagement Supported by Technology Principles, [White Paper: Realizing the Benefits of Worker Reporting](#) (WEST Principles, 2019).
- 93 Kyritsis and Anner, "New Buzzword."
- 94 Mark Anner, "CSR Participation Committees, Wildcat Strikes and the Sourcing Squeeze in Global Supply Chains," *British Journal of Industrial Relations* 56, no. 1 (2017): 6–7.
- 95 "[CAL Victory! Test Case Offers Solution for Global Worker Exploitation](#)," Corporate Accountability Lab, December 19, 2018.

- 96 [“Guide for Potential Signatories.”](#) Accord on Fire and Building Safety in Bangladesh, August 18, 2018.
- 97 Accord on Fire and Building Safety in Bangladesh, [2018 Accord on Fire and Building Safety in Bangladesh: May 2018](#), IndustriALL Global Union and UNI Global Union, (Amsterdam: The Accord, June 21, 2017), 3.
- 98 See, [“The Multi-Stakeholder Initiative Database.”](#) MSI integrity, accessed February 24, 2020.
- 99 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 100 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 101 MSI Integrity, *New Regulators*, 14.
- 102 For examples, see the source data on compliance processes, available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 103 See, for example, Lorenz Pfungen, [“Schweighofer Gets to Keep PEFC Certificate.”](#) trans. Susanne Höfler, Timber-online.net, October 6, 2015; [“PEFC: A Fig Leaf for Stolen Timber.”](#) Environmental Investigation Agency, June 5, 2017.
- 104 For example, discussions between civil society participants about whether to demand the suspension of countries in the Extractive Industries Transparency Initiative (EITI) reflected concerns that if the MSI suspended one country, then it ought to suspend all similar countries, which could shrink the membership of EITI, and lead to civil society in those countries losing the potential for international attention through EITI membership (see **Insight 2: Stakeholder Participation**). We are also familiar with a number of other confidential examples that we are open to discussing with researchers or others within the bounds of the confidentiality that they were discussed with us.
- 105 For examples, see the source data on compliance processes, available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 106 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 107 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 108 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 109 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 110 The source data for this information is available from the spreadsheet [“MSI Trends Dataset.”](#) which is available on our website and contains information current as of June 30, 2019.
- 111 [“Status of Azerbaijan.”](#) EITI, updated December 20, 2018.
- 112 See Dveke Rogan, ed., [The EITI Standard 2016](#) (Oslo, Norway: EITI International Secretariat, 2017), 32–38. See our recommendations: MSI Integrity and International Clinic for Human Rights at Harvard Law School, [2013 MSI Evaluation Report: Working Draft](#) (Berkeley: MSI Integrity and ICHR, 2013), 31. It should be noted, however, that the timelines set out in the new *EITI Standard* are extremely long, and there is still a lot of problematic ambiguity as to how the rules might be applied.
- 113 See the discussion in minutes of the EITI Board from June 2013 where civil society raises concerns about NGO laws in Azerbaijan and noted that the EITI chair had written to Azerbaijan regarding this. EITI, [Minutes](#), 23rd EITI Board Meeting, Sydney, Australia, May 22, 2013, (Oslo, Norway: EITI International Secretariat, 2013), 23–3. See also EITI, “Status of Azerbaijan.”
- 114 EITI, “Status of Azerbaijan.”
- 115 Rainforest Action Network, OPPIK, and International Labor Rights Forum, [The Human Cost of Conflict Palm Oil: Indofood: Pepsico’s Hidden Link to Worker Exploitation in Indonesia](#) (2016), 4, 38.
- 116 Rainforest Action Network, OPPIK, and International Labor Rights Forum, [The Human Cost of Conflict Palm Oil Revisited: How PepsiCo, Banks, and the Roundtable on Sustainable Palm Oil Perpetuate Indofood’s Worker Exploitation](#) (2017), 33.
- 117 Henry Barlow, [Henry Barlow to Benny Tjoeng, President Director, PT PP London Sumatra Tbk, November 2, 2018](#), letter, RSPO.
- 118 Muhammad Waras, [Muhammad Waras to Datuk Darrel Webber, CEO, RSPO, January 17, 2019](#), letter, PP PT London Sumatra Tbk.
- 119 Environmental Investigation Agency, [Stealing the Last Forest: Austria’s Largest Timber Company, Land Rights, and Corruption in Romania](#) (Washington, DC: EIA, 2015), 4.
- 120 Lorenz Pfungen, [“Schweighofer Gets to Keep PEFC Certificate.”](#) trans. Susanne Höfler, Timber-online.net, October 6, 2015.
- 121 [“Holzindustrie Schweighofer.”](#) Forest Stewardship Council, accessed February 7, 2020; see also Forest Stewardship Council, [WWF Germany vs. Holzindustrie Schweighofer—Case Summary](#) (Bonn, Germany: FSC, 2017).
- 122 Forest Stewardship Council, “Holzindustrie Schweighofer”; see also Forest Stewardship Council, *WWF Germany*.
- 123 See Forest Stewardship Council, “Holzindustrie Schweighofer.”
- 124 Pfungen, “Schweighofer.”; [“PEFC Dismisses Romanian Government Findings, Clears Austrian Company Despite Documented Illegalties.”](#) Environmental Investigation Agency, October 7, 2015.
- 125 Minister of the Environment, Water and Forest, Directorate of Communications [“Press Release.”](#) Government of Romania, trans. Google Translate, July 30, 2015.
- 126 AFL-CIO, *Responsibility Outsourced*.
- 127 AFL-CIO, *Responsibility Outsourced*.
- 128 AFL-CIO, [Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights](#), (Washington, DC: AFL-CIO, 2014).
- 129 [“Mitr Phol Land Grab.”](#) Inclusive Development International, accessed February 9, 2020.

- 130 "[Human Rights Complaint Filed to UK Government against Ethical Sugar Association Bonsucro](#)," Inclusive Development International, March 11, 2019.
- 131 "Mitr Phol Land Grab," Inclusive Development International.
- 132 Eang Vuthy, David Pred, and Nly Pilorge, [Eang Vuthy, David Pred, and Naly Pilorge to Complaints Manager, Bonsucro, February 5, 2016](#), letter, Equitable Cambodia, Inclusive Development International, and LICADHO.
- 133 "[Public Notification in the Matter of the Inclusive Development International \(IDI\), Equitable Cambodia \(EC\), and the Cambodian League for the Promotion and Defense of Human Rights \(LICADHO\) Complaint against Mitr Phol](#)," Bonsucro, December 21, 2018.
- 134 "Human Rights Complaint," Inclusive Development International.
- 135 "[IDI, EC, and LICADHO v. Bonsucro](#)," OECD Watch, accessed February 9, 2020.
- 136 "[TuK Indonesia vs. Roundtable on sustainable Palm Oil \(RSPO\)](#)," OECD Watch, accessed February 9, 2020.
- 137 A complete history of the complaint is available on RSPO's website: "[PT Mitra Austral Sejahtera \(a Subsidiary of Sime Darby Plantation Berhad\)—\(Respondent\), The Communities of Sanggau \(Kerunang & Entapang\), Transparansi untuk Keadilan \(TuK\)—\(Complainant\)](#)," Roundtable on Sustainable Palm Oil, accessed February 9, 2020.
- 138 "[SDP Units Sell Stake in PT MAS](#)," *The Star*, June 27, 2019; "[RSPO 15th Annual General Assembly \(GA15\) Summary Report and Voting Results](#)," Roundtable on Sustainable Palm Oil, November 30, 2018, showing approval of *Resolution GA15-6d*, discouraging RSPO members subject to complaints from avoiding their obligations by divestment or withdrawing their membership.
- 139 OECD Watch, "TuK Indonesia vs. Roundtable on Sustainable Palm Oil (RSPO)."
- 140 MSI Integrity, *The Essential Elements*.
- 141 TÜV Rheinland, [Alliance for Water Stewardship Assessment Report as per AWS Standard Version 1.0 for Suntory Products Limited Okudaisen Bunanomori Water Plant](#) (Cologne: TÜV Rheinland, 2018), 7.
- 142 SGS, [Audit Checklist—AWS Standard V1.0](#) (Geneva: SGS, 2018), 4. For example, on the requirement that members identify stakeholders and their water-related challenges, one merely indicated that this had been done, whereas the more detailed report described how the member had completed this task and listed the identified stakeholders.
- 143 "[Certified Organizations](#)," Social Accountability International, accessed January 9, 2020, linking to "<http://www.saasaccreditation.org/certifacilitieslist>," Social Accountability Accreditation Services, accessed January 9, 2020.
- 144 "[Resources](#)," Infrastructure Transparency Initiative, accessed August 22, 2019.



INSIGHT 5

Remedy

MSIs are not designed to provide rights holders with access to effective remedy





Remedy:

MSIs are not designed to provide rights holders with access to effective remedy

In this chapter: This chapter discusses whether MSIs provide access to remedy for rights holders who have suffered abuses by analyzing their grievance procedures against internationally recognized guidelines for effective grievance mechanisms.

Summary of our insights: MSIs do not provide access to effective remedies for victims of human rights violations. Many MSIs either do not have a grievance mechanism or, if one exists, they have not developed procedures that meet internationally accepted minimum practices or engender trust among rights holders. By failing to provide rights holders with a route to an effective grievance mechanism, MSIs are not only allowing governance gaps to persist, but are also failing to serve the needs of rights holders and to recognize that harmed rights holders ought to be a privileged stakeholder in human rights interventions.

Key findings and observations:

- **Almost a third of MSIs do not have a grievance mechanism, and therefore, do not provide individuals or communities with the ability to seek remedy for rights violations.** Most of those MSIs instead require that their members have a grievance mechanism where rights holders can file complaints, but do not set sufficient standards to ensure that those mechanisms are designed or functioning effectively to enable rights holders to seek remedies.
- **Nearly all of the MSI grievance mechanisms we studied fail to meet internationally recognized criteria for effective access to remedy.**
 - **Not accessible:** Nearly all MSIs lack adequate procedures to ensure rights holders know about and can use the complaint process. For example, only 10 MSIs provide complaint information online in a language other than English, and even fewer MSIs offer translation or require that their members publicize the existence of the MSI's grievance mechanism to rights holders.
 - **Not predictable:** Most mechanisms either do not set out a clear procedure and time frame for each stage of the complaints process, or clarify and provide transparency about possible outcomes.
 - **Not equitable:** Many grievance procedures are complex and confusing to understand, yet most MSIs place little emphasis on equitable access to information, advice and expertise. Only six MSIs formally offer any form of assistance to complainants, such as making an advocate available or assisting with complaint preparation.
 - **Not transparent:** Only seven out of the 27 MSIs with a grievance mechanism disclose specific outcomes of complaints received, and only four MSIs publish the overall number of complaints filed or resolved.
 - **Not rights-compatible:** Few MSIs appear to have the power or practice of providing meaningful remedies directly to rights holders. Only three MSIs have procedures that specifically require input from harmed rights holders when determining the appropriate remedy.
 - **Not a source of continuous learning:** Complaints from rights holders contain important information about an MSI's weaknesses, impacts, and areas of improvement. However, only eight MSIs have procedures requiring an analysis of complaints, and only four have published any form of analysis.
 - **MSI grievance mechanisms are not rights holder-centric:** The design of MSI grievance procedures indicate most MSIs do not see their role as championing access to effective remedy and do not view harmed rights holders as a privileged stakeholder.
 - **MSIs referenced:** We analyzed the grievance mechanism procedures of all 40 MSIs listed in Appendix 1.

Background: Context and Approach

The “right to an effective remedy” is universally recognized under international human rights law.¹ Children who are forced into labor, communities whose land is logged without permission, and workers who experience illegal discrimination all have the right to a remedy that addresses the wrongs they experienced.² Without a remedy, the notion of “rights” is meaningless in practice, which is why the UN Working Group on Business and Human Rights recently established an “all roads to remedy” approach that it says “should inform the action of all relevant stakeholders to realize effective remedies for those affected by business-related human rights abuses.”³

Ensuring that victims of corporate human rights abuses are provided with effective remedies is seen as central to the notion of “corporate accountability,” and is explicitly recognized in the context of corporate human rights abuses.⁴ In some situations, victims of human rights abuses can hold corporations accountable by suing them in court. Indeed, the *United Nations Guiding Principles on Business and Human Rights* (UNGPs), which serve as the leading international framework for corporations’ responsibility to respect human rights, notes that governments have a legal duty to ensure that when “abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.”⁵ Yet some victims face multiple barriers that render them legally or financially unable to access a remedy through state-based systems.⁶ Given the transnational nature of many corporate abuses and the power imbalances between corporations and individuals, sometimes courts are not feasible avenues for victims to seek redress. This might be due to a lack of jurisdiction, inadequate resources, corruption, fear of reprisal, or other issues. This inability of rights holders to rely on states for access to remedy is often the case where MSIs operate, as many MSIs emerged in response to government failures to protect individuals against corporate abuses or provide remedy (see **Insight 1: Influence**).

Recognizing that rights holders are often unable to obtain remedy through state-based systems, governments and intergovernmental bodies have looked to MSIs to play a role in providing rights holders with access to remedy.⁷ The UNGPs specifically call on MSIs “to ensure that effective grievance mechanisms are available” and warn that MSIs’ legitimacy “may be put at risk” if they do not provide access to effective grievance mechanisms.⁸ They note that “the remedial functions of collaborative initiatives” can supplement state-based mechanisms for access to remedy.⁹

“The UNGPs specifically call on MSIs ‘to ensure that effective grievance mechanisms are available’ . . .”

Generally speaking, a grievance mechanism is a formal procedure to accept, assess, and resolve complaints by or on behalf of affected individuals or groups.¹⁰ The way they do this can vary widely, ranging from mediation to independent investigations resulting in fact-finding and a formal decision. For example, an MSI could facilitate access to an existing state-based non-judicial grievance mechanism, such as the National Contact Points established under the Organization for Economic Co-operation and Development (OECD) *Guidelines for Multinational Enterprises*, or it could establish its own mechanism.¹¹ Alternatively, in addition to or instead of having its own grievance mechanism, an MSI may require that its members have one, which may be referred to as an operational-level grievance mechanism (OGM). In any of these scenarios, the grievance mechanism should not interfere with, prevent access to, or supplant state-based mechanisms for accountability and redress.

Effective MSI grievance mechanisms ideally serve several functions:

- **Provide access to a remedy for harms or rights violations suffered by the rights holders that the MSI seeks to benefit or protect.** Many MSIs operate in locations where victims of human rights abuses may have limited opportunities to seek a remedy, making them the only

meaningful avenue for a community or individual to obtain redress for harms.

- **Diagnose ongoing violations and hold individual MSI members accountable when they cause harm.** Grievance mechanisms provide a means to track and measure violations over time, providing a better understanding of the scale of a problem and allowing an MSI to gauge its own effectiveness at detecting abuses. This is particularly important because MSI monitoring systems often have flaws that undermine their ability to protect rights holders from abuse. (See **Insight 4: Monitoring & Compliance** for more information on these shortcomings.)
- **Demonstrate the willingness of MSIs to advance the interests of the communities that they seek to benefit or protect.** More generally, an effective grievance mechanism shows the willingness of an MSI to ensure that its members—however large or powerful—are accountable to, and provide remedies for, individuals and communities in the event their rights are violated.

The functions will not be fulfilled and the benefits obtained, however, if an MSI simply provides access to *any* grievance mechanism. Rather, the UNGPs make clear that MSIs “should ensure that *effective* grievance mechanisms are available.”¹² International norms also recognize that effectiveness has both “procedural and substantive considerations,”¹³ meaning that it “should be effective in terms of both process and outcome.”¹⁴ The process, for example, must provide timely, affordable, and meaningful access to a procedure that is capable of addressing the violation, and the outcome must repair the harm of the violation.¹⁵ Ultimately, the question of whether harms against rights holders are, or could be, remediated by a remedial process is the central inquiry when examining the adequacy and effectiveness of remedial processes.¹⁶

Despite the expectation that MSIs will assist in providing rights holders with access to remedy, we have observed that MSIs have grievance processes that rarely meet even minimal criteria for effective grievance mechanisms. This chapter illustrates this trend through an analysis of the grievance mechanisms of the 40 MSIs included in this report, conducted based on the mechanisms that the MSIs had in June 2019.¹⁷ We do not focus on the OGMs of MSIs’ members, except to determine whether MSIs require that their members have a mechanism in place, nor do we examine ad hoc, informal, or other types of complaint processes that do not have established procedures. We also draw from our interviews and workshops with rights holders in 2017 in Cameroon, the Philippines, and Nigeria regarding their experiences with MSIs to highlight their perspectives on grievance mechanisms and some of the obstacles that can inhibit their access to remedy.

1 Many MSIs do not have a grievance mechanism, nor do they require that their individual members provide an *effective* grievance mechanism

Many of the 40 standard-setting MSIs in our MSI Database do not facilitate any effective access to remedy for rights holders when an MSI’s human rights standards have been violated. As shown in Table 5.1, 13 MSIs do not have any grievance mechanism of their own. Nine of these MSIs instead require that their members provide an OGM, while the remaining four have neither a grievance mechanism, nor any requirement that their members have one.

TABLE 5.1. MSIs with grievance mechanisms or that require members to have a mechanism

MSIs that have a grievance mechanism	MSIs without a grievance mechanism that require members to have one	MSIs without a grievance mechanism that do not require members to have one
<ul style="list-style-type: none"> • Alliance for Water Stewardship • Better Cotton Initiative • Bonsucro • Equitable Origin • Ethical Trading Initiative • Extractive Industries Transparency Initiative • Fair Labor Association • Fair Stone • Fair Wear Foundation • Fairtrade International Food Alliance • Forest Stewardship Council • GoodWeave International • ICTI Ethical Toy Initiative • Infrastructure Transparency Initiative • International Code of Conduct for Private Security Providers • International Sustainability and Carbon Certification • Marine Stewardship Council • Rainforest Alliance • Roundtable on Responsible Soy • Roundtable on Sustainable Biomaterial • Roundtable on Sustainable Palm Oil • Social Accountability International • Sustainable Forestry Initiative • UN Global Compact • UTZ • Voluntary Principles on Security and Human Rights 	<ul style="list-style-type: none"> • Alliance for Responsible Mining • Equitable Food Initiative • Florverde Sustainable Flowers • Global Coffee Platform • Global Network Initiative • HydropowerSustainability Assessment Protocol • Initiative for Responsible Mining Assurance • Program for the Endorsement of Forest Certification • Worldwide Responsible Accredited Production 	<ul style="list-style-type: none"> • Better Biomass • Diamond Development Initiative • Global Reporting Initiative • Global Sustainable Tourism Council

Source: The source data for this information is available from the “MSI Trends Dataset,” which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.

However, all but one of the nine MSIs without grievance mechanisms of their own—that instead require that their members have an operational grievance mechanism—do not establish clear guidelines for the quality of those mechanisms that ensures they comply with the UNGPs’ minimum standards for their effectiveness. This failure to oversee the quality of the mechanisms means that individual members may have an ineffective framework. Ineffective grievance mechanisms risk causing more harm than good by exposing individuals who have survived abuses to further trauma or economic burdens as a result of protracted or unjust processes that frustrate access to remedy. As the UNGPs note, “poorly designed . . . grievance mechanisms can risk compounding a sense of grievance amongst affected stakeholders by heightening their sense of disempowerment and disrespect by the process.”¹⁸

Yet, eight of these nine MSIs not only fail to require compliance with the UNGPs, but often establish few requirements at all. In particular:

- The Alliance for Responsible Mining only requires that “[a] grievance procedure for human rights and environment must be in place, which includes a due diligence process.”¹⁹ However, it does require members to notify it about complaints so it can “follow up,” and the initiative reserves the right to set up a grievance mechanism for cases in which it perceives there is “real risk” for rights holders in using the regular mechanism.²⁰
- The Equitable Food Initiative requires that there is an “effective dispute settlement mechanism.”²¹ However, the criteria for assessing the effectiveness of the mechanism are limited to requiring that it allows for decisions to be appealed (without specifying to where, or any conditions for effective appeals) and prohibiting workers from waiving their legal rights.
- Florverde Sustainable Flowers only requires “a documented procedure” to handle and manage the complaints and claims of interested parties, that “demonstrates that effective action has been taken in order to resolve and respond to the complaints and claims received.”²²
- The Global Coffee Platform *Baseline Common Code* only requires that “[p]olicy and procedures include grievance mechanisms to secure equal rights exist and are communicated within the Producing Entity,” and that “efforts have been made in order to explain in further detail the procedures to [vulnerable groups].”²³
- Global Network Initiative (GNI) requires that members “make it possible for grievances about issues related to freedom of expression and privacy to be communicated to the company for consideration and, if appropriate, direct remediation.”²⁴ It sets out that “*the grievance mechanisms should be designed in accordance with the effectiveness criteria set out in principle 31 of the UN Guiding Principles on Business and Human Rights.*” However, as this is framed as “application guidance,” it is not mandatory.²⁵
- The Hydropower Sustainability Assessment Protocol requires an “appropriate grievance mechanism,” but does not specify what constitutes an “appropriate” mechanism.²⁶
- The Program for the Endorsement of Forest Certification standards only requires that “appropriate mechanisms shall be in place for resolving complaints and disputes.”²⁷
- The World Responsible Accredited Production standard inquires if there is a “grievance mechanism known to all workers,” if “there are any penalties associated with using the grievance mechanism,” and asks for “reference numbers to any evidence of the grievance mechanism being used.”²⁸

This is not because establishing requirements and guidance is difficult. The minimum expectations set out by the UNGPs have been established since 2012, well before all the nine MSIs published their standards. Yet, the Initiative for Responsible Mining Assurance is the only one of these nine MSIs that requires that its members’ grievance mechanisms must comply with the effectiveness criteria in the UNGPs (which we explore further in this chapter).²⁹ Indeed, the initiative goes further than the UNGPs criteria by adding requirements relating to confidentiality, providing marginalized and vulnerable

groups with assistance, and other issues.³⁰

The lack of guidance for, and wide discretion left to, companies in establishing their own OGMs—that is, mechanisms established at the company or project level—is concerning because many existing OGMs have been found to be ineffective and contributed to the grievances experienced by rights holders.³¹ Indeed, the International Commission of Jurists (ICJ) recently undertook a research project into OGMs because “[the] people the mechanisms were meant to help have been unaware of their very existence, the procedures have been unfair or unclear and outcomes have been inadequate for the kind of harm experienced.”³² Their study found that “[t]here are significant shortcomings in the way certain [OGMs] operate which in many instances exacerbate the existing imbalance of power between the parties to the dispute,”³³ and that, “[i]n practice, most grievance mechanisms used by companies to redress abuses need major improvements in all respects.”³⁴

Thus, without ensuring that their members’ mechanisms are effective and rights-consistent, these MSIs run a real risk that rights holders do not have any access to effective remedy. Indeed, even with guidance, in the absence of the ability of rights holders to appeal decisions or bring unsatisfactorily resolved complaints to the MSI, violations of an MSI’s standards may continue unresolved or without the MSI’s awareness. This situation is highlighted in Spotlight 5.2.

SPOTLIGHT 5.1. Global Network Initiative: Company-level grievance procedures vary widely in quality

GNI formed in 2008 to provide guidance “to the ICT industry on how to respect, protect, and advance user rights to freedom of expression and privacy, including when faced with government demands for censorship and disclosure of user’s personal information.”³⁵ One of the key events that led to its formation was the disclosure that a Yahoo! subsidiary shared information with the Chinese government that led to the arrest and imprisonment of Chinese journalist Shi Tao; it marked a “tipping point” for public concern over risks of technology companies’ complicity in human rights abuses.³⁶

Despite public promises to develop a complaint mechanism since 2010,³⁷ GNI does not have a grievance mechanism that allows individuals to seek a remedy for the human rights violations that it formed to address. While creating a mechanism to handle every privacy or freedom of expression issue would be a large undertaking, the initiative could develop a mechanism that focuses more narrowly on the specific emergency circumstances that prompted its formation: e.g., when individuals allege they have experienced arrest, imprisonment, or torture as a result of technology companies’ failure to respect privacy or freedom of expression (see **Insight 1: Influence**).

Instead, GNI only requires that its member companies have an operational-level grievance mechanism to receive grievances filed by their users,³⁸ and if GNI receives any complaints it refers them to its members.³⁹ The initiative’s assessment process verifies whether its members have a grievance mechanism, but it does not systematically review how member companies handle these grievances or examine rights holders’ perspectives on how their complaints were handled. Instead, the member assessment entails an outside evaluator review of select case studies.⁴⁰ Concerns about the adequacy of that audit and review process are detailed in Spotlight 4.2 in **Insight 4: Monitoring & Compliance**.

This lack of oversight perhaps explains the wide variability in GNI members' grievance mechanisms. In a recent assessment of GNI members' grievance mechanisms by Ranking Digital Rights Corporate Accountability Index, members Telefónica and Vodafone ranked highest for providing a clear and effective grievance mechanism, while members Google and Facebook were among the lowest scorers; Facebook's grievance and remedy mechanisms were among the weakest of any company studied.⁴¹ Importantly, the lack of oversight also leaves open the possibility that rights holders are experiencing abuses by GNI members, yet are not able to access an effective remedy.

SPOTLIGHT 5.2. Worldwide Responsible Accredited Production: Operational-level grievance mechanism failing to resolve workers' complaints

The American Apparel Manufacturers Association, an industry association, formed Worldwide Responsible Accredited Production (WRAP) in 2000 to address labor abuses in the textile industry. It monitors individual factory sites for compliance with a set of responsible labor practices and issues three levels of certification—platinum, gold, or silver. WRAP does not have a grievance mechanism, but instead requires that its certified facilities have one. Its assessment of this criterion asks if the facility has a grievance mechanism, if it is known to all workers, and for “reference numbers to any evidence” that workers use the mechanism.⁴²

In 2017, MSI Integrity staff conducted field research on rights holder experiences with MSIs, which included interviews with 20 workers at a WRAP-certified factory in the Philippines about their working conditions and knowledge of or interaction with WRAP. Half of the workers indicated that the factory's OGM failed to provide any resolution for complaints that they had.⁴³ Workers said that they appointed co-workers to serve on a Labor Management Committee, which accepted complaints, but alleged that nothing was done in response to their grievances. The Committee members also noted this as a problem. They told us:

We submit a list of problems from the departments and then the management will approve or not. That's the limitation, the final decision is with management. . . . We get caught in between, because the workers are mad at us because nothing is happening, and the management is mad at us. . . . It should be a neutral party to decide—outside the company, to decide. Should be someone who understands the issues and the laws.⁴⁴

Management approaches me. We tell them our problems, but they haven't responded adequately. The people elected me, put their trust in me, management listens but they don't do anything.⁴⁵

The result was that these workers' complaints were never resolved or brought to the attention of the MSI. This illustrates that when an MSI does not offer its own grievance mechanism, or another way for rights holders to directly appeal to or raise grievances with it, an initiative loses a key means of detecting whether their members are failing to resolve complaints as required by their standards. It also means that potential breaches of the MSI's standards may persist undetected by the MSI.

2 Nearly all MSI grievance mechanisms fail to meet the minimum internationally recognized criteria for access to effective remedy

There is a growing body of international guidance about what makes a grievance mechanism effective. This emanates from the UNGPs, which set out minimum general effectiveness criteria for grievance mechanisms.⁴⁶ Specifically, they provide that an effective grievance mechanism is one that is accessible, equitable, legitimate, predictable, transparent, a source of continuous learning, and rights-compatible.⁴⁷ These principles serve as a floor—not a ceiling—of what an effective grievance mechanism must provide.⁴⁸ Later efforts to further develop and apply those criteria in practice—such as reports by ICJ and the Office of the United Nations High Commissioner for Human Rights—recognize that these mechanisms “should be at the service of rights holders, who should be consulted meaningfully in creating, designing, reforming and operating such mechanisms.”⁴⁹ The centrality of harmed rights holders has, as explained further in this chapter, become the touchstone of understanding whether a remedy or remedial process is effective. Ultimately, if harmed rights holders are unable to access, utilize, or feel that their harms were remediated by a grievance mechanism, then it is not an effective remedial mechanism.

“Ultimately, if harmed rights holders are unable to access, utilize, or feel that their harms were remediated by a grievance mechanism, then it is not an effective remedial mechanism.”

Despite the fact that governments and intergovernmental bodies have looked to grievance mechanisms as a means to improve access to remedy, their procedures and processes are inadequate to fulfill this function.⁵⁰ Applying the UNGPs’ effectiveness criteria to 27 MSIs with grievance mechanisms reveals that nearly all of them have major procedural flaws, and ultimately, fail to meet those criteria. Given that the criteria are minimum requirements, and much work has been done to build on them since their introduction in 2011, MSIs are falling well short of playing a meaningful role in providing access to remedy. These shortcomings compromise MSIs’ effectiveness as human rights accountability tools and illustrate another critical way in which MSIs are failing to serve the needs of rights holders. Each criterion is explored in detail in the discussion that follows.

A. Accessibility: Lack of procedures to ensure rights holders are aware of grievance mechanisms and have the ability to file complaints

An effective grievance mechanism must be accessible from the perspective of its intended users.⁵¹ The UNGPs advise that accessibility requires consideration of the barriers that affected stakeholders may face, such as “language, literacy, costs, physical location and fears of reprisal”—all of which can hinder a rights holder’s ability to file a complaint.⁵² In addition, our research has identified the following specific elements as essential for an effective grievance mechanism: requiring that MSI members make information about the MSI grievance mechanism available to the public in languages widely spoken by affected populations, providing multiple formats for complaint filing (phone, mail, internet), and allowing a complainant to remain anonymous from the subject of the complaint.⁵³

Nearly all of the MSI grievance mechanisms we reviewed, however, do not meet these minimum standards. Three of the 27 MSIs we reviewed have grievance mechanisms that only allow complaints that are brought by their members.⁵⁴ The other grievance mechanisms allow complaints from third parties, including rights holders, but pose multiple barriers to access, as reflected in Table 5.2.

TABLE 5.2. MSI grievance mechanisms: Procedural barriers to right holders

We exclude the grievance mechanisms of Better Cotton Initiative, Ethical Trading Initiative, and the Voluntary Principles on Security and Human Rights from this table, as these MSIs do not allow third-parties to file complaints in their mechanisms. This creates a significant procedural barrier for rights holders as they are directly barred from filing complaints.

	Require that members share information on MSI grievance mechanism	Complaint information available in language other than English	Translation service offered	Allow verbal complaints	Explicitly guarantee anonymity to the complainant if requested
Bonsucro	No.	No.	No.	No.	No.
Equitable Origin	No.	No.	Yes.	No.	Yes.
Extractive Industries Transparency Initiative	No.	No.	No.	No.	No.
Fair Labor Association	No.	Yes.	No.	No.	No.
Fair Stone	No.	No.	No.	No.	No.
Fair Wear Foundation	Yes.	Yes.	Yes.*	Yes.	Yes.
Fairtrade International	No.	No.	No.	No.	No.
Food Alliance	No.	No.	No.	No.	No.
Forest Stewardship Council	No.	Yes.	No.	No.	No.
GoodWeave International	No.	No.	No.	No.	No.
ICTI Ethical Toy Initiative	Yes.	Yes.	Yes.*	Yes.	Yes.
Infrastructure Transparency Initiative	Yes.	No.	No.	Yes.	Yes.
International Code of Conduct for Private Security Providers	No.	Yes.	No.	Yes.	Yes.
International Sustainability and Carbon Certification	No.	No.	No.	No.	Yes.
Marine Stewardship Council	Yes.	No.	Yes.	No.	No.
Rainforest Alliance	Yes.	Yes.	No.	No.	Yes.
Roundtable on Responsible Soy	No.	No.	No.	No.	No.

	Require that members share information on MSI grievance mechanism	Complaint information available in language other than English	Translation service offered	Allow verbal complaints	Explicitly guarantee anonymity to the complainant if requested
Roundtable on Sustainable Biomaterials	No.	No.	No.	No.	Yes.
Roundtable on Sustainable Palm Oil	Yes.**	Yes.	Yes.	No.	Yes.
Social Accountability International	No.	Yes.	No.	No.	Yes.
Sustainable Forestry Initiative	No.	No.	No.	No.	No.
UN Global Compact	No.	Yes.	No.	No.	No.
UTZ Certified	No.	Yes.	No.	No.	No.
TOTAL (of 24)	6	10	6	5	12

*Fair Wear Foundation (FWF) and the ICTI Ethical Toy Initiative do not offer translation per se, but use local complaint handlers to take verbal complaints.

**The Roundtable on Sustainable Palm Oil's (RSPO) Dispute Settlement Facility (DSF) requires that RSPO itself "establish a program to enable RSPO members, local stakeholders, and other parties' awareness and understanding of how to use the DSF," rather than place the obligation on members.⁵⁵

Source: The source data for this information is available from the "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets and contains information current as at June 30, 2019.

In addition to the issues raised in Table 5.2, cost can also undermine accessibility. For example, in the past, the Common Code for the Coffee Community (4C), which has since become the Global Coffee Platform, charged complainants a fee of €1,000 (approximately US\$1,050) for filing a complaint. In addition, the losing party was required to cover the fee for the mediators and 4C's legal counsel, which was €3,000 per half-day of mediation. Although complainants could apply to have the fee waived, it illustrates the extent to which an MSI can impose barriers that deter rights holders from accessing a remedy.

(i) Lack of procedures to promote awareness of the grievance mechanism

A grievance mechanism is only effective to the extent that its intended users know that it exists. Yet, as Table 5.2 shows, only 6 of the 24 MSIs with a grievance mechanism open to complaints from rights holders explicitly require potential complainants be given information about the complaint process.

While it was beyond the scope and resource constraints of this report to assess the degree to which rights holders are aware that MSIs' grievance mechanisms exist, or to analyze the awareness-raising efforts by all MSIs for such mechanisms, our earlier work raises important questions about whether and how MSIs raise awareness around their grievance mechanisms. For example, during our research into rights holders' perspectives of MSIs in 2017, four of the six initiatives we included in our research had initiative-level grievance mechanisms: Fairtrade International, Fair Labor Association (FLA), Forest Stewardship Council (FSC), and UTZ. However, **Fairtrade was the only initiative whose affected community members were aware of their ability to file a grievance.**⁵⁶ Although two of

the four initiatives (Fairtrade and FLA) require certified sites to maintain OGMs and inform affected communities about them, none of the MSIs require suppliers to share information to community members about their respective initiative-level mechanisms.⁵⁷ Nor did any have local contact points, telephone hotlines, or other localized avenues for information about the mechanisms. Instead, they seemed to rely primarily on the website as the way for community members to file complaints.

Our assessment was that rights holders knew about the Fairtrade grievance mechanism because the initiative is designed in such a way that the MSI engages with the community with respect to how the Fairtrade premium is invested. By comparison, the other MSIs do not necessarily have any direct relationships with the communities in which they operate, and the rights holders we met with had not perused an MSI's website and therefore were not aware of the mechanisms.

All of the MSIs in our MSI Database with grievance mechanisms use their websites to provide information on how to submit complaints. While it is unclear how many MSIs rely solely on their websites to inform rights holders about their grievance mechanisms, as a preliminary matter, it bears highlighting that raising awareness through websites alone would exclude potential complainants who do not have access to the internet. This is a real concern given that over four billion people—more than half of the global population—remain offline, and the largest offline populations are in China, Pakistan, and Bangladesh, where many supply-chain MSIs are active.⁵⁸ Women are overrepresented in the offline population as are people who are rural, low income, elderly, or illiterate.⁵⁹ Few MSIs outlined the steps they took to ensure rights holders were aware of their grievance mechanism, although a good example of an MSI taking steps to promote awareness is included in Spotlight 5.3.

Even if we assume that potential complainants have access to MSI websites, we have observed that it is often difficult to find information on MSI websites about how to file a complaint. Only 11 of the MSIs that allow third party complaints link to complaint information directly through their homepage or a “contact us” page.⁶⁰ Others posted links to grievance mechanism information under vague sections of their websites, such as:

- The “Safeguards” section, located via a dropdown menu entitled “Transparency”;⁶¹
- The “Downloads” or the “Documents” sections;⁶² and
- The “Verification” section, located via a “What We Do” dropdown menu.⁶³

Thus, even in situations where individuals have internet access and a sufficient data connection to visit an MSI's website, the site itself obscures information behind terms that may be particularly difficult for people with limited knowledge of English or limited digital literacy to navigate.

While it is possible that some MSIs have dedicated outreach practices that go beyond relying on their internet portals, we encourage further study and consideration into whether rights holders are aware of MSIs' grievance mechanisms, and whether MSIs are overcoming barriers to access for particularly vulnerable workers and communities. To that end, we note that, per the discussion in Part 2.E., only three MSIs have publicly reported receiving more than 20 complaints. While not a perfect measure, given that many MSIs cover thousands of rights holders, the low numbers of cases could be an indicator of lack of awareness of the initiative's mechanism. This, too, is worth further exploration.

(ii) Lack of procedures to address language or literacy barriers

The UNGPs specifically note that literacy and language barriers may impede access to remedy.⁶⁴ Despite this, most MSIs with grievance mechanisms require written complaints, do not provide complaint information in multiple languages, and do not offer translation services. As Table 5.2 shows, nearly all MSI grievance mechanisms open to complaints directly from rights holders require aggrieved parties to file complaints in writing—either by mail, email, or through an online form. Only five MSIs explicitly

allow verbal complaints. This insistence on written complaints makes it impossible for individuals with limited internet access or limited to no English skills to file grievances.

Moreover, only 10 out of the 24 MSIs with grievance mechanisms open to complaints from rights holders provide complaint information online in a language other than English. Only six MSIs explicitly offer translation services or employ a local complaint handler to take complaints.

This reliance on English is inappropriate in light of the global reach of many MSIs. Bonsucro, for example, explicitly requires that complainants submit complaints in English, despite the fact that it certifies in more than 40 countries.⁶⁵ Similarly, the Roundtable on Sustainable Biomaterials provides information online only in English, but certifies entities in 22 countries, only 12 of which have English as an official language.⁶⁶ Fair Stone provides information solely in English and German despite the fact that its focus includes supply chains in China, Vietnam, and India.⁶⁷ The International Sustainability and Carbon Certification provides information only in English, but has issued certificates in more than 100 countries.⁶⁸

“Only five MSIs explicitly allow verbal complaints. This insistence on written complaints makes it impossible for individuals with limited internet access or limited to no English skills to file grievances.”

(iii) Lack of explicit guarantees of complainant confidentiality

Many potential complainants and their allies may fear and face serious risks of retaliation if they file complaints with an MSI. Threats and violence against human rights defenders have been on the rise.⁶⁹ In addition, many MSIs address labor issues where the risk of employment termination is high. Thus, the UN Working Group on Business and Human Rights has recognized the need for grievance mechanisms to ensure that complainants do not face reprisals for raising complaints, noting, “Freedom from fear of victimization in seeking remedies is an integral component of access to effective remedies.”⁷⁰

“... half of the MSI grievance processes that accept complaints from rights holders fail to prominently state that a complainant may choose to remain anonymous to the subject of the complaint.”

Despite this, half of the MSI grievance processes that accept complaints from rights holders fail to prominently state that a complainant may choose to remain anonymous to the subject of the complaint.⁷¹ In contrast, FLA’s complaint form states in large bold letters that the information will not be shared with factory management.⁷² Similarly, FWF’s procedure also directs the local complaint handler to discuss potential adverse impacts and retaliation risks with the complainant, and form a mitigation plan if applicable.⁷³ As seen in Spotlight 5.3, we have heard from rights holders about their fears of retaliation and their strong need for measures, such as complaint confidentiality, that address these fears. By failing to design grievance mechanisms with these measures in place, MSIs are failing to serve the needs of rights holders, not only from a theoretical perspective, but also from the articulated perspective of rights holders on the ground.

SPOTLIGHT 5.3. Rights holder voices: Fear of retaliation forecloses complaints

Our 2017 interviews with rights holders directly affected by MSIs revealed how fear of retaliation can prevent them from filing complaints. Indigenous villagers residing near a forest concession, workers at factories and farms, and their allies made the following comments:

We fear that they will have a “hot eye” on us if we file a complaint, they will watch our every move. One small mistake [after you’ve filed a complaint], and you will be given a disciplinary action. Three disciplinary actions and then you are fired.⁷⁴ I would like to report complaints over email. . . . But the factory would be angry. We should [be able to] remain anonymous.⁷⁵ We want to protect the rights of communities, but at what cost? Reporting issues comes at huge personal risk.⁷⁶

[D]enouncing misdeeds of companies exposes the community leader [who does not have protections against retaliation]. There is a need for such protection. . . . You can be arrested for just entering the [forest] concession. There is no legal protection. It would be ideal if the community leader was able to directly inform the company of problems, but with proper legal protection.⁷⁷ We need a neutral person who we can bring our problems to directly. . . . Because now, if I complain, I would be afraid.⁷⁸ No one would take the risk to call [a complaint system]. If you called and complained, they may find out and fire you.⁷⁹

These views were also echoed at a workshop MSI staff conducted with rights holders affected by UTZ and the Voluntary Principles on Security and Human Rights in Nigeria. There participants reported that technology requirements, language barriers, and lack of sufficient complainant protections made grievance mechanisms inaccessible.⁸⁰

B. Equitability: Lack of procedures to address power imbalances between complainants and companies

Even if a rights holder is able to overcome all of the barriers that have been identified in the preceding sections—such as lack of awareness of a mechanism or inability to access it—and file a complaint, an effective grievance mechanism still needs to ensure that the process for handling the complaint is “equitable.”⁸¹ Under the UNGPs, a grievance mechanism is equitable if it seeks to “ensure that aggrieved parties have reasonable access to sources of information, advice, and expertise necessary to engage in a grievance process on fair, informed, and respectful terms.”⁸²

However, the majority of MSI grievance mechanisms we studied that are open to rights holders fall far short of this principle. Out of the 24 MSI grievance procedures open to complaints from rights holders, only six provide for any form of assistance to complainants.⁸³ This is despite the fact that many of the MSI grievance procedures are confusing, vague, or unduly complex. In researching and analyzing MSI grievance mechanisms for this report, MSI Integrity staff, who are all lawyers, found it difficult to understand the procedures of many MSIs or to determine where complaints should be filed. For example:

- FSC requires that complaints concerning member compliance go to the monitoring entity, but then states that complaints regarding its “Policy for the Association of Organizations” must

follow a separate procedure, without explaining the distinction or role of that policy;⁸⁴

- The Fair Stone procedure states that “any stakeholder” can lodge a complaint against any “entity part of the Fair Stone supply chain network about its compliance with the requirements,” but also states that complaints against “certified entities” must “be dealt with by the respective complaints and appeals procedures put in place by the auditing companies;”⁸⁵
- The Marine Stewardship Council complaints procedure states that complaints about audits, assessments, and certification decisions must go to the monitoring entity, but notes that it accepts complaints regarding the “management” of the certification program.⁸⁶ It also requires “appropriate objective justification and evidence to substantiate any claim”;⁸⁷ and
- The Roundtable on Responsible Soy requires that complaints include “[d]etails and background on [the] complainant, including information pertinent to demonstrate legitimacy as [a] legal entity and also on issues raised.”⁸⁸

Without any assistance to provide guidance, such confusing language may discourage complainants from filing a complaint.⁸⁹ Other barriers may undermine complainants’ ability to fairly represent their allegations. For example, five of the MSIs we studied require that complainants find and download a lengthy policy document for guidance on how to file and what to include.⁹⁰ At least one other MSI requires that complainants identify the specific provision in the standard that a member violated.⁹¹ The standards, however, are often long and complex documents, and may not be readily available to complainants. In addition, written submission requirements eliminate any initial opportunity for the complainant to talk to someone and clarify the basis for his or her allegations.

SPOTLIGHT 5.4. The Fair Wear Foundation: Demonstrating that MSIs can design grievance mechanisms that meet the minimum criteria for effectiveness

The FWF formed to improve wages and working conditions in the garment industry. Its corporate members are clothing brands that commit to upholding a code of labor standards at the factories of their suppliers.⁹²

The FWF’s complaint procedure is unique among the MSIs that we reviewed in that its design reflects many good practices and appears to be centered on the needs of potential complainants, providing a remedy for well-founded complaints. It demonstrates that it is possible for MSIs to design more rights holder-centered mechanisms than many MSIs currently have.

- **Accessibility:** FWF creates “worker-focused promotional materials and trainings” and requires that members have them distributed at factories.⁹³ FWF trains and manages local complaint handlers in each of the countries where it is active. The complaint handlers accept complaints in multiple formats, including calls or, where possible, social messaging apps. Complainants have the option to remain anonymous to the subject of the complaint. FWF covers the cost of the complaint investigation and provides a translation of the outcome to the complainant if needed.
- **Equitability:** The procedure specifies that complaint handlers should inform complainants about the possibilities and limitations of the FWF grievance mechanism as well as other local options to seek a remedy. The complaints handler must ask explicitly whether the complainant (or involved workers, when the complaint comes from a third party) wishes to begin a formal complaint procedure. If so, then the handler explains the procedure and timelines.

- **Legitimacy:** The procedure identifies FWF’s role as leading the investigation of complaints as a neutral third party. The criteria for selecting an investigation team include: accessibility, ability to speak the local language, expertise on labor standards and local law, and independence.
- **Predictability:** The process is detailed and clearly describes the steps involved, with time frames. The local complaint handler is required to explain the timeline to the complainant.
- **Transparency:** FWF has an active case tracker similar to that in Figure 5.1 that has updated information on all current and historic cases. Reports on the final decisions include the complainant’s evaluation of the outcome, which is posted on its website.
- **Remedy:** If the complaint is found to be grounded, then FWF consults with the complainant on remediation. The member brand is responsible for ensuring that the remediation plan is carried out. FWF specifically requires that member companies use their leverage to ensure suppliers remediate harms. FWF monitors progress by continuing contact with the complainant and the union or worker representative at the factory,⁹⁴ and provides the specific steps it takes to ensure members carry out remediation, including reporting failures in the public complaint report. Before a complaint is closed, FWF specifically asks the complainant to evaluate the outcome.
- **Continuous learning:** The complaint procedure specifies that FWF will share its “learnings from the system with local institutions and international grievance mechanisms, business associations and trade unions.”⁹⁵

Source: Fair Wear Foundation, *The FWF Complaints Procedure*.

C. Legitimacy: Lack of procedures to address potential conflicts of interest or promote binding and independent decisions

The UNGPs state that, in order to be effective, a grievance mechanism must have legitimacy in the eyes of the groups it is intended to serve.⁹⁶ Legitimacy encompasses “[a]ccountability for ensuring that the parties to a grievance process cannot interfere with its fair conduct.”⁹⁷ This is essential for building trust and encouraging parties to use the process. ICJ has also highlighted the importance of “independence and impartiality” in complex or contested cases.⁹⁸

Despite the importance of fairness and impartiality, some MSI grievance mechanisms do not have procedures regarding a potential conflict of interest. Out of the 24 MSIs that have a grievance mechanism open to rights holders, six fail to explicitly address how they ensure that the decision-maker is free from any interest in the outcome.⁹⁹ For this subset of MSIs, the lack of a publicly shared conflict of interest prohibition can undermine the perceived fairness of the grievance mechanism, which in turn can discourage rights holders from using it.

It is worth noting more generally that, while it is not necessary to do so, all the MSIs have retained control over their grievance processes, rather than elect to use independent ombudsmen

“Despite the importance of fairness and impartiality, some MSI grievance mechanisms do not have procedures regarding a potential conflict of interest.”

or other independent actors. In addition, consistent with the finding in **Insight 4: Monitoring & Compliance**, none of the grievance mechanisms have any binding power. By electing to remain strictly voluntary, rather than require members who join to adopt legally binding standards, or otherwise be bound by a remedial framework, MSIs have promoted a model in which remedies are only available to rights holders when members are willing to cooperate in the investigation, accept the findings, and take corrective action or provide the proposed remedy. Members who do not wish to abide by the rules of an MSI, including any orders to provide a remedy, can simply withdraw from the MSI. As presently constituted, MSIs' only recourse when their members disagree with the findings of a complaint is to expel or suspend a recalcitrant member with the hope that this threat is sufficient leverage to compel action. The weakness of this approach, and examples of it failing in practice, are outlined in **Insight 4: Monitoring & Compliance** (see Figure 4.2). Both of these are features that, while not strictly necessary for legitimacy under the UNGPs, would significantly boost a grievance mechanism's legitimacy.

To that end, we note MSIs themselves need not create their own mechanisms in order to provide rights holders with access to remedy. Instead, they could improve access to existing grievance mechanisms or to the courts. MSIs could require that members consent to the jurisdiction of the courts in the countries where they operate, or they could include binding obligations on members that give intended beneficiaries the legal power to enforce these obligations in court or in binding arbitration. Alternatively, they could collaborate with certain state-based non-judicial grievance mechanisms, such as the National Contact Points created under the *OECD Guidelines on Multinational Enterprises*, to hear complaints. While these existing state-based systems have their own shortcomings,¹⁰⁰ it is worth noting that, so far, MSIs have not embraced or sought to strengthen these systems, but instead elected to keep decision-making within their own realm.¹⁰¹

D. Predictability: Lack of procedures that set forth specific steps, time frames, and potential outcomes available

Predictability requires that the grievance mechanism employ “a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation.”¹⁰² Most MSI grievance mechanisms are deficient in one or both of these areas, however.

While most MSIs provide a time frame for specific aspects of the complaint process, such as when a complainant will receive an acknowledgement that the complaint was received, many do not provide a time frame for every step, such as for the investigation or the decision if a complaint is appealed. Bonsucro, for example, provides no information on how long it may take the complaint manager to make a recommendation, or how long it may take to reach a decision on an appeal.¹⁰³ Similarly, the Roundtable on Responsible Soy does not set forth time frames for their complaint investigation or for issuing a decision if a member submits a response to the complaint finding.¹⁰⁴

When an MSI does not have a clear time frame for resolving complaints, it creates an opportunity for delay when members contest the allegations or findings. As one recent study of non-judicial grievance mechanisms showed, “the problem is that the company has a variety of techniques to prevent a bad outcome from their perspective,” including engaging in stalling tactics, attempts to create conflict within the community, and providing inaccurate information.¹⁰⁵ MSIs may also introduce a delay if they need to agree on how to appropriately investigate allegations and, when the results come back, how to decide which information to credit. Moreover, in situations where the MSI's entire board or a committee must decide on a complaint outcome, its multi-stakeholder composition might make reaching agreement time-consuming. The six examples listed in Figure 4.2 in **Insight 4: Monitoring & Compliance** illustrate how, without clear timeframes for resolution, complaints can sometimes take many years to resolve.

“... nearly half [of MSIs with grievance mechanisms]—13 out of the 27—do not provide clarity about potential complaint outcomes.”

In addition, out of all of the MSIs that have grievance mechanisms (including those which are open to rights holders and those which are not), over half—18 out of the 27—either do not indicate the outcome of the process (5) or refer to corrective action without providing clarity about potential complaint outcomes (13) (see discussion in section 2(G) below).¹⁰⁶ Bonsucro, for example, states that it “will monitor progress” on corrective measures and that decisions are binding for four years, but it does not specify any consequences if no progress is made.¹⁰⁷ Similarly, the Roundtable on Responsible Soy states, in cases where there are “serious grounds” for termination, “that members would be required [to] take action to remedy or resolve the situation to the satisfaction of the Grievance Committee.”¹⁰⁸ The FLA procedure requires a specific remediation plan and reports on progress but, in the event “that either a sufficient level of remediation has been achieved, or that it is unlikely

it will be achieved,” states that “at that point the Association will prepare a final Summary Report.”¹⁰⁹

E. Transparency: Failure to publish complaints and outcomes

Transparency is crucial to the legitimacy of MSI grievance mechanisms. Without it, there is no way to determine whether rights holders actually use the mechanism, how the MSI handles complaints, or the outcomes when complaints are well-founded. Indeed, the UNGPs advise that transparency requires “providing sufficient information about the mechanism’s performance to build confidence in its effectiveness,” as well as keeping parties informed in individual cases.¹¹⁰

Yet, despite the importance of transparency very few MSIs publish information about the cases they receive or their outcomes. Only seven out of the 27 MSIs with a grievance mechanism have disclosed information about any specific complaint decisions as shown in Table 5.3. It is thus not known whether the other 20 MSIs have not received any complaints or whether they have received numerous complaints, but simply not made this information public. Furthermore, the information in or accessibility of the information about the complaints from the seven MSIs that have acknowledged receiving cases is of variable quality and detail. For example, at the time of our research, in the case of Bonsucro, Equitable Origin and the Ethical Trading Initiative, while they are each among the seven MSIs that have information available about resolved cases, this information can only be found through a search of the website. There is no dedicated case tracker or portal. The information available about these cases is very limited. For example, a discussion by Bonsucro about how it handled a complaint does not include any description of the alleged abuse or harm;¹¹¹ blogs about a complaint filed by the AFL-CIO with the Equitable Origin do not explain the final outcome of the case.¹¹²

Four MSIs with grievance procedures provide a complete list of complaints, their status, and outcomes (see Table 5.3). An example of a tracking chart is in Figure 5.1. These four MSIs provide significantly more information than the other initiatives. For example, the RSPO has a dedicated “case tracker” (similar to that in Figure 5.1) that lists over 100 cases, for which background information and, in some cases, the full decision, is provided.¹¹³

However, none of these four MSIs include information in their tracking pages on whether a remedy was provided. To determine this requires that each of the individual cases is read. For the MSIs with a large number of complaints—which ought to be seen, from the perspective of accessibility, as a potentially positive indicator— this can be difficult. When tallied, three of these MSIs have received a significant number of cases: FWF tracks over 400 complaints; the RSPO lists over 100 complaints; the Fair Labor Association has more than 60 cases in its tracker; the FSC notes 15 “current cases” in its tracker, which appear to date to 2007.¹¹⁴ The large numbers make it difficult to conduct any at-a-glance assessment around key questions related to remedy: how many mechanisms have provided remedies to rights

holders? What type of remedies are provided? How many cases are upheld by the grievance body? This is compounded by the failure of MSIs themselves to analyze the effectiveness or outcomes of their mechanisms or complaints filed, as discussed in the next section.

TABLE 5.3. MSI transparency regarding complaints

	Publishes the number of complaints filed	Publishes the number of complaints resolved	Information available about individual complaint decisions or outcomes
Alliance for Water Stewardship	No.	No.	No.
Better Cotton Initiative	No.	No.	No.
Bonsucro	No.	No.	Yes.*
Equitable Origin	No.	No.	Yes.*
Ethical Trading Initiative	No.	No.	Yes.*
Extractive Industries Transparency Initiative	No.	No.	No.
Fair Labor Association	Yes.	Yes.	Yes.
Fair Stone	No.	No.	No.
Fair Wear Foundation	Yes.	Yes.	Yes.
Fairtrade International	No.	No.	No.
Food Alliance	No.	No.	No.
Forest Stewardship Council	Yes.	Yes.	Yes.
GoodWeave International	No.	No.	No.
ICTI Ethical Toy Initiative	No.	No.	No.
Infrastructure Transparency Initiative	No.	No.	No.
International Code of Conduct for Private Security Providers	No.	No.	No.
International Sustainability and Carbon Certification	No.	No.	No.
Marine Stewardship Council	No.	No.	No.

	Publishes the number of complaints filed	Publishes the number of complaints resolved	Information available about individual complaint decisions or outcomes
Rainforest Alliance	No.	No.	No.
Roundtable on Responsible Soy	No.	No.	No.
Roundtable on Sustainable Biomaterials	No.	No.	No.
Roundtable on Sustainable Palm Oil	Yes.	Yes.	Yes.
Social Accountability International	No.	No.	No.
Sustainable Forestry Initiative	No.	No.	No.
UN Global Compact	No.	No.	No.
UTZ	No.	No.	No.
Voluntary Principles on Security and Human Rights	No.	No.	No.
TOTAL (of 27)	4	4	7

* Information about the complaints can be found through searches and reviews of blog posts or news articles. However, there is not a dedicated platform that holds or tracks all complaint decisions.

Source: The source data for this information is available from the “MSI Trends Dataset,” which is available on our website at www.msi-integrity.org/datasets and contains information current as at June 30, 2019.

F. Source of continuous learning: Lack of procedures requiring analysis of complaints

The grievances filed with MSIs hold a wealth of critical information about an initiative’s impact, weaknesses, and areas for improvement. Complaints of violations at multiple suppliers for a particular brand might indicate that the brand is not engaging in sufficient human rights due diligence when selecting suppliers. Multiple complaints emanating from one company might indicate inadequate local complaint mechanisms. Repeated complaints regarding a particular issue may suggest evidence of a sector-wide problem. The UNGPs recognize this, noting that MSIs’ grievance mechanisms should be a source of continuous learning. This means that MSIs should “identify lessons for improving the mechanism and preventing future grievances and harms.”¹¹⁵ Among the 27 MSIs we reviewed that have grievance mechanisms, however, only eight have a procedure requiring an analysis of complaints.¹¹⁶

Even fewer MSIs *publicly* analyze complaints to distill patterns of alleged abuse and lessons learned. Among the 27 MSIs we studied that have grievance mechanisms, only four have published any form of analysis.¹¹⁷ In contrast, non-judicial grievance mechanisms in other contexts regularly publish such reports. The Compliance Advisor Ombudsman for the International Finance Corporation, for example, publishes an annual report on the complaints it received that year,¹¹⁸ as does the Independent Redress Mechanism of the Green Climate Fund.¹¹⁹

G. Rights-compatible: Lack of procedures that ensure rights-compatible remedies for victims of abuses

The UNGPs recognize that effective grievance mechanisms should be “rights-compatible.”¹²⁰ This means that the processes “affecting the lives, wellbeing and dignity of individuals and groups should be based on inclusion, participation, empowerment, transparency and attention to vulnerable people.”¹²¹ It also requires that “all complaints are addressed in a manner that reflects and respects human rights, including, crucially, the right to effective remedy.”¹²² Different remedies may be appropriate in different situations, making it vitally important that rights holders be able to choose and obtain “a bouquet of remedies” depending on the unique circumstances of each case.¹²³ Fundamentally, a remedy should put things right by restoring rights holders to their position before the violation occurred, and do so in a way that is both culturally appropriate, non-discriminatory, and that reflects the views of rights holders.

“... the vast majority of MSIs do not have procedures in place that privilege the needs and desires of injured rights holders when deciding on an appropriate remedy.”

Yet, MSIs appear to have given little consideration to the types of remedies that rights holders *themselves* believe would appropriately remediate the harm. Only three MSIs—FWF, FSC, and GoodWeave International—specifically refer to seeking input *from the party who suffered harm* about the appropriate remedy.¹²⁴ Thus, the vast majority of MSIs do not have procedures in place that privilege the needs and desires of injured rights holders when deciding on an appropriate remedy. While it is possible that MSIs may do this in practice, the failure to build it into the system reveals a fundamental failure to center rights holders (discussed further in the next part of this chapter).

To the contrary, for most MSIs, rights holders may be unable to tell from the outset what sort of remedies are available if their complaint is upheld. In total, five out of the 27 MSIs with a grievance mechanism do not state what happens when a complaint is well-founded.¹²⁵ Similarly, while 13 out of the 27 MSIs with grievance mechanisms specifically mention corrective action as a possible outcome, it is not clear whether corrective action provides remedies directly to victims of abuse, such as apologies, back pay, or compensation, or if it merely resolves non-compliance with standards by, for example, a member showing that it has implemented a new policy. However, at least one MSI explicitly makes clear that it cannot order financial compensation for rights holders.¹²⁶

By failing to explicitly state whether available remedies are focused on remediating or addressing the concerns of rights holders, such as requiring members to apologize or rehabilitate harm, many MSIs risk undermining the fundamental notion of an effective remedy: to “counteract or make good any human rights harms that have occurred.”¹²⁷ While sanctioning companies or governments or demanding corrective actions can certainly be effective remedies, the types of remedies available in the business and human rights contexts are broad: “apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.”¹²⁸ Ultimately, the question of whether they will be in fact remediate or satisfactory to rights holders can only be resolved after listening to rights holders directly. That so few MSIs have explicitly built this into their procedures is concerning and indicates a failure to center rights holders, as discussed in the next section of this chapter.

FIGURE 5.1. An example of an MSI that tracks basic information about complaints received

The screenshot shows the Fair Labor Association website. At the top, there is a navigation menu with links for 'About Us', 'MyFLA', 'Registration', 'Accreditation', 'Blog', and 'Contact Us'. Below the navigation is a search bar and a red header with links for 'HOME', 'OUR WORK', 'IMPACT', 'AFFILIATES', 'TRANSPARENCY', and 'GLOBAL ISSUES'. The main content area features a 'THIRD PARTY COMPLAINT TRACKING CHART' with a world map background and social media icons. Below the chart title, there is a brief explanation of the tracking process and a note that the chart was updated on May 11, 2020. The chart itself is a table with the following data:

DATE	NATURE OF COMPLAINT	FACTORY*	FACTORY LOCATION	COMPLAINANT	FLA AFFILIATED COMPANY*	STATUS	ADDITIONAL INFORMATION
3/16/20	Freedom of association, harassment or abuse, hours of work, wages	Jeans Knit Private Limited	India	Union	adidas	Step 3	
2/11/20	Freedom of association, discrimination, non-payment of Social Security contributions	Bienno S.A.	Guatemala	Workers	Hanesbrands	Step 2	Summary report published at: https://www.fairlabor.org/report/bienno-sa-guatemala-summary-report
11/4/19	Payment of worker benefits	PT Jaba Garmindo	Indonesia	NGO, Union	Fast Retailing, s. Oliver	Step 3	
7/23/19	Freedom of association, dismissals, payment of worker benefits	Star S.A. / Gildan	Honduras	Union	Gildan	Step 4	Report published at: http://www.fairlabor.org/report/gildan-star
7/22/19	Freedom of association, unlawful dismissal	Hilandería de Algodón Peruano S.A. (HIALPESA)	Peru	Union	'47 Brand LLC, The Burton	Step 4	Report published at https://www.fairlabor.org/report/hialpesa

Source: "Third Party Complaint Tracking Chart," Fair Labor Association, accessed March 14, 2019 <https://www.fairlabor.org/third-party-complaint-tracking-chart>.

3 MSIs fail to respect the centrality of rights holders to grievance mechanisms

The functions of non-judicial grievance mechanisms are to overcome the barriers to access to remedy through traditional state-based systems, as well as to encourage early reporting, intervention, and remediation of abuses. As is clear from the proceeding analysis, however, the procedures that most MSIs have put in place are not capable of reliably fulfilling those functions.

This failure evidences a disregard for both the needs of rights holders and the internationally accepted expectation that grievance mechanisms should consult and include rights holders in their design and implementation. ICJ has noted the importance of rights holders participating in the "pre-design and design stages" of OGMs, and that "it is similarly important for communities to have input in how grievances will be investigated, how harm caused will be determined, and how appropriate remedies will be applied."¹²⁹ As the United Nations Working Group on Business and Human Rights has made clear (emphasis added):

[Grievance mechanisms] should not treat rights holders merely as recipients of remedy. Rather, all mechanisms should be at the service of rights holders, who *should be consulted meaningfully in creating, designing, reforming and operating such mechanisms*. Such engagement would ensure that remedial mechanisms and their processes are geared towards protecting and redressing the rights of communities affected by business-related human rights abuses.¹³⁰

While it is beyond the scope of this report to investigate the extent to which every MSI has sought and considered the input of rights holders in the design of their grievance mechanisms, we are unfamiliar with any mechanisms that have been either co-designed with rights holders or that had the meaningful input and participation of rights holders in their design. We note that passive public consultation or feedback periods are not the same as active rights holder participation, particularly as affected communities may not even be aware of these opportunities for consultation.

The inaccessibility and inadequacy of the mechanisms that MSIs have created indeed suggest that MSIs have failed to meaningfully include rights holders in the design of these mechanisms, and did not have them in mind as the central beneficiary or critical stakeholder for whom these mechanisms have been designed. If MSIs had focused on the needs of these rights holders in the process of creating their grievance mechanisms, then it is unlikely that there would be so many barriers to access and such little effort to overcome the power imbalance between rights holders and the alleged wrongdoers. Taken as a whole, MSIs appear to have invested resources in bureaucracy—lengthy procedural documents, complaint forms, webpages, complaint screenings, and formation and administration of decision panels—rather than in the community outreach, relationship-building, and deep involvement that could have resulted from the co-creation with communities of grievance mechanisms that reflect rights holders’ needs and capacities.

If MSIs had “take[n] both the rights holders and their suffering seriously,” as the UN Working Group instructs, then they would have more actively engaged rights holders in the creation, design, operation, and reform of their grievance mechanisms.¹³¹ Ultimately, “rights holders should be central to the entire remedy process” as it is they who suffer harm from business-related human rights abuses, and thus, it is their view on whether a grievance mechanism—indeed, an MSI as a whole—is effective that “should matter the most.”¹³² It is the rights holders affected by business-related human rights abuses—not external experts, or MSI staff or members—who know whether or how a mechanism will be accessible, equitable, and legitimate to them. As discussed in **Insight 2: Stakeholder Participation**, meaningful rights holder involvement requires more than passively allowing public comment on proposed development of, or reforms to, a grievance mechanism, and instead necessitates engagement, trust-building, and active input from affected, or potentially affected, rights holders. The fact that some MSIs have developed processes that are more centered on the needs of rights holders (see Spotlight 5.3.), indicates that it is feasible for them to develop and operate effective grievance mechanisms; yet, most MSIs have elected not to do so. In the end, MSIs have failed in developing mechanisms that reflect the centrality of rights holders.

Our Insights

MSIs do not provide access to effective remedies for victims of human rights violations. Many MSIs either do not have a grievance mechanism or, if one exists, they have not developed procedures that meet internationally accepted minimum practices or engender trust among rights holders. By failing to provide rights holders with a route to an effective grievance mechanism, MSIs are not only allowing governance gaps to persist, but are also failing to serve the needs of rights holders and to recognize that harmed rights holders ought to be a privileged stakeholder in human rights interventions.

If MSIs were committed to privileging harmed rights holders or centering their experiences, then the remedial mechanisms or strategies adopted by MSIs would look very different. Non-judicial grievance mechanisms should serve to overcome the barriers to access to remedy, as well as to encourage rights holders to engage in early reporting and remediation of abuses. The procedures that most MSIs have put in place, however, are not capable of reliably fulfilling those functions. Few MSIs appear to have the power or practice of providing meaningful or appropriate remedies that reflect the requests of harmed rights holders, or to have processes that ensure they are cared for when filing, responding to, or resolving complaints.

Even where MSIs have established grievance mechanisms, very few have processes that meet even minimum criteria for effective grievance mechanisms. The mechanisms established by most MSIs pose considerable barriers to access, fail to address the power imbalances that exist between individual complainants and the companies that they are complaining about, and lack transparency. The procedural shortcomings are so extensive that they risk being so unfriendly to users, that the rights holders who have experienced abuses or other violations of an MSI's standards may not know about or trust the mechanisms sufficiently to use them.

Within all MSI grievance mechanisms, the balance of power favors member companies or governments over individual complainants. Member companies and governments often help to formulate MSI standards and procedures, and are generally more versed in and familiar with complex dispute resolution processes. In contrast, potential and actual complainants—such as farm and factory workers, or indigenous communities near palm oil plantations—may have never navigated a non-judicial grievance mechanism. Yet, MSIs have not adopted measures to affirmatively make their procedures more equitable, such as offering assistance to complainants.

In addition, MSI grievance procedures' lack of transparency and clarity regarding time frames and potential outcomes can all contribute to complainant unwillingness to report abuses. Complainants have little incentive to participate without reassurance that violations will be addressed in a timely manner and an understanding of what will happen if their complaint is well-founded. MSIs' lack of complaint transparency means that potential claimants cannot identify patterns of behavior among MSI members, or connect with former complainants or organizations assisting them in order to facilitate their own journey through the complaint process. Even if complaints are filed by individuals, few MSIs appear to have the power or practice of providing meaningful remedies directly to those individuals or communities—or outcomes that facilitate a remedy.

All of this suggests that MSIs have not recognized that harmed rights holders ought to be a privileged stakeholder. The vision that MSIs would play a central role in providing rights holders with mechanisms to access an effective remedy has not come to fruition. To the contrary, MSIs' failure to provide victims

with access to effective remedy means that violations of MSIs' standards may go undetected and can create a false illusion—both within MSIs and in the public at large—that there are no violations, and that the underlying problems in the industry have been resolved.

Cited Sources

- Alliance for Responsible Mining. *Standards Complaints Procedures*. Vers. 2.0. Envigado: ARM, 2017. <http://www.responsiblemines.org/wp-content/uploads/2017/06/ARM-Complaints-Procedures-2.0-2017-final.pdf>.
- _____. *Fairmined Standard for Gold from Artisanal and Small-Scale Mining, including Associated Precious Metals*. Version 2.0. Envigado: ARM, 2014. http://www.responsiblemines.org/images/sampled/EstadarFairmined/Fairmined%20Stnd%202%200_2014_.pdf.
- Baumann-Pauly, Dorothee, et al. "Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy Assessments of the Fair Labor Association and the Global Network Initiative." *Journal of Business Ethics* 143 (Feb. 2016): 771–87. https://cclg.rutgers.edu/wp-content/uploads/Industry-Specific-Multi-Stakeholder-Initiatives_Dorothee-Baumann-Pauly.pdf.
- Bonsucro. "Certified Members." Accessed January 26, 2020. <https://www.bonsucro.com/certified-members/>.
- _____. "Making a Complaint." Accessed June 28, 2019. <https://www.bonsucro.com/making-a-complaint/>.
- _____. "Public Notification of Decision in the Matter of the Inclusive Development International (IDI), Equitable Cambodia (EC), and the Cambodian League for the Promotion and Defense of Human Rights (LICADHO) Complaint against Mitr Phol." December 21, 2018. <https://www.bonsucro.com/public-notification-of-decision-idi-ec-licadho/>.
- Changing Markets Foundation. *The False Promise of Certification: How Certification is Hindering Sustainability in the Textiles, Palm Oil and Fisheries Industries*. London: Changing Markets Foundation, 2018. https://changingmarkets.org/wp-content/uploads/2018/05/False-promise_full-report-ENG.pdf.
- Compliance Advisor Ombudsman. *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*. Advisory note. Washington, DC: CAO, 2008. <http://www.cao-ombudsman.org/howwework/advisor/documents/implemgrieveng.pdf>.
- _____. *2018 Annual Report*. Washington, DC: CAO, 2018. <https://www.cao-ar18.org/>.
- Columbia Law School Human Rights Clinic and Harvard Law School International Human Rights Clinic. *Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Concerns and Lessons Learned*. 2015. <http://www.rightingwrongsportgera.com/>.
- Corporate Social Responsibility Initiative. *Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders*. Cambridge: Harvard University John F. Kennedy School of Government, 2008. https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/programs/csi/files/Workingpaper_41_Rights-Compatible%2BGrievance%2BMechanisms_May2008FNL.pdf.
- Equitable Food Initiative. *The Equitable Food Initiative Social Standards, Guidance & Interpretations*. Vers. 2.0. Washington, DC: EFI, May 2019. https://equitablefood.org/wp-content/uploads/EFI-Social-Standards_v2.1.pdf.
- Equitable Origin. "EO Review of Complaint Regarding Labor Practices at Certified Site Moving Forward." January 30, 2015. <https://www.equitableorigin.org/2015/01/labor-complaint-update/>
- European Union Agency for Fundamental Rights. *Improving Access to Remedy in the Area of Business and Human Rights at the EU Level: Opinion of the European Union Agency for Fundamental Rights*. Vienna: FRA, 2017. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-opinion-01-2017-business-human-rights_en.pdf.
- Fair Labor Association. *Charter Document*. Washington, DC: FLA, 2013. https://www.fairlabor.org/sites/default/files/fla_charter_7-30-13.pdf.
- _____. "Third Party Complaint Tracking Chart." Accessed March 14, 2020. <https://www.fairlabor.org/third-party-complaint-tracking-chart>
- _____. "Fair Labor Association (FLA) Third Party Complaint Form." Washington DC: FLA. Accessed March 18, 2020. https://www.fairlabor.org/sites/default/files/3pc_form_english.doc_1.pdf.
- Fair Stone. *Complaints and Appeals Procedures and Responsibilities: Fair Stone e.V. Kirchheim unter Teck*: Fair Stone, 2016. http://fairstone.win-win.agency/wp-content/uploads/sites/2/2016/06/160603_Complaints_Appeals.pdf.
- _____. "Countries." Accessed January 26, 2020. <http://enfairstone.win-win.agency/fair-stone/countries/>.
- Fair Wear Foundation. "Become a Member Brand." Accessed June 28, 2019. <https://www.fairwear.org/about/membership/>.
- _____. *The FWF Complaints Procedure*. Amsterdam: FWF, 2018. <https://www.fairwear.org/wp-content/uploads/2018/02/fwf-complaintsprocedure-2018-final.pdf>.
- _____. "Remediating Worker Issues." Accessed March 11, 2020. <https://www.fairwear.org/programmes/complaints>
- Florverde Sustainable Flowers. *Florverde Standards for the Sustainable Production of Flowers and Ornamentals*. Vers. 7.1. Bogotá:

Florverde Sustainable Flowers, 2018. https://img1.wsimg.com/blobby/go/e72924a0-ea5c-48f4-8711-3dd2b80e7f6c/downloads/1cr5ern92_147272.pdf?ver=1560188698101.

Forest Stewardship Council. *FSC Procedure: Processing Complaints in the FSC Certification Scheme*. Bonn: FSC, 2014. <https://us.fsc.org/download/processing-complaints-fsc-pro-01-008-v2-0.430.htm>.

_____. "Current Cases." Accessed June 6, 2020. <https://fsc.org/en/unacceptable-activities/cases>.

Global Coffee Platform. *Baseline Common Code*. Vers. 2.1. Bonn: GCP, 2016. https://www.globalcoffeeplatform.org/assets/files/GCP_Doc_01_Baseline-Common-Code_v2.1_en.pdf.

_____. *GCP Terms of Participation*. Vers. 1.0. Bonn: GCP, 2017. https://www.globalcoffeeplatform.org/assets/files/Documents/GCP-Official-Documents/GCP_Doc_03_Terms-of-Participation.pdf.

Global Network Initiative. *Implementation Guidelines for the Principles on Freedom of Expression and Privacy*. Washington, DC: GNI, 2017. <https://globalnetworkinitiative.org/wp-content/uploads/2018/08/Implementation-Guidelines-for-the-GNI-Principles.pdf>.

_____. "Core Commitments." Accessed October 14, 2019. <https://globalnetworkinitiative.org/core-commitments/>.

_____. *GNI Assessment Toolkit*. Washington, DC: GNI, 2018. <https://globalnetworkinitiative.org/wp-content/uploads/2019/03/GNI-2018-AssessmentToolkitFinal-September2018.pdf>.

_____. *GNI Governance Charter*. Washington, DC: GNI, 2017. <https://globalnetworkinitiative.org/wp-content/uploads/2018/04/GNI-Governance-Charter.pdf>.

_____. *Implementation Guidelines for the Principles on Freedom of Expression and Privacy*. Washington, DC: GNI, 2017. <https://globalnetworkinitiative.org/wp-content/uploads/2018/08/Implementation-Guidelines-for-the-GNI-Principles.pdf>.

GSMA: Mobile for Development. "Connected Society Programme: Unlocking the Power of Mobile Internet." <https://www.gsma.com/mobilefordevelopment/connected-society/>.

Independent Redress Mechanism. *Building on Accountability: 2018 Annual Report*. Incheon, Republic of Korea: Green Climate Fund/Independent Redress Mechanism, 2018. https://irm.greenclimate.fund/documents/1061332/1197271/Annual_Report_2018.pdf/62c9dfac-d02b-9b9b-0111-ac1aa30114fa.

Initiative for Responsible Mining Assurance. *IRMA Standard for Responsible Mining*. Port Townsend: IRMA, 2018. https://responsiblemining.net/wp-content/uploads/2018/07/IRMA_STANDARD_v.1.0_FINAL_2018.pdf.

International Code of Conduct Association. *Procedures: Article 13: Receiving and Processing Complaints*. Geneva: ICoCA. Accessed February 7, 2020. <https://www.icoca.ch/sites/default/files/uploads/ICoCA-Procedures-Article-13-Complaints.pdf>.

International Commission of Jurists. "Companies around the World Must Do More to Ensure Effective Operational Grievance Mechanism Practices and Provide Clear and Transparent Information." November 26, 2019. <https://www.ici.org/companies-around-the-world-must-do-more-to-ensure-effective-operational-grievance-mechanism-practices-and-provide-clear-and-transparent-information/>.

_____. *Effective Operational-Level Grievance Mechanisms*. Geneva: ICJ, 2019. <https://www.ici.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>.

_____. "How Businesses Can Make Right Their Wrongs: The ICJ Establishes Advisory Panel on Company Grievance Mechanisms." February 13, 2017. <https://www.ici.org/how-businesses-can-make-right-their-wrongs-the-icj-establishes-advisory-panel-on-company-grievance-mechanisms/>.

International Hydropower Association. *Hydropower Sustainability Assessment Protocol*. London: IHA, 2018. <https://static1.squarespace.com/static/5c1978d3ee1759dc44fbd8ba/t/5df7bf21841e970bc24d5799/1576517595426/Protocol-fulls-docs-English.pdf>.

International Sustainability and Carbon Certification. "About Impact: Providing Sustainability Solutions for Fully Traceable and Deforestation Free Supply Chains." <https://www.iscc-system.org/about/impact/>.

International Sustainable Seafood Foundation. Homepage. Accessed June 30, 2019. <https://iss-foundation.org>.

Marine Stewardship Council. *MSC Complaints Procedure*. Vers. 3.2. London: MSC, 2019. <https://www.msc.org/docs/default-source/default-document-library/stakeholders/msc-complaints-procedure-v2-1.pdf>.

McKinsey & Company. *Offline and Falling Behind: Barriers to Internet Adoption*. Briefing note. New York: McKinsey, 2014. https://www.mckinsey.com/-/media/McKinsey/dotcom/client_service/High%20Tech/PDFs/Offline_and_falling_behind_Barriers_to_Internet_adoption_Briefing.ashx.

Miller-Dawkins, May, Kate Macdonald, and Shelley Marshall. *Beyond Effectiveness Criteria: The Possibilities and Limits of Transnational Non-Judicial Redress Mechanisms*. Corporate Accountability Research, 2016. corporateaccountability.squarespace.com/s/NJM01_beyond-effectiveness-criteria.pdf.

- MSI Integrity. *The Essential Elements of MSI Design*. Berkeley: MSI Integrity, 2017. www.msi-integrity.org/wp-content/uploads/2017/11/Essential_Elements_2017.pdf.
- _____. *Understanding Community Experiences of Certified Cocoa Farming and Extractive Site Security: A Workshop to Explore Community Engagement in the Voluntary Principles on Security and Human Rights and UTZ Certified*. Summary report. Port Harcourt, Nigeria. June 20–21, 2017. Berkeley: MSI Integrity, 2017. www.msi-integrity.org/wp-content/uploads/2019/07/171017-Nigeria-Convening-Summary-Report-SCrevd.pdf.
- MSI Integrity and the International Human Rights Clinic, Harvard Law School. *MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives*. Berkeley: MSI Integrity and IHRC, 2017. www.msi-integrity.org/wp-content/uploads/2017/11/MSI_Evaluation_Tool_2017.pdf.
- OECD Watch. *The State of Remedy under the OECD Guidelines: Understanding NCP Cases Concluded in 2018 through the Lens of Remedy*. Amsterdam: OECD Watch, 2019. <https://www.oecdwatch.org/wp-content/uploads/sites/8/2019/06/State-of-Remedy-2018-2019-06-08.pdf>.
- Office of the United Nations High Commissioner for Human Rights. *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. Geneva: UN, 2011. https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.
- _____. *OHCHR Accountability and Remedy Project, Improving Accountability and Access to Remedy in Cases of Business Involvement in Human Rights Abuses: Phase III: Enhancing the Effectiveness of Non-State-Based Grievance Mechanisms: Scope and Programme of Work*. New York: UN, 2018. [ohchr.org/Documents/Issues/Business/ARP/ARPIII-PoW.pdf](http://www.ohchr.org/Documents/Issues/Business/ARP/ARPIII-PoW.pdf).
- Organization of Economic Co-operation and Development. *OECD Guidelines for Multinational Enterprises*. 2011 ed. Paris: OECD, 2011. <http://www.oecd.org/daf/inv/mne/48004323.pdf>.
- Program for the Endorsement of Forest Certification. *Group Forest Management Certification—Requirements: PEFC Benchmark Standard*. Geneva: PEFC, 2018. <https://storage.googleapis.com/pefc-platform/pefc.org/media/2019-01/4dcd0115-1245-493f-b485-1abac79a54ef/c1bd4a22-68d9-503b-b031-9e238e57c105.pdf>.
- _____. *Sustainable Forest Management—Requirements: PEFC Benchmark Standard*. Geneva: PEFC, 2018. <https://storage.googleapis.com/pefc-platform/pefc.org/media/2019-01/b296ddcb-5f6b-42d8-bc98-5db98f62203e/6c7c212a-c37c-59ee-a2ca-b8c91c8beb93.pdf>.
- Ranking Digital Rights. *2019 RDR Corporate Accountability Index*. Washington, DC: RDR, 2019. <https://rankingdigitalrights.org/index2019/assets/static/download/RDRindex2019report.pdf>.
- Republic of Chile, Ministry of Exterior Relations. *National Action Plan on Business and Human Rights: Chile*. Santiago: Ministry of Exterior Relations of Chile, 2017. https://www.business-humanrights.org/sites/default/files/documents/NATIONAL%20ACTION%20PLAN%20ON%20BUSINESS%20AND%20HUMAN%20RIGHTS_.pdf.
- Roundtable on Responsible Soy. Homepage. Accessed June 30, 2019. <http://www.responsiblesoy.org/?lang=en>.
- _____. *RTRS Grievances Procedure*. Zürich: RTRS. Accessed May 14, 2020. <http://www.responsiblesoy.org/wpdm-package/rtrs-grievances-procedure-pdf/?wpdmdl=1971&ind=-lnpRI2Vu9tXPz0RH2Q-xrmxIH7FlaiDcj0ET9UA5Roel4MsqMnjhn6OmAZAQIFEL5ub0HZOHYHSMm0Lucjg&lang=en>.
- Roundtable on Sustainable Biomaterials. “Participating Operators.” Accessed January 26, 2020. <https://rsb.org/certification/participating-operators/>.
- Roundtable on Sustainable Palm Oil. *RSPO Dispute Settlement Facility DSF: Framework, Terms of Reference, and Protocol*. Bogor: RSPO, 2012.
- _____. “Status of Complaints.” Accessed March 12, 2020. <http://www.responsiblesoy.org/wpdm-package/rtrs-grievances-procedure-pdf/?wpdmdl=1971&ind=-lnpRI2Vu9tXPz0RH2Q-xrmxIH7FlaiDcj0ET9UA5Roel4MsqMnjhn6OmAZAQIFEL5ub0HZOHYHSMm0Lucjg&lang=en>.
- Shelton, Dinah. *Remedies in International Human Rights Law*. Oxford: OUP, 1999.
- Thompson, Benjamin. “Determining Criteria to Evaluate Outcomes of Businesses’ Provision of Remedy: Applying a Human Rights-Based Approach.” *Business and Human Rights Journal* 2, no. 1 (January 2017): 55–85.
- UN General Assembly. *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: Resolution*. UN doc. A/RES/60/147. New York: UN, 2006. <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>.
- _____. *Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises: Access to Effective Remedies under the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. UN doc. A/72/162. New York: UN, 2017. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/>

[N17/218/65/pdf/N1721865.pdf?OpenElement](#).

- UN General Assembly, Human Rights Council. *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie: Addendum: Piloting Principles for Effective Company/Stakeholder Grievance Mechanisms: A Report of Lessons Learned*. UN doc. A/HRC/17/31/Add.1. New York: UN, 2011. <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/17/31/Add.1&Lang=E>.
- UN Global Compact. *UN Global Compact Integrity Measures and FAQ*. New York: UN Global Compact, 2016. <https://www.unglobalcompact.org/library/1831>.
- UTZ. *UTZ Grievance Procedure*. Vers. 1. Amsterdam: UTZ, 2017. <https://utz.org/wp-content/uploads/2017/07/UTZ-Grievance-Procedure-July-2017.pdf>.
- Worldwide Responsible Accredited Production. *Worldwide Responsible Accredited Production Certification Program: Pre-Audit Self-Assessment*. Arlington: WRAP, 2019. <http://www.wrapcompliance.org/upload/Documents/documents/2019-01%20WRAP%20Pre-Audit%20Self-Assessment%20English%20Fillable%20PROTECTED.docx>.
- Zagelmeyer, Stefan, Lara Bianchi, Andrea R. Shemberg. *Non-State Based Non-Judicial Grievance Mechanisms (NSBGM): An Exploratory Analysis*. Manchester: Alliance Manchester Business School, 2018. <https://www.ohchr.org/Documents/Issues/Business/ARP/ManchesterStudy.pdf>.

Endnotes

- 1 The first universal human rights instrument to codify the right to remedy is the UN *Universal Declaration of Human Rights* (December 10, 1948; Art. 8). Other instruments followed suit: [UN International Covenant on Civil and Political Rights \(Art. 2\)](#); [International Convention on the Elimination of All Forms of Racial Discrimination \(Art. 6\)](#); [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(Art. 14\)](#); [Convention on the Rights of the Child \(Art. 39\)](#); [American Convention on Human Rights \(Art. 25\)](#); and [the Convention for the Protection of Human Rights and Fundamental Freedoms](#) (Art. 13). The UN Resolution 60/147 on the right to remedy collects additional international instruments where this right is enshrined, as well as other sources of international legal obligations: UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: Resolution*, UN doc. A/RES/60/147, (New York: UN, 2006).
- 2 The aim of remedies is “to place an aggrieved party in the same position as he or she would have been in had no injury occurred.” Dinah Shelton, *Remedies in International Human Rights Law*, 1st ed. (Oxford: OUP, 1999), 38.
- 3 UN General Assembly, [Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises: Access to Effective Remedies under the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#), UN doc. A/72/162, (New York: UN, 2017), para. 2.
- 4 Office of the United Nations High Commissioner for Human Rights, [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#), Principle 25 (New York: UN, 2011), 27.
- 5 OHCHR, *Guiding Principles*, 27.
- 6 “Effective judicial systems must be at the core of any such system of remedy, yet they are not always available, accessible, appropriate, or the desired avenue of those impacted.” UN General Assembly, Human Rights Council, [Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie: Addendum: Piloting principles for effective company/stakeholder grievance mechanisms: A report of lessons learned](#), UN doc. A/HRC/17/31/Add.1, (New York: UN, 2011).
- 7 Republic of Chile, Ministry of Exterior Relations, [National Action Plan on Business and Human Rights: Chile](#) (Santiago: Ministry of Exterior Relations of Chile: 2017), 62. “A category of non-state-based mechanisms are those managed by a business enterprise alone, or in conjunction with stakeholders, by an economic association, or by a multilateral group of stakeholders. This allows business enterprises and communities to develop spaces for dialogue, measurement, resolution and/or remedy, and to look for solutions within the relevant administrative structures that are culturally appropriate and compatible with human rights.” European Union Agency for Fundamental Rights, [Improving Access to Remedy in the Area of Business and Human Rights at the EU Level: Opinion of the European Union Agency for Fundamental Rights](#) (Vienna: FRA, 2017), 58. “Non-judicial grievance mechanisms can be based on multi-stakeholder initiatives, where a range of actors come together to establish, support or rely on a remedy.” OHCHR, *OHCHR Accountability and Remedy Project, Improving Accountability and Access to Remedy in Cases of Business Involvement in Human Rights Abuses: Phase III: Enhancing the Effectiveness of Non-State-Based Grievance Mechanisms: Scope and Programme of Work* (New York: UN, 2018), 17, [ohchr.org/Documents/Issues/Business/ARP/ARPIII-PoW.pdf](#).
- 8 OHCHR, *Guiding Principles*, Principle 30, commentary, 32–33.
- 9 OHCHR, *Guiding Principles*, Principle 25, commentary, 28.
- 10 Grievance mechanisms are sometimes interchangeably referred to as “complaints processes” or “remedial frameworks.” For the sake of clarity, this report uses the term “grievance mechanism.” Although grievance mechanisms do not have a formal definition, we note that the UNGPs provide that “[t]he term grievance mechanism is used to indicate any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought.” OHCHR, *Guiding Principles*, Principle 25, commentary, 28. See also, Office of the Compliance Advisor/Ombudsman, International Finance Corporation, Multilateral Investment Guarantee Agency. *A Guide to Designing and Implementing Grievance Mechanisms for Development Projects*, Advisory note, (Washington, DC: CAO, 2008), iv, which defines a “company-community grievance mechanism” as “a locally based, formalized way to accept, assess, and resolve community complaints concerning the performance or behavior of a company, its contractors, or employees.”
- 11 Organization of Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises*, 2011 ed., (Paris: OECD, 2011), 68, requiring that adhering states establish National Contact Points to serve as non-judicial grievance mechanisms that resolve issues related to the implementation of the *OECD Guidelines*.
- 12 OHCHR, *Guiding Principles*, Principle 30 (emphasis supplied).
- 13 OHCHR, *Guiding Principles*, Principle 25, commentary, 27.
- 14 UN General Assembly, *Report of the Working Group*, para. 15. Several MSIs were founded before the UNGPs were adopted in 2011. See Appendix 2 listing MSIs by the date they were established. In addition, MSI Integrity is aware that several MSIs, such as Bonsucro, the Extractive Industry Transparency Initiative, Fairtrade International, and the Initiative for Responsible Mining Assurance, are currently undergoing strategic planning or revisions, or have done so since we compiled the data for this report in June 2019 that may result in changes that take into account the UNGPs’ recommendations concerning grievance mechanisms and access to effective remedy.
- 15 May Miller-Dawkins, Kate Macdonald, and Shelley Marshall, *Beyond Effectiveness Criteria: The Possibilities and Limits of Transnational Non-Judicial Redress Mechanisms*, (Corporate Accountability Research, 2016), 5–6, [corporateaccountability.squarespace.com/s/NJM01_beyond-effectiveness-criteria.pdf](#).
- 16 See UN General Assembly, [Report of the Working Group](#), para. 21; see also International Commission of Jurists, *Effective Operational-Level Grievance Mechanisms* (Geneva: ICJ, 2019), 13–16.
- 17 The source data for this information is available from the “MSI Trends Dataset,” which is available on our website at [www.msi-integrity.org/datasets](#) and contains information current as at June 30, 2019.
- 18 OHCHR, *Guiding Principles*, Principle 31, commentary, 34.
- 19 Alliance for Responsible Mining, [Fairmined Standard for Gold from Artisanal and Small-Scale Mining, Including Associated Precious Metals](#), vers. 2.0 (Envidado: Alliance for Responsible Mining, 2014), 22. While the standards refer to the effectiveness criteria for grievance mechanisms in the UNGPs, it does not require that operational-level mechanisms comply with these criteria.
- 20 Alliance for Responsible Mining, *Fairmined Standard*, 22, 63.
- 21 Equitable Food Initiative, [The Equitable Food Initiative Social Standards, Guidance & Interpretations](#), vers. 2.0 (Washington, DC: EFI, May 2019), 10. It also includes requirements around training, but these are not relevant to the actual procedures set by the mechanism.
- 22 Florverde Sustainable Flowers, [Florverde Standards for the Sustainable Production of Flowers and Ornamentals](#), vers. 7.1 (Bogotá: Florverde, 2018), 6.
- 23 Global Coffee Platform, [Baseline Common Code](#), vers. 2.1, (Bonn: GCP, 2016), 16.

- 24 Global Network Initiative, *Implementation Guidelines for the Principles on Freedom of Expression and Privacy* (Washington, DC: 2017), 7.
- 25 Global Network Initiative, *Implementation Guidelines*, 7.
- 26 This is required at multiple stages, but see, e.g., International Hydropower Association, *Hydropower Sustainability Assessment Protocol* (London: IHA, 2018), 49.
- 27 Program for the Endorsement of Forest Certification, [Group Forest Management Certification—Requirements: PEFC Benchmark Standard](#) (Geneva: PEFC, 2018), 12; PEFC, [Sustainable Forest Management—Requirements: PEFC Benchmark Standard](#) (Geneva: PEFC, 2018), 17.
- 28 Worldwide Responsible Accredited Production, [Worldwide Responsible Accredited Production Certification Program: Pre-Audit Self-Assessment](#) (Arlington: WRAP, 2019), 65.
- 29 Initiative for Responsible Mining Assurance, [IRMA Standard for Responsible Mining](#) (Port Townsend: IRMA, 2018), 32–33.
- 30 Initiative for Responsible Mining Assurance, *IRMA Standard*, 32–33.
- 31 See, e.g., Columbia Law School Human Rights Clinic and Harvard Law School International Human Rights Clinic, [Righting Wrongs? Barrick Gold's Remedy Mechanism for Sexual Violence in Papua New Guinea: Concerns and Lessons Learned](#) (2015).
- 32 ["How Businesses Can Make Right Their Wrongs: The ICJ Establishes Advisory Panel on Company Grievance Mechanisms,"](#) International Commission of Jurists, February 13, 2017.
- 33 International Commission of Jurists, *Effective Operational-Level Grievance Mechanisms*, 11.
- 34 ["Companies around the World Must Do More to Ensure Effective Operational Grievance Mechanism Practices and Provide Clear and Transparent Information,"](#) International Commission of Jurists, November 26, 2019.
- 35 ["Core Commitments,"](#) Global Network Initiative, accessed October 14, 2019.
- 36 Dorothee Baumann-Pauly et al., ["Industry-Specific Multi-Stakeholder Initiatives That Govern Corporate Human Rights Standards: Legitimacy Assessments of the Fair Labor Association and the Global Network Initiative,"](#) *Journal of Business Ethics* 143 (Feb. 2016): 9.
- 37 The governance charter of the Global Network Initiative (GNI), released in 2010 and revised in 2015, states that GNI has plans to establish a complaints mechanism "through which the public can share information with the GNI, provide feedback, ask questions, and raise concerns related to GNI activities and [its standards]." Global Network Initiative, "Governance Charter," 2015, 8–9 (on file). The most recent revision continues to promise the development of a mechanism: "Due to the complexity of the global landscape regarding online freedom of expression and privacy, and the potential scale of complaints, the GNI will develop an appropriate complaints procedure consistent with its size and available resources." [Global Network Initiative, GNI Governance Charter](#) (Washington, DC: GNI, 2017), 6, 10.
- 38 See Global Network Initiative, *Implementation Guidelines* (Washington, DC: GNI, 2017), 7, 2.13 (f).
- 39 Global Network Initiative, *Governance Charter*, 10.
- 40 Global Network Initiative, [GNI Assessment Toolkit](#) (Washington, DC: GNI, September 2018), 6.
- 41 Ranking Digital Rights, [2019 RDR Corporate Accountability Index](#) (Washington, DC: RDR, 2019), 34–35.
- 42 WRAP, *Pre-Audit Self-Assessment*, 65.
- 43 Interviews 68, 69, 71, 75, 76, 77, factory workers, Philippines, August 16, 2017; Interview 80, factory worker, Philippines, August 18, 2017; Interviews 81, 83, factory worker, Philippines, August 19, 2017; Interview 86, factory worker, Philippines, August 27, 2017.
- 44 Interview 83, factory worker, Philippines, August 19, 2017.
- 45 Interview 69, factory worker, Philippines, August 16, 2017.
- 46 OHCHR, *Guiding Principles*, Principle 31, commentary, 34.
- 47 OHCHR, *Guiding Principles*, Principle 31, 33–34.
- 48 See Benjamin Thompson, "Determining Criteria to Evaluate Outcomes of Businesses' Provision of Remedy: Applying a Human Rights-Based Approach," *Business and Human Rights Journal* 2, no. 1 (January 2017): 58, noting that, apart from the requirement that grievance mechanisms be "rights-compatible," the UNGPs' criteria only relate to process. Moreover, research has shown that it is possible to fulfill the effectiveness criteria set forth in the UNGPs "in a formal way, yet still fall very short of delivering effective redress or remedy for human rights violations committed in the context of business activities." Miller-Dawkins, Macdonald, and Marshall, *Beyond Effectiveness Criteria*, 6–7.
- 49 UN General Assembly, *Report of the Working Group*, para. 21.8; see also International Commission of Jurists, *Effective Operational-Level Grievance Mechanisms*.
- 50 For more on MSIs' emergence and prominence, see **Insight 1: Influence**.
- 51 See, e.g., UN General Assembly, *Report of the Working Group*, 8, 11; see also Stefan Zagelmeyer, Lara Bianchi, and Andrea R. Shemberg, [Non-State Based Non-Judicial Grievance Mechanisms \(NSBGM\): An Exploratory Analysis](#) (Manchester: Alliance Manchester Business School, 2018), 41, finding, in a study of several MSI grievance mechanisms, that they "might have significant entry barriers, and individual workers rarely use them directly, not because they wouldn't be entitled but because processes are not easily accessible."
- 52 OHCHR, *Guiding Principles*, Principle 31, commentary, 34.
- 53 MSI Integrity, [The Essential Elements of MSI Design](#) (Berkeley: MSI Integrity, 2017), 13; MSI Integrity and the International Human Rights Clinic, Harvard Law School, [MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives](#) (Berkeley: MSI Integrity and IHRC, 2017), 27.
- 54 The three MSIs that only allow members to bring complaints are Better Cotton Initiative, Ethical Trading Initiative, and the Voluntary Principles on Security and Human Rights. The source data for this information is available from the "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019.
- 55 Roundtable on Sustainable Palm Oil, [RSPO Dispute Settlement Facility DSF: Framework, Terms of Reference, and Protocol](#) (Bogor: RSPO, 2012), 4.
- 56 Interview notes on file with MSI Integrity.
- 57 The source data for this information is available from the "MSI Trends Dataset," which is available on our website and contains information current as of June 30, 2019.

- 58 McKinsey & Company, *Offline and Falling Behind: Barriers to Internet Adoption*, Briefing Note, (New York: McKinsey, 2014), 1–2; “[Connected Society Programme: Unlocking the Power of Mobile Internet](#),” GSMA.
- 59 McKinsey & Company, *Offline and Falling Behind*, 2.
- 60 As of June 2019, the eleven MSIs that had a complaint information directly accessible from their home page or “contact us” page were Bonsucro, Equitable Origin, Fairtrade International, Forest Stewardship Council (has a “Dispute Resolution” link), ICTI Ethical Toy Program (has a “Worker Helpline” link), International Code of Conduct for Private Security Providers, International Sustainability and Carbon Certification, Marine Stewardship Council, Roundtable on Responsible Palm Oil, Sustainable Forestry Initiative (the “SFI Standards” tab in the main menu has a dropdown menu to “Complaints”), and UTZ. The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019.
- 61 [Homepage](#), Fair Labor Association accessed June 30, 2019.
- 62 [Homepage](#), Fair Stone accessed June 30, 2019; [Homepage](#), Roundtable on Responsible Soy, accessed June 30, 2019, <http://www.responsiblesoy.org/?lang=en>.
- 63 [Homepage](#), International Sustainable Seafood Foundation, accessed June 30, 2019, <https://iss-foundation.org>.
- 64 OHCHR, *Guiding Principles*, Principle 31, commentary.
- 65 “[Certified Members](#),” Bonsucro, accessed January 26, 2020.
- 66 “[Participating Operator](#),” Roundtable on Sustainable Biomaterials, accessed January 26, 2020.
- 67 “[Countries](#),” Fair Stone, accessed January 26, 2020.
- 68 “[About Impact: Providing Sustainability Solutions for Fully Traceable and Deforestation Free Supply Chains](#),” International Sustainability and Carbon Certification.
- 69 See UN General Assembly, Human Rights Council, *Report of the Special Rapporteur on the Situation of Human Rights Defenders*, UN Doc. A/HRC/34/52, (New York: UN, 2017), <https://undocs.org/A/HRC/34/52>; “Key Findings (Feb 2018),” Business & Human Rights Resource Centre.
- 70 UN General Assembly, *Report of the Working Group*, para. 36.
- 71 Both UTZ and the Forest Stewardship Council (FSC), for example, use complaint forms that require the complainant’s contact information and only address anonymity in separate policy documents elsewhere on their websites, which then only provide anonymity in “exceptional circumstances.” UTZ, *UTZ Grievance Procedure, vers. 1*, (Amsterdam: UT, 2020) 2.
- 72 Fair Labor Association, Fair Labor Association (FLA) *Third Party Complaint Form* (Washington, DC: FLA), accessed March 18, 2020.
- 73 Fair Wear Foundation, *The FWF Complaints Procedure* (Amsterdam: FWF, 2018), 6.
- 74 Interview 71, factory worker, Philippines, August 16, 2017.
- 75 Interview 80, factory worker, Philippines, August 18, 2017.
- 76 Interview 18, local civil society representative, Cameroon, May 22, 2017.
- 77 Interview 14, local civil society representative, Cameroon, May 22, 2017.
- 78 Interview 59, factory worker, Cameroon, June 8, 2017.
- 79 Interview 115, farmer, Cameroon, June 6, 2017.
- 80 MSI Integrity, *Understanding Community Experiences of Certified Cocoa Farming and Extractive Site Security: A Workshop to Explore Community Engagement in the Voluntary Principles on Security and Human Rights and UTZ Certified*, Summary report, Port Harcourt, Nigeria, June 20–21, 2017, (Berkeley: MSI Integrity, 2017), 23.
- 81 OHCHR, *Guiding Principles*, Principle 31, 33.
- 82 OHCHR, *Guiding Principles*, Principle 31, 33.
- 83 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website at and contains information current as of June 30, 2019.
- 84 Forest Stewardship Council, *FSC Procedure: Processing Complaints in the FSC Certification Scheme* (Bonn: FSC, 2014), 8.
- 85 Fair Stone, *Complaints and Appeals Procedures and Responsibilities: Fair Stone e.V.* (Kirchheim unter Teck: Fair Stone, 2016), 1–2.
- 86 Marine Stewardship Council, *MSC Complaints Procedure*, vers 3.2 (London: MSC, 2019), at p. 5.
- 87 Marine Stewardship Council, *MSC Complaints Procedure*, 7.
- 88 Roundtable on Responsible Soy, *RTRS Grievances Procedure* (Zürich: RTRS), 2, accessed May 14, 2020.
- 89 Out of the 24 MSI grievance procedures open to complaints from rights holders, only 6 have procedures designed to provide for any form of assistance to complainants. The source data for this information is available from the “MSI Trends Dataset,” which is available on our website at www.msi-integrity.org/datasets and contains information current as of June 30, 2019. While we have not reviewed these procedures in practice, such help has the potential to make a difference in whether a complaint is filed or accepted.
- 90 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019.
- 91 Bonsucro’s complaint web page asks the complainant to provide “[d]etails on [the] nature of grievance (i.e. which article (a-d, above) is being broken?)” but does not include the articles, nor does it link to them. “[Making a Complaint](#),” Bonsucro, accessed June 28, 2019.
- 92 “[Become a Member Brand](#),” Fair Wear Foundation, accessed June 28, 2019.
- 93 Fair Wear Foundation, *The FWF Complaints Procedure*.

- 94 Fair Wear Foundation, *FWF Complaints Procedure*, 15.
- 95 Fair Wear Foundation, *FWF Complaints Procedure*, 2.
- 96 OHCHR, *Guiding Principles*, Principle 31, 33.
- 97 OHCHR, *Guiding Principles*, Principle 31, commentary, 34.
- 98 International Commission of Jurists, *Effective Operational-Level Grievance Mechanisms*, 46. MSI Integrity has also recommended that grievance mechanisms should “[e]nsure that the appointment process for independent decision-makers is transparent and contains a conflict of interest policy such that the actor implicated in the complaint is prohibited from being part of the decision-making process.” MSI Integrity, *Essential Elements*, 13.
- 99 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019.
- 100 See, e.g., OECD Watch, *The State of Remedy under the OECD Guidelines: Understanding NCP Cases Concluded in 2018 Through the Lens of Remedy* (Amsterdam: OECD Watch, 2019), 1–2. “[T]o date, we find that meaningful remedy from the NCP complaint system remains difficult to achieve.”
- 101 See, e.g., European Union Agency for Fundamental Rights, *Improving Access to Remedy*, 14, recommending that operational-level grievance mechanisms “be enhanced by businesses joining forces with other actors, including state-based non-judicial bodies with a remedial role, to establish multi-stakeholder remedies available at company level.”
- 102 OHCHR, *Guiding Principles*, Principle 31, 33.
- 103 Bonsucro, “Making a Complaint.”
- 104 Roundtable on Responsible Soy, *RTRS Grievances Procedure*.
- 105 Miller-Dawkins et al., *Beyond Effectiveness Criteria*, 38.
- 106 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019.
- 107 Bonsucro, “Making a Complaint.”
- 108 Roundtable, *RTRS Grievances Procedure*, 2.
- 109 Fair Labor Association, *Charter Document*, 33.
- 110 OHCHR, *Guiding Principles*, Principle 31, 33.
- 111 “[Public Notification of Decision in the Matter of the Inclusive Development International \(IDI\), Equitable Cambodia \(EC\), and the Cambodian League for the Promotion and Defense of Human Rights \(LICADHO\) Complaint against Mitr Phol](#),” Bonsucro, December 21, 2018.
- 112 “[EO Review of Complaint Regarding Labor Practices at Certified Site Moving Forward](#),” Equitable Origin, January 30, 2015, noting that final responses will be published, but which do not appear to be available anywhere on the MSI’s website.
- 113 “[Status of Complaints](#),” Roundtable on Sustainable Palm Oil, accessed March 12, 2020.
- 114 These numbers were calculated by tallying the total number of complaints on the complaints tracking pages of the four MSIs: “[Remediating Worker Issues](#),” Fair Wear Foundation, accessed March 11, 2020; “[Status of Complaints](#),” Roundtable on Sustainable Palm Oil; “[Third Party Complaint Tracking Chart](#),” Fair Labor Association, accessed March 14, 2020; “[Current Cases](#),” Forest Stewardship Council, accessed June 6, 2020.
- 115 OHCHR, *Guiding Principles*, Principle 31, 34.
- 116 For example, UTZ states that “after a grievance is resolved, learnings are documented and shared with relevant parties within UTZ to facilitate continuous improvement of the assurance system, and to prevent reoccurrence of the grievance” but does not apparently publicly share this information. UTZ, *UTZ Grievance Procedure*. Similarly, the International Code of Conduct Association procedure states that the secretariat will publish guidance and best practices concerning the operation of effective grievance procedures, but does not appear to publish this information; International Code of Conduct Association, *Procedures: Article 13: Receiving and Processing Complaints* (Geneva: ICoCA), accessed February 7, 2020.
- 117 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019.
- 118 See, e.g., Compliance Advisor Ombudsman, *2018 Annual Report* (Washington, DC: CAO, 2018).
- 119 See, e.g., Independent Redress Mechanism, *Building on Accountability: 2018 Annual Report* (Incheon: Green Climate Fund/Independent Redress Mechanism, 2018).
- 120 OHCHR, *Guiding Principles*, Principle 31.
- 121 Corporate Social Responsibility Initiative, *Rights-Compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders* (Cambridge: Harvard University John F. Kennedy School of Government, 2008), 7.
- 122 Corporate Social Responsibility Initiative, *Rights-Compatible Grievance Mechanisms*, 8.
- 123 UN General Assembly, *Report of the Working Group*, para. 39.
- 124 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019. Note that, while FSC does not have a formal procedure that refers to remedy for victims, its position and practice are that members who have been expelled cannot renew their association with FSC unless they remedy the social and environmental harm caused, and the scope of harm and remedy is defined by FSC in consultation with the affected and interested stakeholders.
- 125 The source data for this information is available from the “[MSI Trends Dataset](#),” which is available on our website and contains information current as of June 30, 2019.
- 126 UTZ, *UTZ Grievance Procedure*, 1. “[N]o claims for financial compensation are accepted.”
- 127 OHCHR, *Guiding Principles*, Principle 25, commentary, 27.
- 128 OHCHR, *Guiding Principles*, Principle 25, commentary, 27, quoted in UN General Assembly, *Report of the Working Group*, para. 39.

129 International Commission of Jurists, *Grievance Mechanisms*, 44.

130 UN General Assembly, *Report of the Working Group*, para. 21.

131 UN General Assembly, *Report of the Working Group*, para. 19. See also, Columbia Law School Human Rights Clinic and Harvard Law School Int'l Clinic, *Righting Wrongs?*

132 UN General Assembly, *Report of the Working Group*, para. 19.



INSIGHT 6

Impact:

There is little evidence that MSIs are meaningfully protecting rights holders or closing governance gaps

Impact:

There is little evidence that MSIs are meaningfully protecting rights holders or closing governance gaps



In this chapter: This chapter examines the public information that MSIs share about their impact on rights holders, including whether they have recently conducted or commissioned studies on those impacts and shared the results. It also reviews recent external, systematic reviews of the existing research on the social and economic impacts of MSI standards or certifications.

Summary of our insights: If MSIs are going to be relied upon by policymakers, businesses, donors, and civil society organizations (CSOs) as tools for closing governance gaps or achieving rights protection, then there ought to be evidence that they are fit for that purpose. Nearly three decades since the first MSIs emerged, such evidence remains scant. While MSIs often promote themselves as successful, without an understanding of their actual impacts on rights holders, they risk creating the perception that the issues and abuses associated with an industry, country, or company have been addressed—when in fact they may still be occurring.

Key Findings and observations:

- **Unsubstantiated claims or no evidence:** The majority of the 20 oldest MSIs in our MSI Database either claim to have broad positive impacts without sharing any evidence to back their assertions or do not have public information about their impacts on rights holders.
- **Little focus on rights holders:** Only 5 of the 20 oldest MSIs have conducted any direct measurement of their impacts on rights holders in the last five years.
- **Conflating scale with impact:** MSIs often promote their growth or the scale of their operations—such as the number of factories that have been audited or countries that they cover—as evidence of their success or “impact,” rather than reflect on whether they are achieving their desired impact on people or the planet.
- **Weak methodologies:** Even among the MSIs that do measure impact, their studies are of variable quality and do not allow general conclusions to be drawn about their impact on rights holders. These MSIs often fail to approach impact measurement in a systematic or overarching manner, to examine if they are having any unintended consequences, or to recognize rights holders as partners in impact measurement.
- **Limited evidence of impact:** Overall, the systematic reviews of the evidence of MSIs' impacts by academics and other researchers point to sparse, limited, and often context-specific benefits for rights holders.
 - A growing body of research questions the effectiveness of voluntary standards and auditing in improving labor conditions.
 - Evidence of the impact of government transparency MSIs is particularly sparse.
 - The majority of external research into MSIs is focused on agricultural or forestry MSIs and these studies point to mixed and inconclusive results.

MSIs referenced: We reviewed the 20 oldest MSIs in our MSI Database. These are: Rainforest Alliance, Forest Stewardship Council, GoodWeave International, Sustainable Forestry Initiative, Fairtrade International, Global Reporting Initiative, Marine Stewardship Council, Social Accountability International, Ethical Trading Initiative, Fair Labor Association, Fair Wear Foundation, Programme for the Endorsement of Forest Certification, UN Global Compact, Voluntary Principles on Security and Human Rights, Worldwide Responsible Accredited Production, Extractive Industries Transparency Initiative, Florverde Sustainable Flowers, UTZ, Alliance for Responsible Mining, ICTI Ethical Toy Program.

Background: Context and Approach

Since the early 1990s, MSIs have proliferated—from an experimental form of global governance to a widely accepted one—across different industries and issues (see **Insight 1: Influence**). This growth occurred quickly and without much assessment of MSIs' impacts on the communities and rights holders that they sought to benefit, nor with an understanding of whether, or under what conditions, MSIs were effective interventions.¹ Although the initial MSI model was implemented before it could be tested, nearly three decades later, sufficient time has passed that there now exists rich data to assess whether these initiatives are effective at achieving their underlying goals. Of particular importance is analyzing MSIs' impacts on the lives of rights holders.²

While there is no one-size-fits-all approach or definition for impact evaluations, they are generally understood as the search for the actual effects that come as a result of an activity, which “provide evidence on ‘what works and what doesn’t’ . . . and how large the impact is.”³ In the context of MSIs, impact evaluations thus ideally seek to assess the long-term, intended, or unintended change that results directly from the certification scheme or standards' intervention.⁴ As a result, the focus is not solely about member compliance with standards, which may be a short-term outcome, but rather whether compliance has led to any real-world progress on underlying issues—such as forced labor or poverty— that the MSI seeks to address.⁵

For this insight, we reviewed the 20 oldest MSIs in our MSI Database to consider how they publicly discuss their impact.⁶ We focused on the oldest MSIs, as it may take time for a standard-setting MSI to produce and measure impacts. The oldest MSIs, such as the Rainforest Alliance and the Forest Stewardship Council (FSC), are more than 25 years old, while the more recent MSIs were launched 15 years ago. We reviewed websites, annual and impact reports, and studies, as they existed in July 2019, in order to identify whether they had prepared any report or study concerning their impacts on rights holders in the past five years. In compiling this list, we were as inclusive as possible and thus made no value judgment regarding whether a study or report constituted a formal impact assessment. Instead, we included any MSI with: (1) a report that the MSI itself identified or described as an impact study and which included a focus on its impacts on rights holders or affected communities; or (2) any other research report released by the MSI which discussed impacts on rights holders, even if it did not describe itself as an impact report. Several MSIs had multiple studies, in which case we selected the most recent one that referred to or measured impacts on rights holders. In addition, if an MSI released an impact report or study within the last five years, we then briefly surveyed their earlier studies to get an impressionistic understanding of how these eight studies fit into their wider approach to measuring impact. While we would have preferred to closely analyze all the earlier studies from these MSIs, our resource constraints made this impossible. Our primary research is therefore principally focused on how MSIs are describing and measuring their impacts on rights holders. It offers only a limited overview, rather than a deep assessment, of the results of any impact assessments commissioned or conducted by MSIs.

To understand the broad state of evidence about the impacts of MSIs, we examined the available systematic reviews—that is, studies that synthesize and analyze multiple studies—conducted by external researchers, academics, or research organizations. Given the diversity and different categorizations of private governance initiatives, these systematic reviews are not confined to these 20 MSIs that we examined in our own analyses; indeed, some studies also include industry codes of conduct and other non-MSI private governance instruments alongside MSIs. The goal in this wider review of the existing research into impact was not to reach conclusions about the impacts of individual MSIs, but rather to assess the general state of the evidence about MSIs' impacts.

1 While MSIs often broadly state or suggest that they benefit rights holders, few MSIs provide evidence of such impacts

Increasingly, MSIs are publicly discussing what they describe as their “impacts.” However, these claims are often lacking substantiation or are confined to statistics about the growth or size of the MSI’s operation. Fewer initiatives have actually conducted research into the effects and impacts of their operations on rights holders.

Many MSIs broadly suggest or imply that they benefit rights holders. The Rainforest Alliance website, for example, states that “choosing products with the little green frog seal is an easy way to help protect forests, conserve wildlife, and support communities around the world.”⁷ Fairtrade International claims, “[w]hen you buy products with any of the FAIRTRADE Marks, you support farmers and workers as they improve their lives and their communities.” FSC claims that it provides “a guarantee to consumers that the products they buy come from responsible sources . . . that support forest conservation [and] offer social benefits.” The Global Reporting Initiative claims that it “enables real action to create social, environmental and economic benefits for everyone.”⁸ Worldwide Responsible Accredited Production claims, “we promote lawful, humane manufacturing.”⁹

“ . . . only 5 of the 20 MSIs conducted any direct measurement of their impacts on rights holders.”

However, the number of MSIs actually studying their impacts on rights holders is much lower. As outlined in Table 6.1, only 8 of the 20 oldest MSIs in our dataset had publicly shared any impact report or assessment that they had written or commissioned in the past five years that discusses their impact on rights holders in any way. However, three of these studies did not include any direct measurement of their effects on rights holders in their reports or methodologies, such as surveys or interviews. Rather, they referred to other studies or made inferences about the potential impacts on rights holders might be. Thus, only 5 of the 20 MSIs conducted any direct measurement of their impacts on rights holders. These reports are analyzed further in this chapter.

Although few MSIs are engaging in meaningful study into their impact on rights holders, over the last decade we have generally observed a growing trend towards MSIs discussing, or rather, promoting their “impacts.” Of the 20 oldest MSIs, 13 initiatives now have webpages or portals—often highly visible on their homepage or navigation menus—dedicated to their “impact.” By comparison, 7 of the 20 oldest MSIs do not discuss their impacts at all; they do not have an impact section on their websites, nor do they have an impact assessment, report, or impact data in their annual reports.¹⁰ There are likely many reasons for this increase, from MSIs coming of age and wanting to examine their effects and contributions, to member demands or the need to demonstrate the value of their model to donors. To that end, it is worth noting that in 2010, the International Social and Environmental Accreditation and Labelling Alliance (ISEAL Alliance), a membership body for sustainability standards that includes many of the MSIs in our MSI Database, developed a *Code of Good Practice for Assessing the Impacts of Social and Environmental Standards*. The *Code of Practice* requires that its members periodically undertake impact evaluations consistent with the standards contained therein.¹¹ Indeed, of the eight MSIs with impact studies conducted in the last five years, six were ISEAL members, as marked in Table 6.1 in this chapter. Consistent with the periodic reporting requirement in the *Code of Practice*, these MSIs also have a larger number of impact reports or studies than other MSIs: the two non-ISEAL members each only had a single report in the last five years, whereas the ISEAL members often had multiple.

The claims and discussions around “impact” by MSIs often read more as efforts at self-promotion than serious interrogation into whether an initiative is in fact serving its intended beneficiaries. At various points, many of the MSIs we reviewed made claims suggesting that they have made or contributed to broad positive impacts on rights holders, but without sufficient public information to back it up. For example:

- The Florverde Sustainable Flowers impact webpage states that “31,140 flower workers benefited annually” but has no publicly available impact assessment, or other public information, to support that assertion (see Figure 6.1);¹²
- The Fair Labor Association (FLA) homepage states that it has “helped improve the lives of millions of workers around the world” and its impact webpage states, “[t]hrough its independent monitoring and third party complaint process, FLA has helped bring about real and lasting change for workers everywhere.”¹³ However, its publicly available impact assessments are limited to only a few sectors in a few locations and do not support the contention that “millions of workers” have had their lives improved;¹⁴
- The Alliance for Responsible Mining impact webpage states that “[i]n 2018, around 15,000 people—miners and their families—benefited from the Alliance for Responsible Mining’s Interventions,” but its only publicly available impact report is from 2014-2016 and does not include any measurement of impact;¹⁵ and
- The Extractive Industries Transparency Initiative (EITI) suggests that it has positive “big picture” impacts, but relies on questionable metrics to support this (see Spotlight 6.1).

We see these specific unsubstantiated claims as part of a wider trend of MSIs conflating the growth or scale of their operation—such as the number of companies or countries monitored, certified, or participating—as evidence of their success or positive “impact.” Thus, the fact that an MSI has monitored a certain number of farms or factories is interpreted as it having benefited the workers employed by those farms or factories. However, without examining whether that monitoring, certification, or participation has been effective at detecting or tackling the core problems relevant to their industry or mission—or the effects of these interventions on rights holders’ lives—these numbers are not indicators of impact. Rather, they are indicators of the size or growth of the MSI’s operations. By way of example, the Programme for the Endorsement of Forest Certification (PEFC) has a report entitled *Delivering Impacts*. This report states, “Through delivering forest certification over the last 15 years, PEFC has positively impacted significant areas of forest through requiring improved forestry practices and bringing attention to sustainable management.”¹⁶ Yet, the report only contains a discussion of what PEFC does, the development of new certifications, and the number of smallholders it has certified. It does not actually assess or measure the effects of that certification.

Similarly, of the 10 oldest MSIs in our MSI Database, 8 have webpages dedicated to describing their “impacts.” Half of these webpages heavily promote their size or growth outputs/indicators, like that in Figure 6.1.¹⁷ For example, the Rainforest Alliance’s “Impact Dashboard” webpage opens with statistics such as the number of hectares certified, the number of farmers using their methods, and countries where they operate.¹⁸ Similarly, the Marine Stewardship Council’s (MSC) “Our Collective Impact” webpage opens with the proportion of the world’s marine catch that is certified, the number of changes to fisheries operations made, which it calls “improvements,” and the number of products and sites selling MSC-certified fish.¹⁹ To be clear, many of the MSIs that first present these growth and scale statistics also have a number of individual impact studies available for download on the same page. If read, these present a more complex and often less positive picture of the MSI’s impacts (see further in this chapter). However, accessing this information relies on individuals downloading and reading long and sometimes technical reports.

In this way, this trend towards MSIs heralding their growth and scale risks overshadowing the opportunity and need for MSIs to honestly reflect on whether they are achieving their desired impact on people or the planet. This is not to say that information about scale and growth are not important, but that the way that some MSIs are presenting such information can risk oversimplifying and distracting from more critical inquiries. This is particularly true for MSIs with a certification label or consumer-facing component (which includes most of the MSIs who adopt this approach).

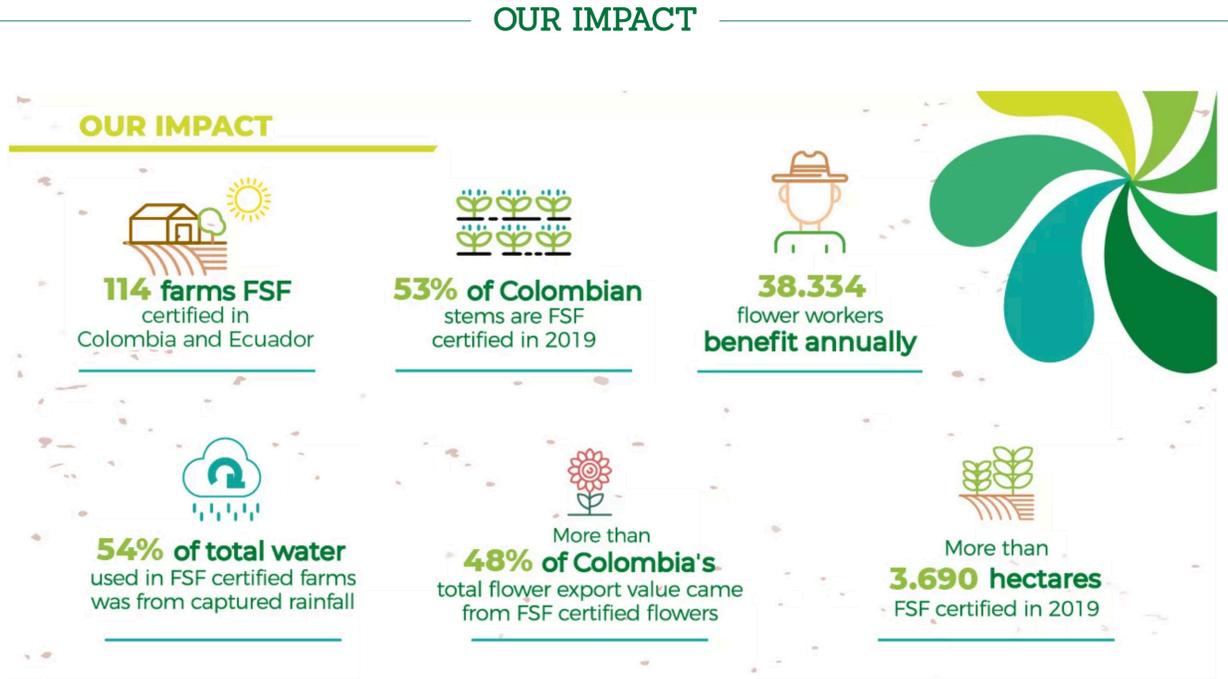


FIGURE 6.1. Example of an MSI promoting its growth and scale as impacts

This is from Florverde Sustainable Flowers's homepage. Florverde has no other information about its impact available on its website.

Source: Homepage, Florverde Sustainable Flowers, accessed February 18, 2020, <https://florverde.org/>.

By comparison, the approach adopted by the Ethical Trading Initiative (ETI) and captured in Figure 6.2, demonstrates an MSI with a willingness to grapple with the complexity and success of their efforts. Its impact page includes a discussion that highlights the initiative's growth and scale, but it also acknowledges key challenges, the fact that "many issues remain," and that there has been "little progress" in some areas.²⁰ The webpage goes on to note that a "radical response" is required, before highlighting the need to focus on brand behavior (an issue explored in **Insight 3: Standards & Scope**).²¹ While some MSIs are careful to separate their growth and size from a discussion of impact,²² such a straightforward acknowledgment of the challenges and limitations facing an MSI is, in our observation, rare.



Our impact on workers



The scale of ETI members' ethical trade activities grows every year – at the last count touching the lives of more than 10 million workers annually. But although ethical trade has brought marked improvements for workers around the world, conditions for many remain poor.

Many issues remain

We know that fundamental principles, such as workers' rights to join a trade union and negotiate collectively, are not being sufficiently addressed. There has been little progress in other areas - for example, discrimination and harassment. Casual and informal sector workers are still receiving scant benefit from codes of labour practice. And global food and fuel inflation means that real wages are declining at an alarming rate in many countries.

FIGURE 6.2. Example of an MSI acknowledging its growth and scale, while also recognizing the limitations of its impact

This is the top of the landing page of the Ethical Trading Initiative's "Our impact on workers" webpage.

Source: "Our impact on workers," Ethical Trading Initiative, accessed February 9, 2020, <https://www.ethicaltrade.org/about-eti/our-impact-workers>.

SPOTLIGHT 6.1. The Extractive Industries Transparency Initiative: Lack of evidence of impact on long-term goals

EITI requires that its member countries publish financial information on natural resource management in the extractive sector (mainly oil and gas). EITI's objectives are to strengthen transparency of natural resource revenues, recognizing that this "can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries."²³ In the nearly two decades since EITI launched, over 50 countries have joined and are currently implementing EITI's standards,²⁴ and the World Bank has mobilized more than US\$72 million to support EITI implementation.²⁵

EITI seeks information on impact in part through review of member countries' work plans and annual progress reports.²⁶ EITI's validation process, which assesses member countries' implementation of the EITI Standard, includes an "outcomes and impact" component, which relies on the countries' narrative reports of efforts to strengthen the impacts of EITI implementation.²⁷ A recent synthesis of the validation process for 14 countries found that "impact studies would be very helpful in assessing the EITI, although it does not appear that countries have incorporated these as a matter of course."²⁸ It concluded that, for some countries, "there is great progress in certain aspects of implementation but far less focus on the analysis and consultative processes necessary for . . . impact assessment."²⁹

Apart from review of members' reports on country-level impacts, EITI points to "big picture indicators" on poverty reduction, growth, governance and investment climate in member countries as evidence of its impact at the global level.³⁰ These indicators are existing country metrics—such as the Human Development Index score, Net Foreign Direct Investment, and Transparency International's Corruption Perception Index score, among others—that EITI relies on "to show how EITI countries fare in comparison to the rest of the world."³¹ Thus, EITI assumes that, taken together, improvements of the average score of its member countries on these indicators can be attributed to their membership in EITI.³²

However, a 2011 external evaluation found that EITI's "big picture" indicators do not constitute a good basis for tracking EITI performance over time.³³ It noted that there was no way to attribute causation to any correlation between the indicators—which are influenced by a variety of factors distinct from EITI—and EITI membership, and thus, that approach was "not likely to provide further insights."³⁴ It concluded, "the EITI's claims that it may be contributing to better governance, economic growth, poverty reduction, no matter how vaguely stated or nuanced, have so far no basis in concept or evidence."³⁵ A more recent evaluation, this time by an EITI donor government, concluded that the initiative lacks an "overall strategic approach" to evaluating its impact and "has not used its resources meaningfully to conduct research into its own impact."³⁶

Independent evaluations have not shed further light on EITI's impact on its long-term goals of reducing corruption, increasing natural resource revenue accrual to governments, and promoting social and economic development. A recent review of 50 studies that attempted to assess EITI's effectiveness found successes in "diffusing the norm of transparency, establishing the EITI standard, and institutionalizing transparency practices" but also pointed to an "evidence gap" regarding whether EITI adoption leads to its desired long-term goals.³⁷

2 The reports or assessments on rights holder impacts that MSIs have conducted are of variable quality and limited value

Carefully designed and implemented impact evaluations are resource-intensive and complex. Measuring the impact of an MSI poses several challenges: standards extend across geographic boundaries, may apply to multiple commodities or industries, and interact with market forces and external systems in ways that an MSI does not control.³⁸ As it may be impossible or very difficult to get a completely accurate overall picture of impact from a single study, “[i]mpact evaluation involves finding the appropriate balance between the desire to understand and measure the full range of effects in the most rigorous manner possible and the practical need to delimit and prioritize on the basis of interests of stakeholders as well as resource constraints.”³⁹ Thus, the method or scope of an impact evaluation for an MSI will depend on the MSI’s goals, funding, the questions it seeks to answer, and its theory of change.⁴⁰

Even bearing these considerations in mind, however, our review of those MSIs who did measure their impact on rights holders indicates that their scope and methodology mean that they are of limited use when trying to understand an MSI’s effectiveness or impacts on rights holders.⁴¹ Given the small scope of our review, we acknowledge that this is necessarily only a glimpse into the approach to impact measurement taken by MSIs. However, as the picture painted is quite alarming, we offer the following observations in order to spur other researchers and MSIs themselves to consider these four issues further:

“... our review of those MSIs who did measure their impact on rights holders indicates that their scope and methodology mean that they are of limited use when trying to understand an MSI’s effectiveness or impacts on rights holders.”

1. MSIs are not measuring their impact in a systematic or overarching manner. Most MSIs’ impact reports or assessments are narrow and context-specific—focusing, for example, on a particular set of countries or commodities, such as bananas in Colombia or hazelnuts in Turkey, or a single pilot program.⁴² While a limited focus may be understandable given that impact assessment is resource-intensive and complex, these studies are generally not framed as forming part of a wider plan or approach to impact measurement by the MSI. To the contrary, with the exception of pilot program studies, they generally appear to be ad hoc and chosen without public explanation.⁴³ For those MSIs that provide some explanation about their general approach to measuring impact, the reasons are oblique. For example, “[o]ne or two impact evaluations are undertaken every year, following a

multiyear evaluation agenda to ensure consistency, learning and comparisons.”⁴⁴ This approach raises questions of selection bias, that MSIs might—unconsciously or not—be highlighting those topics or locations where they are likely to have more positive or less complex results. While many of ISEAL’s members have multiple studies, the lack of coordination both between and among ISEAL members makes it hard to draw any overarching conclusions. Indeed, the general lack of systematic or coordinated efforts means it is difficult to ever make any conclusions beyond the context of a particular study—the place, issue, or rights holder in focus. This, in turn, obscures whether MSIs are positive and effective interventions for rights holders, addressing the underlying issues they were developed to resolve, or not.

2. The methodologies used for measuring impact by some MSIs need improvement. The methodologies used for impact measurement understandably vary from MSI to MSI depending on the context, and a detailed assessment of the adequacy of the approaches for each context was beyond the scope of this report. However, we note that, with respect to some issues that are of universal importance to all impact studies, there was a high variation in quality. For example,

transparency about the methodology used—such as research site selection criteria or the sample size—are considered fundamental.⁴⁵ Yet, while some studies were very transparent and had details about their methodology, others did not disclose their methodology at all.⁴⁶

Some studies also contained major flaws that undermine their reliability. For example, a study by UTZ, which focused on examining the “agricultural practices and working conditions” of UTZ-certified hazelnut farms in Turkey,⁴⁷ included a survey of over 200 farmers, but no workers. Instead, the evaluators primarily relied on the opinions and documents provided by farmers, despite the fact that—while farmers may hold important information around agricultural and management practices—as employers, they are not a suitable source for determining the true conditions and experiences of their workers.⁴⁸ Thus, the study relied on disclosures by farmers (i.e. employers) to assess issues such as the extent of child labor on the farms, whether workers are paid the minimum wage, and if migrant workers are permitted to speak their native language, without verifying any of these findings by speaking directly to workers.⁴⁹ This significantly undermines the study’s finding that the UTZ program leads to improvements in working conditions.

3. The methodologies that MSIs adopt to study impact are often not focused on uncovering unintended consequences, the impacts on external communities and rights holders, or whether their interventions are more effective than alternatives or no intervention at all. Instead, MSIs tend to focus on understanding changes at the level of member compliance or whether specific targets have been met, without considering what this might translate to in terms of wider impacts on the ground.⁵⁰ While it is possible that these changes in practice or compliance might lead to the positive benefits and impacts that MSIs intend, this is not certain. It is also possible that they might have negative unintended consequences, as occurs with some regulatory and legal interventions. Put another way, these studies are not generally seeking an “understanding of what worked and what didn’t work, where, when and for whom,”⁵¹ but are rather asking whether the MSI is working for those within it against the indicators of success that it has defined. Yet, the possibility that MSIs are having negative unintended consequences has been raised by some researchers. For example, studies over the last decade have raised the concern that agricultural MSIs may not be accessible to vulnerable groups—poor farmers who are not able to afford audits or meet documentation requirements of MSIs, for example—and thus may be having the perverse effect of benefiting only more economically powerful actors and further marginalizing the poorest and least organized groups (see Insight 3: Standards & Scope). The case study on Fairtrade International in Spotlight 6.2 explores some of these potential dynamics further.

4. MSIs conduct top-down studies that do not treat rights holders as partners in their assessments. The reports we surveyed are broadly lacking in efforts at co-design or co-implementation of impact assessments that recognize the knowledge, expertise, and interests of rights holders.⁵² Partnering with rights holders might mean selecting the issues or focus of the studies based on the needs or request of rights holders, co-designing methodologies that consider how to best obtain rights holder insights, and collaborating with them to execute the studies. By failing to engage rights holders through a bottom-up approach to impact measurement, MSIs ignore a rich source of information. Rights holders live at the heart of where standards interact with real-world conditions, and thus their views on where and how to examine impact are valuable. Promoting community voices in bottom-up human rights impact assessments has been recognized by a number of human rights groups and researchers, including the Columbia Center on Sustainable Investment, the Danish Institute for Human Rights, the International Federation of Human Rights, and Oxfam,⁵³ and ought to be adopted in the MSI context.

When these four factors are combined with an examination of the actual results of the studies, they indicate that MSIs only produce limited evidence that they are having positive impacts on rights holders.

As outlined in Table 6.1, of the eight reports that address impacts on rights holders, only five included direct measurement of the effects on them, and all five pointed to mixed results or very limited positive results.⁵⁴ This was broadly consistent with our survey of the outcomes of MSIs' earlier studies. However, the limited scope and narrow contexts in which MSIs conduct this research, combined with the fact that these studies are often not part of a wider systematic plan or approach, make it difficult to draw any broad conclusions about the impact MSIs are having on the lives of rights holders. The studies are simply too few and too context-specific. While we emphasize that our findings here are fairly limited given the small number of studies we analyzed, they are broadly consistent with the findings of external studies into MSI impact discussed later in this chapter.

In part, there is a need for more rigorous studies into impact in order to gather enough context-specific information to draw conclusions about the conditions under which interventions are most effective. To that end, we note that in 2019, the ISEAL Alliance, along with an MSI, Rainforest Alliance, and the CSO, WWF, launched an online portal of impact studies and research into sustainability standards, called Evidensia, to allow users to “access and interpret credible research on the sustainability impacts and effectiveness of supply chain initiatives.”⁵⁵ However, quantity alone is not sufficient. What is crucially important is the need for the quality and overarching coordination (and internal comparability) of these studies to be improved, otherwise the studies will never help tell a bigger story about whether an MSI is effective. As a 2016 ISEAL Alliance guidance note observed, current impact reports are “often sector specific, uncoordinated, regularly restricted in geographic and thematic scope, and fall short methodologically.”⁵⁶ To that end, we note that ISEAL's Code of Good Practice, while setting out many requirements around the number and type of studies, does not include any specific methodological requirements or mandatory standards for evaluator quality and independence.⁵⁷ Thus, while the quality of impact studies may increase over time as MSIs learn and experiment with more measurement studies, the need for MSIs to seriously invest in and demonstrate their impact looms large.

Even among MSIs that conduct multiple studies, they may remain unable to understand their impacts due to the complexities and scale of their certification schemes and the number of variables involved. The Fairtrade International case study in Spotlight 6.2 illustrates the difficulties that even well-resourced MSIs committed to impact measurement have in understanding how or to what extent their model produces positive impacts for the people they seek to benefit. Yet few MSIs are as committed as Fairtrade International to assessing and responding to research on their impacts, and thus we know even less about for whom they work, under what conditions, and whether they work at all.

SPOTLIGHT 6.2. Fairtrade International: Impacts widely studied, but many questions remain

Fairtrade International sets production and trade standards for a variety of agricultural commodities.⁵⁸ It is one of the oldest, most well-known and perhaps most widely studied MSIs.⁵⁹ In exchange for meeting Fairtrade production standards, producers receive a guaranteed minimum price and a premium, which they collectively decide how to spend.⁶⁰

Despite the fact that it is a highly studied MSI, the impacts of the Fairtrade model are still an open question. Studies over the last decade have raised the concern that agricultural MSIs may not be accessible to vulnerable groups—poor farmers who are not able to afford audits or meet documentation requirements of MSIs, for example—and thus may have the perverse effect of benefiting more economically powerful actors and further marginalizing the poorest and least organized groups.⁶¹ This concern is among several criticisms of Fairtrade International, which include that it fails to economically benefit producers because a lack of demand means that they cannot sell all of their product under Fairtrade standards.⁶²

To its credit, Fairtrade International has not shied away from these critiques and has instead commissioned assessments and invited external research.⁶³ For example, in 2009 and again in 2017, Fairtrade commissioned a review of the existing independent research on its impacts. But much of the available research has been narrowly focused, despite the fact that the Fairtrade standard covers many commodities and in many different parts of the world. The 2009 review included only 33 studies, most of which focused on coffee production in Latin America or the Caribbean.⁶⁴ The 2017 review, which covered research published from 2009 to 2015, identified 45 Fairtrade impact studies, which reflected a continued emphasis on coffee, but included a greater number of other commodities and more geographic diversity.⁶⁵ In addition, a 2018 study commissioned in part by Fairtrade Germany and Fairtrade Austria examined Fairtrade's contribution to poverty reduction through rural development across a range of products (banana, cocoa, coffee, cotton, flower, and tea), producer types, and countries (Peru, Ghana, Kenya, and India).⁶⁶

The studies point to mixed results. The 2017 review, for example, attributed this to factors such as the supply and demand of certified goods and local variables, including land distribution patterns, government price controls, and state enforcement of labor standards. Ultimately, it pointed to the “difficulty of drawing definitive conclusions on the main potential areas of Fairtrade impact.” The 2018 study found that Fairtrade certification could lead to economic and social impacts for producers, but “the extent to which positive changes can be realized yet depend to a large extent on the regional and cultural settings” as well as the strength and organization of the producing entity.⁶⁷ Fairtrade has acknowledged the gaps in the existing research, and noted its willingness to support efforts to address those gaps and adapt its activities to ensure positive impact.⁶⁸

TABLE 6.1. The most recent impact reports prepared or commissioned by the 20 oldest MSIs within the past five years that discuss their impact on rights holders (as of July 1, 2019)

MSIs with reports that discuss their impacts on rights holders

MSI and Report / Brief summary of scope and methodology	Brief summary of impacts described / assessment findings on rights holders*	Does the methodology include a direct assessment of rights holders' views? (E.g., surveys or interviews)
<p>Alliance for Responsible Mining <i>Our Impact: ARM's Impact on Artisanal and Small-Scale Mining from 2014 to 2016 (2016)</i>⁶⁹</p> <p>Indicates total number of certified mining operations, total premiums paid for certified gold, and narrative descriptions of how three mining operations invested the premium.⁷⁰</p>	<p>No findings: presented how 3 (out of 10) certified mining operations invested the premium they received for certified gold. Projects included creation of a sports field, worker safety training, installing school electricity, processing plants to eliminate mercury use, and others</p>	<p>No.</p>
<p>Ethical Trading Initiative <i>Ethical Trading Initiative External Evaluation Report (2015)</i>⁷¹</p> <p>Interviews with and a survey of ETI members and staff, and review of member monitoring data to assess the impact of ETI on the lives of workers and the effectiveness of its multi-stakeholder process and accountability systems.⁷²</p>	<p>Results were "largely limited to the more 'visible' (and readily accessible) aspects of the Base Code such as child labour and health/safety," rather than freedom of association.⁷³</p>	<p>No.⁷⁴</p>
<p>Fair Labor Association <i>Are Companies' Programs Impacting Change in the Lives of Hazelnut Workers? (2019)</i>⁷⁵</p> <p>Pilot study of the remediation efforts of two companies in Turkey that supply hazelnuts to Nestle, employed interviews of workers and other informants on the impact of summer schools creation, worker and farmer trainings, and renovations of worker housing.⁷⁶</p>	<ul style="list-style-type: none"> • Creation of summer schools resulted in less children working in hazelnut gardens than in other sites without schools. • Occupational health and safety training resulted in workers using personal protective equipment. • Trainings covering other labor issues, such as wages, working hours, and employment contracts had not yet achieved their desired result.⁷⁷ 	<p>Yes.</p>
<p>Fairtrade International* <i>Participatory Analysis of the Use and Impact of the Fairtrade Premium (2019)</i>⁷⁸</p> <p>Quantitative analysis of Fairtrade's monitoring and premium use data, a qualitative case study of decision-making in five Fairtrade-certified operations, including focus groups and interviews with producers and workers, and workshops with Fairtrade Premium Committees.⁷⁹</p>	<ul style="list-style-type: none"> • Creation of summer schools resulted in less children working in hazelnut gardens than in other sites without schools. • Occupational health and safety training resulted in workers using personal protective equipment. • Trainings covering other labor issues, such as wages, working hours, and employment contracts had not yet achieved their desired result. • Participation of individual workers and producers made a difference in ensuring that premium investments were responsive to their needs, but workers on small farms were rarely involved in the decision-making process. • No causation could be established to show that the premium contributed to increasing farmer and worker income and wellbeing.⁸⁰ 	<p>Yes.</p>

MSI and Report / Brief summary of scope and methodology	Brief summary of impacts described / assessment findings on rights holders*	Does the methodology include a direct assessment of rights holders' views? (E.g., surveys or interviews)
<p>GoodWeave International* <i>External Evaluation of Ending Child Labour and Forced Labour in Apparel Supply Chains in India (2018)</i>⁸¹</p> <p>Interviews with stakeholders including homeworkers, parents, youth, school personnel, contractors, suppliers, and brands in order to assess a two-year pilot to build capacity to reduce child labor and forced labor in informal apparel supply chains in India.</p>	<ul style="list-style-type: none"> The model increased access to education for children, but whether that reduced child labor depended on the extent to which children enrolled in school also continued to work long hours. Training provided to homeworkers was only partially relevant to improving working conditions because it was not required as part of the certification scheme. 	<p>Yes.</p>
<p>Marine Stewardship Council* <i>Global Impacts Report (2016)</i>⁸²</p> <p>Describes findings of several previously conducted studies on socioeconomic impacts.</p>	<ul style="list-style-type: none"> Summarized two reports finding that certification led to a price premium in the UK. Described a study that showed the MSC certification of a South African hake fishery enabled it to access new markets and maintain its market position. Indicated that a few studies suggest that fishers themselves may receive economic benefits as a result of certification, pointing to a fishery in Greenland that a buyer rewarded for achieving certification with a double bonus on the trading price.⁸³ 	<p>No.</p>
<p>Rainforest Alliance* <i>Towards a Sustainable Banana Supply Chain in Colombia (2019)</i>⁸⁴</p> <p>Interviews with workers at 13 newly certified plantations and 16 non-certified plantations in the same region in Colombia, and quantitative analysis of interview data conducted to determine the relationship of certification to worker outcomes.</p>	<ul style="list-style-type: none"> Wages at certified plantations were slightly higher than wages at non-certified plantations, but the difference was not attributable to certification alone. It is also related to whether workers had permanent or temporary contracts. Certification is related to a safer grievance claim system. Certification is related to more worker safety precautions.⁸⁵ 	<p>Yes.</p>
<p>UTZ Certified* <i>UTZ Hazelnut Program in Turkey Evaluation Study (2018)</i>⁸⁶</p> <p>Survey of certified farmers in 2014 and 2018, and interviews with group managers, experts, and other stakeholders</p>	<ul style="list-style-type: none"> Improvements in prevention of child labor and ensuring that all workers receive at least the minimum wage. The percentage of farmers who pay the labor contractor's commission directly decreased from 73% in 2014 to 50% in 2018, creating a risk that workers make additional payments to labor contractors. 	<p>The study interviews farmers but not workers.</p>

MSIs without reports that discuss their impacts on rights holders: Sustainable Forestry Initiative**, FSC**, Global Reporting Initiative, Social Accountability International, Fair Wear Foundation, PEFC, UN Global Compact, Voluntary Principles on Security and Human Rights, Worldwide Responsible Accredited Production, EITI**, Florverde Sustainable Flowers, ICTI Ethical Toy Program (listed from oldest to most recent MSI).

*These MSIs are members of ISEAL Alliance.⁸⁷

**These MSIs had a recent impact report or assessment in the last five years; however, it did not address impacts on rights holders.⁸⁸

3 External research on MSIs' impacts is of modest quality and points to limited, often context-specific benefits for rights holders

The available systematic reviews of the evidence of MSIs' impacts by the research community more broadly (e.g., academia and research organizations) show they have mixed results, which are often specific to a particular context, such as geography, issue, or product. As these systematic reviews do not cover all of the 20 MSIs that we examined for this chapter, and many include other standard-setting initiatives not covered in this report, our goal here is not to reach conclusions about the impacts of individual MSIs, but rather to assess the general state of the evidence. In that context, the systematic reviews mirror our observations that there is an absence of coordination in the field, a lack of methodological rigor in attempts to analyze impact, and limited evidence of positive impacts.⁸⁹

While our approach below focuses on MSIs based on issues and industries, we note that other recent synthesis studies on the evidence of MSIs' social and economic impacts have found that many studies continue to lack methodological rigor.⁹⁰

A. Labor conditions and social audits: Marginal and uneven impact on working conditions

Consistent with the state of research on the impacts of voluntary standards generally, evaluation of the effectiveness of voluntary labor codes of conduct and monitoring "has not been systematic and study results vary."⁹¹ Research on the impact of monitoring has largely been limited "to qualitative studies of a small number of firms,"⁹² with some studies conducting quantitative analyses of audit reports over time.⁹³

"Despite the gaps in the research, a growing body of evidence questions the effectiveness of voluntary standards and auditing in improving labor conditions."

Despite the gaps in the research, a growing body of evidence questions the effectiveness of voluntary standards and auditing in improving labor conditions.⁹⁴ Quantitative research has pointed to marginal and uneven results.⁹⁵ One such analysis indicates that even the most credible and stringent audits performed by an MSI with a strong labor rights agenda produced marginal and uneven impacts.⁹⁶ It found marginal overall improvements in worker rights (forced labor, child labor, wages, working times, health and safety, and employment relationships) and no improvement in process rights, such as discrimination and freedom of association.⁹⁷ Another study, which reviewed Nike's internal rating of over 800 factories in 51 countries over seven years, concluded that "monitoring alone is not producing the large and sustained improvements in workplace conditions that many had hoped it would."⁹⁸

More recently, a review of research on the effect of sustainability standards on practice adoption indicated that certification was linked to improvements in worker health and safety, with other evidence suggesting that standards do not result in improvements for hard-to-detect practices (such as freedom of association or discriminatory hiring).⁹⁹ Another 2018 study, based on a quantitative analysis of factory audits between 2003 and 2010, "found no statistically significant association between auditing and improvement in factory conditions."¹⁰⁰ **Insight 4: Monitoring & Compliance** discusses this issue in greater detail.

B. Transparency initiatives: Lack of evidence of government accountability and broader social impact

Systemic reviews of the evidence of government transparency MSIs' impacts are particularly sparse. These initiatives, which include EITI, focus on government information disclosure and ultimately seek to bolster public governance. A 2015 study commissioned by the Transparency and Accountability Initiative (T/AI)—a donor group that seeks to expand the impact, scale, and coordination of funding and activity in the transparency and accountability field—found that “evidence for the broader social, economic, and or environmental impact” of transparency MSIs was “weak or non-existent,” and pointed to the need for “balanced research that explores cases of failure as well as success.”¹⁰¹ A 2018 follow-up study by T/AI sought to assess whether the transparency MSIs had any impact on actions taken by citizens, civil society, and government actors to hold the governments accountable, but found no studies addressing that question directly.¹⁰² Instead, it found a lack of methodological rigor in the published research, which made it impossible to draw conclusions about impacts. The existing research identified several obstacles impeding the effectiveness of transparency initiatives, including:

- A “broad context of limited political accountability”;
- Lack of enforcement mechanisms in the initiatives;
- Difficulties for accountability actors in processing information generated by the initiatives;
- Government exclusion of civil society actors; and
- The fact that these initiatives are sometimes imposed from the outside rather than grow domestically.¹⁰³

The review concluded: “More work is needed” to assess whether transparency MSIs “actually function as intended on the ground.”¹⁰⁴

C. Agricultural and forestry initiatives: Mixed evidence regarding social impacts

The bulk of research on MSIs' impacts has focused on agricultural or forestry MSIs.¹⁰⁵ Several recent studies have examined the state of the evidence regarding the social and economic impacts of agricultural MSIs and point to mixed and inconclusive results.¹⁰⁶

From 2010–2011, a steering committee composed of representatives from business, civil society, and academia oversaw an independent assessment of the available evidence on whether certifications in four sectors (fisheries, agriculture, forestry, and aquaculture) achieved their claimed social, environmental, and economic benefits.¹⁰⁷ The assessment authors found it difficult to draw conclusions due to the variability in research methodologies across the studies under review.¹⁰⁸ For social impacts, in particular, the few studies of fair trade and ethical trade systems that had sound research designs revealed mixed evidence regarding impact. The assessment noted, “Claims that standards and certification empower, expand benefits or secure rights are widespread, but evidence is limited and of modest quality”¹⁰⁹ and that most certification schemes had gathered “very little systematic evidence about their own outcomes and impacts.”¹¹⁰ It recommended that certification initiatives, “should make a more concerted effort to collect information and data on their results.”¹¹¹

“Several recent studies have examined the state of the evidence regarding the social and economic impacts of agricultural MSIs and point to mixed and inconclusive results.”

A 2017 independent review that synthesized the available evidence from the existing research on agricultural certification schemes' impact on socioeconomic outcomes for producers and workers also found that it was difficult to draw any positive conclusions.¹¹² Specifically, the available quantitative evidence indicated that certification allowed producers to command a higher price and earn more income from the sale of certified goods, and resulted in a modest improvement (6% more) in schooling for their children.¹¹³ It also found that workers engaged in certified production had wages that were 13% *lower* than workers for non-certified employers, and that certification had no statistically significant effect on producers' health, total household income, or wealth.¹¹⁴ Additionally, evidence from the available qualitative studies showed that multiple contextual factors contribute to the impact (or lack of impact) of certification schemes, including inconsistency in monitoring and auditing practices, the effects of inequality within producing organizations, and difficulties in addressing gender-based inequality.¹¹⁵ The report explained, "For the ultimate beneficiaries, farmers and workers, the results are not particularly encouraging and show that there is no guarantee that living standards improve through certification."¹¹⁶

Two additional systematic reviews generally support this conclusion. A 2017 systematic review that examined whether voluntary certification of bananas, cocoa, coffee, palm oil, and tea led to improved environmental, social, and economic outcomes found similarly modest impacts.¹¹⁷ In particular, while 56% of the studies showed improved revenue from crop sales, only 24% showed improved household income.¹¹⁸ The authors explained that certification may be successful in providing premiums, but show "less success with improving smallholders' overall economic situation."¹¹⁹ They concluded, "Consumers should be aware that these programs are not a panacea especially for the considerable social hardships facing smallholder producers."¹²⁰ A 2019 systematic review similarly found that farm certification leads to increases in prices and crop income, "but that improvements in these intermediate outcomes do not necessarily translate to higher net household income."¹²¹ Out of 12 studies that addressed household income, the majority (67%) showed no significant difference between certified and non-certified farms; 25% showed that certified farms had higher household income; and 8% percent showed that household income was significantly lower on certified farms.¹²² It concluded that "[f]uture research efforts should focus on disentangling the complex relationships between yields, price premiums, and income . . . and should center on net household income as an important measure of overall economic wellbeing."¹²³

Our Insights

If MSIs are going to be relied upon by policymakers, businesses, donors, and CSOs as tools for closing governance gaps or achieving rights protection, then there ought to be evidence that they are fit for that purpose. Nearly three decades since the first MSIs emerged, such evidence remains scant. While MSIs often promote themselves as successful, without an understanding of their actual impacts on rights holders, they risk creating the perception that the issues and abuses associated with an industry, country, or company have been addressed—when in fact they may still be occurring.

The stakes are high. By MSIs' own claims, their standards now apply to millions of rights holders, on farms and in forests, in manufacturing plants and mining operations, worldwide from Cameroon to Cambodia, Pakistan to Peru. These are not pilot programs; they are experiments in private governance on a global scale.

Yet there are more questions than answers regarding whether, and under what conditions, MSIs' standards or certification produce positive human rights impacts. While a norm of impact measurement appears to be emerging under the leadership of ISEAL Alliance and its members, at present there is a lack of robust standards and expectations around the methodology, consistency, and frequency of assessments.

The limited evidence that is available is not particularly promising, and stands in stark contrast to MSIs' suggestions that they benefit rights holders. Governments are reporting public expenditures on infrastructure and receipts from resource extraction, but there is no understanding of whether this has strengthened civil society or otherwise led to improved government accountability. Factory workers have protective gear, but discrimination and violations of freedom of association go undetected. Improvements in crop yields and prices exist, but this has not always led to higher net household income—the metric that matters for lifting people out of poverty.

Yet, MSIs appear to be feeling more pressure to prove their worth. Unfortunately, producing graphics that demonstrate the scope and scale of an MSI's reach is more common than deep and honest reflections into whether an initiative is protecting rights or achieving its mission. This self-promotional tendency suggests that MSIs have themselves become institutions with their own agendas, self-preservation instincts, and desires to sustain or grow. This is further emphasized by the fact that MSIs' impact studies are generally focused on whether the desired effects within the companies or sites monitored have been achieved—has child labor been reduced or are safety practices followed—rather than questioning if there have been any unintended consequences or examining the wider effects of the MSIs' intervention in a community. This narrow focus enables corporate members of MSIs to point to their participation in MSIs as achieving change, without the more critical question of whether an MSI's intervention is generally positively protecting rights holders and communities, or if it is causing any other complications or negative side-effects. This, in turn, points to the Achilles heel of MSIs: that, as institutions, they need to prove to their business members they can “deliver results” in order to sustain membership and survive as organizations.

By comparison, if rights holders were meaningfully centered in evaluations of whether or not MSIs achieve their goals, then impact measurement would be a much more vital and institutionalized part of MSI operations. The method and focus of these studies would likely be different; they might focus on MSIs' unintended consequences or their wider impacts in communities, and rights holders might have

a bigger role in the studies themselves.

Without an improvement in the understanding of impacts, MSIs and their members risk wasting resources on schemes that are not appreciably improving human rights outcomes. Or worse, they risk perpetuating harm due to unintended negative impacts. Without appropriate impact evaluations and better coordination in the field, MSIs simply do not know if they are effective, and if they are, under what conditions. In light of MSIs' claims, and the potential for those claims to forestall regulation or other types of interventions, the current paucity of information on impact is untenable.

Cited Sources

- Alliance for Responsible Mining, *Our Impact: ARM's Impact on Artisanal and Small-Scale Mining from 2014 to 2016*. Envidado: ARM, 2016. http://www.responsiblemines.org/wp-content/uploads/2017/06/Reporte-Uso-del-Premio_-ENG.compressed1.pdf.
- Barrientos, Stephanie, and Sally Smith. "Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems." *Third World Quarterly* 28, no. 4 (2007): 713–29. <https://www.tandfonline.com/doi/abs/10.1080/01436590701336580>.
- _____. *The ETI Code of Practice: Do Workers Really Benefit?* Sussex: institute of Development Studies, 2006. https://www.ethicaltrade.org/sites/default/files/shared_resources/impact_assessment_part_1_main_findings_0.pdf.
- Beekman, G., M. Dekkers, and T. Koster. *Towards a Sustainable Banana Supply Chain in Colombia: Rainforest Alliance Certification and Economic, Social and Environment Conditions on Small-Scale Banana Plantations in Magdalena, Colombia*. The Hague.: Wageningen Economic Research, 2019. <https://www.rainforest-alliance.org/sites/default/files/2019-06/towards-a-sustainable-banana-supply-chain-in-colombia.pdf>.
- Brockmyer, B., and J. Fox. *Assessing the Evidence: The Effectiveness and Impact of Public Governance-Oriented Multi-Stakeholder Initiatives*. London: Open Society, 2015. <https://www.transparency-initiative.org/wp-content/uploads/2017/03/assessing-the-evidence-msis.pdf>.
- Cordes, Kaitlin Y., Sam Szoke-Burke (CCSI), Tulika Bansal (DIHR), Manon Aubry, Adrien Le Louarn, Jeremy Perelman, and Marie Poirot (Sciences Po Law School Clinic). *A Collaborative Approach to Human Rights Impact Assessments*. March 2017. http://ccsi.columbia.edu/files/2014/05/A-Collaborative-Approach-to-HRIAs_Web.pdf.
- Darko, Emily, Alainna Lynch, and William Smith. *The Impact of Fairtrade: A Review of Research Evidence 2009–2015*. London: Overseas Development Institute, 2017. https://files.fairtrade.net/publications/2017_ODI_FairtradeImpact.pdf.
- Defries, Ruth S., Jessica Fanzo, Pinki Mondal, Roseline Remans, and Stephen A Wood. "Is Voluntary Certification of Tropical Agricultural Commodities Achieving Sustainability Goals for Small-Scale Producers? A Review of the Evidence." *Environmental Research Letters* 12, no. 3 (March 2017). https://www.researchgate.net/publication/313964217_Is_voluntary_certification_of_tropical_agricultural_commodities_achieving_sustainability_goals_for_small-scale_producers_A_review_of_the_evidence.
- Development Workshop. *UTZ Hazelnut Program in Turkey: Evaluation Study*. Ankara: Development Workshop, August 2018. <https://utz.org/wp-content/uploads/2019/03/UTZ-Hazelnuts-Evaluation-Report-06-12-2018.pdf>.
- Egels-Zandén, Niklas, and Henrik Lindholm. "Do Codes of Conduct Improve Worker Rights in Supply Chains? A Study of Fair Wear Foundation." *Journal of Cleaner Production* 107, (2015): 31–40.
- Esbenshade, Jill. "A Review of Private Regulation: Codes and Auditing in the Apparel Industry." *Sociology Compass* 6/7, (2012): 541–56. <https://wsr-network.org/wp-content/uploads/2018/05/Jill-Esbenshade-EsbenshadeSocCompass.pdf>
- Ethical Trading Initiative. "Our Impact on Workers." Accessed February 12, 2020. <https://www.ethicaltrade.org/about-eti/our-impact-workers>.
- Evidensia. "About Evidensia." Accessed January 22, 2020. <https://www.evidensia.eco/about-evidensia/overview/>.
- _____. *Effects of Voluntary Sustainability Standards and Related Supply Chain Initiatives on Yield, Price, Costs and Income in the Agriculture Sector*. Evidensia, 2019. <https://www.evidensia.eco/resources/188/effects-of-voluntary-sustainability-standards-and-related-supply-chain-initiatives-on-yield-price-costs-and-income-in-the-agriculture-sector/>.
- Extractive Industries Transparency Initiative. *Board Decision on the Validation of Ethiopia*. Decision reference: 2019-21/BM-42. Oslo: EITI International Secretariat, 2019. <https://eiti.org/scorecard-pdf?filter%5Bcountry%5D=48&filter%5Byear%5D=2018>, providing a sample validation scorecard.

- ____. "Countries." Accessed January 22, 2020. <https://eiti.org/countries>.
- ____. "EITI Countries Progress on Path to Transparent and Accountable Extractive Sectors." February 27, 2019. <https://eiti.org/news/eiti-countries-progress-on-path-to-transparent-accountable-extractive-sectors>.
- ____. *International Secretariat 2019 Work Plan*. Oslo: EITI International Secretariat, November 22, 2018. https://eiti.org/sites/default/files/documents/international_secretariat_work_plan_2019.pdf.
- ____. *Key Performance Indicators: Measuring the Impact of the EITI*. Oslo: EITI International Secretariat, 2018. https://eiti.org/sites/default/files/documents/2018_eiti_key_performance_indicators.pdf.
- ____. "Outcomes and Impact of the EITI: Measuring or Monitoring the Impact of the EITI." Accessed January 22, 2020. <https://eiti.org/outcomes-impact-of-eiti>.
- ____. "Overview of Validation." Accessed January 22, 2020. <https://eiti.org/validation>.
- Fair Labor Association. *Are Companies' Programs Impacting Change in the Lives of Hazelnut Workers? Fair Labor Association's Social Impact Assessment of Nestle's, Olam's and Balsu's Programs in Turkey*. Washington, DC: FLA, 2019. http://www.fairlabor.org/sites/default/files/documents/reports/social_impact_assessment_final.pdf.
- ____. Homepage. Accessed February 12, 2020. <https://www.fairlabor.org/>.
- ____. "Impact." Accessed January 22, 2020. <http://www.fairlabor.org/impact>.
- Fairmined. "Fairmined Success Stories: Our Impact." Accessed January 22, 2020. <https://www.fairmined.org/our-impact/>.
- Fairtrade International. "Fairtrade Impact." Accessed February 12, 2020. <https://www.fairtrade.net/impact>.
- ____. *Fairtrade Response to "The Impact of Fairtrade: A Review of Research Evidence 2009–15"*. Bonn: Fairtrade, 2017. https://files.fairtrade.net/publications/2017_ODI_FairtradeImpact_ManagementResponse.pdf.
- ____. "Frequently Asked Questions (FAQs)." Accessed January 27, 2020. <https://www.fairtrade.net/about/faq>.
- ____. "How We Conduct and Use Research." Accessed January 22, 2020. <https://www.fairtrade.net/impact/how-we-conduct-research>.
- ____. "How Fairtrade Works." Accessed January 22, 2020. <https://www.fairtrade.net/about/how-fairtrade-works>.
- Florverde Sustainable Flowers. "Our Impact." Accessed January 22, 2020. <https://florverde.org/our-impact/>.
- ____. "Facts & Figures." Accessed February 12, 2020. <https://fsc.org/en/page/facts-figures>.
- Forest Stewardship Council. *FSC Monitoring & Evaluation Program Report: Context, Figures, Effects, and Impacts*. Public Report 2016. Bonn: FSC, 2016. <https://ic.fsc.org/file-download/fsc-monitoring-and-evaluation-report-2016-context-figures-effects-and-impacts-a-7090.pdf>.
- ____. "Impact." Accessed February 12, 2020. <https://fsc.org/en/page/impact>.
- Global Reporting Initiative. "About GRI." Accessed January 22, 2020. <https://www.globalreporting.org/Information/about-gri/Pages/default.aspx>.
- GoodWeave. "Our Impact." Accessed February 12, 2020. <https://goodweave.org/proven-approach/impact/>.
- Griffiths, P. "Ethical Objections to Fairtrade," *Journal of Business Ethics* 105, no. 3 (February 2012): 357–73. https://www.researchgate.net/publication/225125588_Ethical_Objections_to_Fairtrade.
- Hearn, Simon. "Communicating Evaluation to Non-Evaluators." *Better Evaluation*. June 18, 2015. https://www.betterevaluation.org/blog/communicating_evaluation_to_non_evaluators.
- Hearn, S., and A. L. Buffardi. *What Is Impact? A Methods Lab Publication*. London: Overseas Development Institute, 2016. <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/10302.pdf>.
- International Organization Development. *Ethical Trading Initiative External Evaluation Report*. Sheffield: IOD PARC, 2015. https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_external_evaluation_report_-_iod-parc_2015.pdf.
- International Federation for Human Rights, "Community-Based Human Rights Assessments." July 14, 2011. <https://www.fidh.org/en/issues/globalisation-human-rights/business-and-human-rights/community-based-human-rights-impact-assessments>.
- ISEAL Alliance. *Assessing the Impacts of Social and Environmental Standards Systems: ISEAL Code of Good Practice*. Version 2.0. London: ISEAL, 2014. https://www.isealalliance.org/sites/default/files/resource/2017-11/ISEAL_Impacts_Code_v2_Dec_2014.pdf.

- _____. *Evaluating the Impact of Sustainability Standards: Lessons Learnt on Research Design and Methods from Three Impact Evaluations*. London: ISEAL, 2017. https://www.isealliance.org/sites/default/files/resource/2018-01/DIPI_Methodological_Learnings_April_2017.pdf.
- _____. "Members and Subscribers." Accessed January 23, 2020. [https://www.isealliance.org/community-members?f\[0\]=community_status%3A176](https://www.isealliance.org/community-members?f[0]=community_status%3A176).
- Jena, P. R., T. Stellmacher, and U. Grote. "Can Coffee Certification Schemes Increase Incomes of Smallholder Farmers? Evidence from Jinotega, Nicaragua." *Environment, Development and Sustainability* 19, no. 1 (2015): 45–66.
- Komives, K., A. Arton, E. Baker, E. Kennedy, C. Longo, A. Pfaff, C. Romero, and D. Newsom. *Conservation Impacts of Voluntary Sustainability Standards: How Has Our Understanding of the Conservation Impacts of Voluntary Sustainability Standards Changed since the 2012 Publication of "Toward Sustainability: The Roles and Limitations of Certification"?* Washington, DC: Meridian Institute, 2018. <https://www.evidensia.eco/resources/181/conservation-impacts-of-voluntary-sustainability-standards-how-has-our-understanding-changed-since-the-2012-publication-of-toward-sustainability-the-roles-and-limitations-of-certification/>.
- Komives, Kristin and Vidya Rangan. *The Evidence State of Play: Evidence about the Impacts and Contribution of Sustainability Standards*. PowerPoint Presentation. London: ISEAL, 2019. https://www.isealliance.org/sites/default/files/resource/2019-06/The_Evidence_State_of_Play_ISEAL_18-06-2019.pdf.
- Leeuw, F. L., and J. Vaessen. *Impact Evaluations and Development: NONIE Guidance on Impact Evaluation*. Washington, DC: World Bank, 2009. http://siteresources.worldbank.org/EXTOED/Resources/nonie_guidance.pdf.
- Locke, Richard, Fei Qin, and Alberto Brause. "Does Monitoring Improve Labor Standards? Lessons from Nike." *ILR Review* 61, no. 1 (2007): 3–31.
- Loconto, A., L. Silva-Castañeda, N. Arnold, and A. Jimenez. *Participatory Analysis of the Use and Impact of the Fairtrade Premium*. Paris: LISIS, 2019. https://files.fairtrade.net/publications/2019_LISIS_UseImpactFairtradePremium.pdf.
- Lujala, Päivi, Siri Aas Rustadand, and Philippe Le Billon. *Has the EITI Been Successful? Reviewing Evaluations of the Extractive Industries Transparency Initiative*. Bergen: U4, 2017. <https://www.u4.no/publications/has-the-eiti-been-successful-reviewing-evaluations-of-the-extractive-industries-transparency-initiative.pdf>.
- Mallet, Patrick, David D'Hollander, Katrin Oswald, Akiva Fishman, and Lloyd Gamble. *Credible Assurance at a Landscape: A Discussion Paper on Landscape and Jurisdictional Assurance and Claims*. Discussion Paper 2019. WWF and ISEAL, 2019. https://www.isealliance.org/sites/default/files/resource/2019-03/Credible-Landscape-Assurance-Discussion-Paper_WWF_ISEAL_03_2019.pdf.
- Marine Stewardship Council. "Our Collective Impact." Accessed February 12, 2020. <https://www.msc.org/what-we-are-doing/our-collective-impact>.
- Mauthofer, Tatjana, Elisabeth Schneider, Susanne Johanna Väh, and Friederike von Cölln. *Assessing the Impact of Fairtrade on Poverty Reduction through Rural Development (Follow Up Study)*. Saarbruecken: CEval GmbH, 2018. <https://www.evidensia.eco/resources/431/assessing-the-impact-of-fairtrade-on-poverty-reduction-through-rural-development-follow-up-study/>.
- Nelson, Valerie, and Barry Pound. "The Last Ten Years: A Comprehensive Review of the Literature on the Impact of Fairtrade." London: NRI, 2009. https://www.researchgate.net/publication/242598106_The_Last_Ten_Years_A_Comprehensive_Review_of_the_Literature_on_the_Impact_of_Fairtrade.
- Oxfam America. "Community-Based Human Rights Impact Assessment Initiative." Accessed February 12, 2020. <https://policy-practice.oxfamamerica.org/work/private-sector-engagement/community-based-human-rights-impact-assessment-initiative/>.
- Oya, C, F. Schaefer, D. Skalidou, C. McCosker, and L. Langer. *Effects of Certification Schemes for Agricultural Production on Socio-Economic Outcomes in Low- and Middle-Income Countries: A Systematic Review*. *3ie Systematic Review* 34. London: 3ie, 2017. https://www.3ieimpact.org/sites/default/files/2019-01/sr34-certification-schemes-agricultural-production_0.pdf.
- Partnerships 2030. *Impact and Impact Assessment of and in Multi-Stakeholder Partnerships*. Bonn: Partnerships 2030, 2018. https://www.partnerschaften2030.de/wp-content/uploads/2018/12/Tips-and-Tricks_Impact_and_Impact_Assessment_of_and_in_Multi-Stakeholder-Partnerships.pdf.
- Petrokofsky, Gillian, and Steve Jennings. *The Effectiveness of Standards in Driving Adoption of Sustainability Practices: A State of Knowledge Review*. Oxford: 3Keel, 2018. <https://www.evidensia.eco/resources/21/the-effectiveness-of-standards-in-driving-adoption-of-sustainability-practices-a-state-of-knowledge-review/>.
- Program for the Endorsement of Forest Certification. *Delivering Impacts in the Forest and Beyond*. Geneva: PEFC, 2016. <https://storage.googleapis.com/pefc-platform/pefc.org/media/2019-02/e0813a27-a301-4860-9ca9-4d596b50aeb2/ac2007a4-89ba-5516-a903-3471d24c0ce2.pdf>.

- Rainforest Alliance. "About the Rainforest Alliance." Accessed January 22, 2020. <https://www.rainforest-alliance.org/about>.
- _____. "Impact Dashboard." Accessed February 12, 2020. <https://www.rainforest-alliance.org/impact>.
- Raynolds, Laura T., and Elizabeth A. Bennett. *The Handbook of Research on Fair Trade*. Cheltenham: Edward Elgar Publishing, 2015. https://www.researchgate.net/publication/317723530_The_Handbook_of_Research_on_Fair_Trade.
- Roundtable on Sustainable Palm Oil. *Monitoring and Evaluation System: RSPO M&E Public System Report*—March 2018. Bogor: RSPO, 2018. <https://rspo.org/impacts/measuring-and-evaluating-impacts>.
- Sanders, Scott R., Michael R. Cope, and Elizabeth R. Pulsipher. "Do Factory Audits Improve International Labor Standards? An Examination of Voluntary Corporate Labor Regulations in Global Production Networks." *MDPI Social Sciences* 7, no. 6, (2018).
- Scanteam. *Achievements and Strategic Options: Evaluation of the Extractive Industries Transparency Initiative*, Final Report. Oslo: Scanteam, 2011. <https://eiti.org/sites/default/files/documents/2011-EITI-evaluation-report.pdf>.
- Sellare, J., E. M. Meemken, C. Kouamé, and M. Qaim. "Do Sustainability Standards Benefit Smallholder Farmers Also When Accounting for Cooperative Effects? Evidence from Cote d'Ivoire." *American Journal of Agricultural Economics* 102, no. 2 (2020). <https://onlinelibrary.wiley.com/doi/full/10.1002/ajae.12015>.
- Steering Committee of the State-of-Knowledge Assessment of Standards and Certification. *Toward Sustainability: The Roles and Limitations of Certification*. Washington, DC: RESOLVE, 2012. <https://www.resolve.ngo/docs/report-only.pdf>.
- Subramanian, Samanth. "Is Fairtrade Finished?" *The Guardian*. July 23, 2019. <https://www.theguardian.com/business/2019/jul/23/fairtrade-ethical-certification-supermarkets-sainsburys>.
- Sustainable Development Strategies Group. *Synthesis Report: Consulting Services for Independent Evaluation*. Gunnison: SDSG, 2017. https://eiti.org/sites/default/files/documents/2017.5.25_eiti_synthesis_report_sdsd_final_w_p2_back_cover.pdf.
- Sustainable Forestry Initiative. *Conservation Impact Project Summaries*. Washington, DC: SFI, 2019. <https://www.sfiprogram.org/wp-content/uploads/SFI-Conservation-Impact-Project-Summaries-April-2019.pdf>.
- Traidcraft Services India. *External Evaluation of "Ending Child Labour and Forced Labour in Apparel Supply Chains in India," Implemented by GoodWeave and Funded by C&A Foundation*. Hyderabad, Traidcraft, 2018. <https://goodweave.org/wp-content/uploads/2019/02/goodweave-final-report-25-07-18-formatted.pdf>.
- Tsai, Lily L., Benjamin S. Morse, Guillermo Toral, and Varja Lipovsek. *What Is the Evidence That Efforts to Promote International Norms and Standards for Transparency and Accountability Have an Impact on Behaviors of Accountability Actors?* Washington, DC: T/AI, 2018. <https://www.transparency-initiative.org/wp-content/uploads/2018/12/effect-of-international-standards-on-accountability-behaviors-1.pdf>.
- Development Workshop. *UTZ Hazelnut Program in Turkey: Evaluation Study*. Ankara: Development Workshop, August 2018. <https://utz.org/wp-content/uploads/2019/03/UTZ-Hazelnuts-Evaluation-Report-06-12-2018.pdf>.
- UTZ. *Monitoring and Evaluation System: Public M&E System Report*. Version 4.1. March 2018. https://utz.org/wp-content/uploads/2015/12/UTZ_Monitoring-and-Evaluation_System-Report_v3.pdf.
- Wikipedia. "The Fairtrade Debate." Accessed January 22, 2020. https://en.wikipedia.org/wiki/Fair_trade_debate.
- Worldwide Responsible Accredited Production. "WRAP for the Public." Accessed January 22, 2020. <http://wrapcompliance.org/en/wrap-for-the-public>.

Endnotes

- 1 Steering Committee of the State-of-Knowledge Assessment of Standards and Certification, [Toward Sustainability: The Roles and Limitations of Certification](#) (Washington, DC: RESOLVE, June 2012), 59. See also, **Insight 1: Influence**.
- 2 Patrick Mallet et al., *Credible Assurance at a Landscape: A Discussion Paper on Landscape and Jurisdictional Assurance and Claims*, Discussion Paper 2019, (WWF and ISEAL, 2019), setting forth the requirements and challenges to making credible and supportable claims regarding sustainability improvements or responsible sourcing.
- 3 F. L. Leeuw and J. Vaessen, [Impact Evaluations and Development: NONIE Guidance on Impact Evaluation](#) (Washington, DC: World Bank, 2009), xx.
- 4 ISEAL Alliance, *Assessing the Impacts of Social and Environmental Standards Systems: ISEAL Code of Good Practice*, vers. 2.0, (London: ISEAL, 2014), 6. Specific definitions of impact vary depending on the context and purpose of a study. See, e.g., S. Hearn and A. L. Buffardi, [What Is Impact?](#) (London: Overseas Development Institute, Methods Lab, 2016), 12. In the context of MSIs, the definition of impact will be different at an institutional or systemic level, which may examine changes attributable to MSI dialogue, advocacy, and partnerships with governments or among companies in a sector, versus the certification level, which looks to the on-the-ground impact on producers or other directly affected rights holders. Partnerships 2030, [Impact and Impact Assessment of and in Multi-Stakeholder Partnerships](#) (Bonn: Partnerships 2030, 2018); see also Krisin Komives and Vidya Rangan, [The Evidence State of Play: Evidence about the Impacts and Contribution of Sustainability Standards](#), PowerPoint Presentation, (London: ISEAL, 2019). This chapter focuses solely on on-the-ground impacts on producers or other rights holders.
- 5 Steering Committee of the State-of-Knowledge Assessment, *Toward Sustainability*, 59.
- 6 The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets. The list of MSIs in order of date launched is contained in Appendix 2.
- 7 ["About the Rainforest Alliance,"](#) Rainforest Alliance, accessed January 22, 2020.
- 8 ["About GRI,"](#) Global Reporting Initiative, accessed January 22, 2020.
- 9 ["WRAP for the Public,"](#) Worldwide Responsible Accredited Production, accessed January 22, 2020.
- 10 The source data for this information is available from the spreadsheet, "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets.
- 11 ISEAL Alliance, [Assessing the Impacts of Social and Environmental Standards: ISEAL Code of Good Practice](#), vers. 2.0, (London, ISEAL, 2014), 4, 17.
- 12 "Our Impact," Florverde Sustainable Flowers, accessed January 22, 2020, <https://florverde.org/our-impact/>. The source data showing the lack of a publicly available assessment is available from the spreadsheet "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets.
- 13 [Homepage,](#) Fair Labor Association, accessed February 12, 2020; ["Impact,"](#) Fair Labor Association, accessed January 22, 2020.
- 14 See "Impact," Fair Labor Association, and "MSI Trends Dataset," which is available on our website at www.msi-integrity.org/datasets.
- 15 ["Fairmined Success Stories: Our Impact,"](#) Fairmined, accessed January 22, 2020; Alliance for Responsible Mining, [Our Impact: ARM's Impact on Artisanal and Small-Scale Mining from 2014 to 2016,](#) (Evigado: ARM, 2016).
- 16 Program for the Endorsement of Forest Certification, [Delivering Impacts in the Forest and Beyond](#) (Geneva: PEFC, 2016), 3, discussing development of new certifications and the number of certified smallholders, and claiming to prevent deforestation and prohibit forest conversion with no reference to any studies regarding these impacts.
- 17 In addition to the two examples listed in text, Fairtrade International's "Fairtrade Impact" webpage opens with the statistics such as "over 1.7 million farmers and workers are involved in Fairtrade worldwide" and "more than 30,000 products available to shoppers." ["Fairtrade Impact,"](#) Fairtrade International, accessed February 12, 2020, <https://www.fairtrade.net/impact>. In addition, GoodWeave's "Our Impact" webpage includes statistics on the numbers of workers and children reached. ["Our Impact,"](#) GoodWeave, accessed February 12, 2020.
- 18 ["Impact Dashboard,"](#) Rainforest Alliance, accessed February 12, 2020.
- 19 The Marine Stewardship Council's "Our Collective Impact" webpage opens with the proportion of the world's marine catch that is certified, the number of changes to fisheries operations made, which it calls "improvements," and the number of products and sites selling MSC-certified fish. ["Our Collective Impact,"](#) Marine Stewardship Council, accessed February 12, 2020.
- 20 ["Our Impact on Workers,"](#) Ethical Trading Initiative, accessed February 12, 2020.
- 21 Ethical Trading Initiative, "Our Impact."
- 22 Of the 10 oldest MSIs, 2 others also delineated their growth from their impacts. The Forest Stewardship Council has a separate "Facts and Figures" webpage, distinct from its "Impact" webpage. ["Impact,"](#) Forest Stewardship Council, accessed February 12, 2020. ["Facts & Figures,"](#) Forest Stewardship Council, accessed February 12, 2020. The Fair Labor Association (FLA) opens its "Impact" webpage with the following: "In 2011 alone, an estimated 5.5 million workers were impacted by the combined efforts of the civil society organizations, universities and companies that are working together as part of FLA. The true measure of success, however, is the nature of the impact—the degree to which workers are more respected by their employers, have more of a voice in their own futures, and feel safer at work." Fair Labor Association, "Impact."
- 23 Extractive Industries Transparency Initiative, [EITI Articles of Association: Article 2: Background and Objective](#) (Oslo, EITI International Secretariat, 2019).
- 24 ["Countries,"](#) Extractive Industries Transparency Initiative, accessed January 22, 2020.
- 25 Scanteam, *Joint Review, EITI and EITI Multi-Donor Trust Fund Resourcing of EITI: Technical and Financial Support to an Evolving Global Governance Mechanism* (Oslo: Scanteam, 2015), 3.
- 26 ["Outcomes and Impact of the EITI: Measuring or Monitoring the Impact of the EITI,"](#) Extractive Industries Transparency Initiative, accessed January 22, 2020.
- 27 ["Overview of Validation,"](#) Extractive Industries Transparency Initiative, accessed January 22, 2020; see ["EITI Countries Progress on Path to Transparent and Accountable Extractive Sectors,"](#) Extractive Industries Transparency Initiative, February 27, 2019, 11–12; [Extractive Industries Transparency Initiative, Board Decision on the Validation of Ethiopia,](#) Decision reference: 2019-21/BM-42, (Oslo: EITI International Secretariat, 2019), providing a sample validation scorecard; [Extractive Industries Transparency Initiative, International Secretariat 2019 Work Plan](#) (Oslo: EITI International Secretariat, 2018), 35.
- 28 Sustainable Development Strategies Group, [Synthesis Report: Consulting Services for Independent Evaluation](#) (Gunnison: SDSG, 2017), 18.
- 29 Sustainable Development Strategies Group, *Synthesis Report*, 24.

- 30 Extractive Industries Transparency Initiative, [Key Performance Indicators: Measuring the Impact of the EITI](#) (Oslo: EITI International Secretariat, 2018), 3.
- 31 EITI, [Key Performance Indicators](#), 3.
- 32 EITI, [International Secretariat 2019 Work Plan](#), 35, 40–41.
- 33 Scanteam, [Achievements and Strategic Options: Evaluation of the Extractive Industries Transparency Initiative, Final Report](#) (Oslo: Scanteam, 2011), 35.
- 34 Scanteam, [Achievements](#), 35.
- 35 Scanteam, [Achievements](#), 35.
- 36 GIZ, [Assessing the Effectiveness and Impact of the Extractive Industries Transparency Initiative](#) (EITI) (Bonn: GIZ, 2016), 8, 10, 89.
- 37 Päivi Lujala, Siri Aas Rustadand, and Philippe Le Billon, [Has the EITI Been Successful? Reviewing Evaluations of the Extractive Industries Transparency Initiative](#) (Bergen: U4, 2017).
- 38 ISEAL Alliance, [Evaluating the Impact of Sustainability Standards: Lessons Learnt on Research Design and Methods from Three Impact Evaluations](#) (London: ISEAL, 2017), 6. For many MSIs, different ends of their supply chains, from producers to corporate buyers, adopt standards but in different ways, and for reasons that are often up to market forces and beyond the control of the MSI. In addition, a single producer may hold multiple certifications, making it hard to determine the separate effects of one standard over another.
- 39 Leeuw and Vaessen, [Impact Evaluations](#), xxi.
- 40 See Leeuw and Vaessen, [Impact Evaluations](#), xiii–xiv.
- 41 Note that although the reports by the Marine Stewardship Council and the Ethical Trading Initiative (ETI) included discussions of their impacts on rights holders, these discussions were not the result of new studies by the MSIs that intended to provide new insights into their impacts on rights holders (see Table 6.1). As a result, we exclude them from this analysis on impact methodology.
- 42 See Table 6.1.
- 43 Except for follow-up studies to earlier pilots, such as those by FLA and UTZ, none of the methodologies of the studies in Table 6.1 provided a justification for why that particular issue, topic, or location had been decided above any others, or how the study was part of a wider effort to measure.
- 44 UTZ, [Monitoring and Evaluation System: Public M&E System Report](#), vers. 4.1, (Amsterdam: UTZ, 2018), 2, 3, stating that topics are “decided upon by the UTZ executive management after internal consultations, considering needs, priorities and available resources.” See also Roundtable on Sustainable Palm Oil, [Monitoring and Evaluation System: RSPO M&E Public System Report](#)—March 2018 (Bogor: RSPO, 2018), 12, stating its research agenda was “developed through consultation with key experts within the RSPO Secretariat.”
- 45 ISEAL Alliance, [Evaluating the Impact](#), 41.
- 46 For example, the FLA report contained a detailed methodology description, whereas the Alliance for Responsible Mining did not include any description of their methodology. Alliance for Responsible Mining, [Our Impact: Fair Labor Association, Are Companies’ Programs Impacting Change in the Lives of Hazelnut Workers? Fair Labor Association’s Social Impact Assessment of Nestlé’s, Olam’s and Balsa’s Programs in Turkey](#) (Evigado: ARM, 2019), 5.
- 47 Development Workshop, [UTZ Hazelnut Program in Turkey: Evaluation Study](#) (Ankara: Development Workshop, 2018), 12.
- 48 UTZ, [UTZ Hazelnut Program](#), 16–17.
- 49 UTZ, [UTZ Hazelnut Program](#), 16–17, 60–61. For another example, see the Alliance for Responsible Mining, which presented its report, [Our Impact: ARM’s Impact on Artisanal and Small-Scale Mining from 2014 to 2016](#), as a broad reflection of impact. However, it does not appear to have included any interviews or direct inputs from rights holders, but because the report lacks a methodology and the MSI did not respond to our request for feedback, it is difficult to confirm this. Alliance for Responsible Mining, [Our Impact](#).
- 50 See, e.g., UTZ, [UTZ Hazelnut Program](#), 16–17; Fair Labor Association, [Are Companies’ Programs](#).
- 51 Simon Hearn, [“Communicating Evaluation to Non-Evaluators,”](#) Better Evaluation, June 18, 2015.
- 52 See, e.g., the methodologies of the reports listed in Table 6.1, which do not indicate that rights holders provide input into the design of studies or are otherwise recognized as equal partners in impact measurement.
- 53 See Kaitlin Y. Cordes et al., [A Collaborative Approach to Human Rights Impact Assessments](#) (2017); “[Community-Based Human Rights Impact Assessment Initiative](#),” Oxfam America, accessed February 12, 2020; “[Community-Based Human Rights Assessments](#),” International Federation for Human Rights, July 14, 2011.
- 54 The types of limited positive results include improved awareness about occupational health and safety issues (Fair Labor Association, [Are Companies’ Programs](#), 18); some decline in, but not elimination of, child labor (see the examples of the FLA, UTZ, and ETI studies in Table 6.1); and indications that certification could “indirectly” lead to “slightly higher wages” (G. Beekman, M. Dekkers, and T. Koster, [Towards a Sustainable Banana Supply Chain in Colombia: Rainforest Alliance Certification and Economic, Social and Environment Conditions on Small-Scale Banana Plantations in Magdalena, Colombia](#) (The Hague: Wageningen Economic Research, 2019), 10).
- 55 “[About Evidensia](#).” Evidensia, accessed January 22, 2020.
- 56 ISEAL Alliance, [Researching Standards and Certification: A Guidance Note](#) (London: ISEAL, 2016), 10.
- 57 ISEAL Alliance, [Assessing the Impacts of Social and Environmental Standards: ISEAL Code of Good Practice](#), vers. 2.0, (London: ISEAL, 2014), 17–19.
- 58 “[How Fairtrade Works](#),” Fairtrade International, accessed January 22, 2020.
- 59 See, e.g., Laura T. Reynolds and Elizabeth A. Bennett, [The Handbook of Research on Fair Trade](#) (Cheltenham: Edward Elgar Publishing, 2015), 6, 10, 13–14, 17–18, 20.
- 60 “[Frequently Asked Questions \(FAQs\)](#),” Fairtrade International, accessed January 27, 2020.
- 61 “Fairtrade certified cooperatives are significantly older than non-certified cooperatives, have better educated leaders, own more physical assets, and have more providers of services to members.” J. Sellare et al., “[Do Sustainability Standards Benefit Smallholder Farmers Also When Accounting for Cooperative Effects? Evidence from Cote d’Ivoire](#),” [American Journal of Agricultural Economics](#) 102, no. 2, (2020): 15.

- 62 [“The Fairtrade Debate.”](#) Wikipedia, accessed January 22, 2020; see also Samantha Subramanian, [“Is Fairtrade Finished?”](#) *The Guardian*, July 23, 2019: “The debate over whether Fairtrade’s systems truly transform the lives of farmers has raged for nearly all of Fairtrade’s lifetime.” See also, P. R. Jena, T. Stellmacher, and U. Grote, “Can Coffee Certification Schemes Increase Incomes of Smallholder Farmers? Evidence from Jinotega, Nicaragua,” *Environment, Development and Sustainability* 19, no. 1 (2015): 45–66: “The results . . . show no evidence of statistically significant impacts of either Fairtrade or organic certification standards on smallholder farmers’ total household income. . . . More alternative and accompanying non-agricultural programs and measures on the one hand, and direct investments into agriculture and diversification, making farmers less dependent on single export cash crops, on the other hand, might be superior measures.”
- 63 [“How We Conduct and Use Research.”](#) Fairtrade International, accessed January 22, 2020.
- 64 Valerie Nelson and Barry Pound, *The Last Ten Years: A Comprehensive Review of the Literature on the Impact of Fairtrade* (London: NRI, 2009), 5; see also P. Griffiths, [“Ethical Objections to Fairtrade.”](#) *Journal of Business Ethics* 105, no. 3 (2012): 367, criticizing the 2009 study on the basis that “it would be improper to generalise from a tiny number of case studies of selected successful cooperatives to 3,000 Fairtrade suppliers.”
- 65 Emily Darko, Alaina Lynch, and William Smith, *The Impact of Fairtrade: A Review of Research Evidence 2009–2015* (London: Overseas Development Institute, 2017), 14.
- 66 Tatjana Mauthofer et al., *Assessing the Impact of Fairtrade on Poverty Reduction through Rural Development* (Follow Up Study) (Saarbruecken: CEval GmbH, 2018), 7.
- 67 Mauthofer et al., *Impact of Fairtrade*, 124.
- 68 Fairtrade International, *Fairtrade Response to “The Impact of Fairtrade: A Review of Research Evidence 2009–15.”* (2017); see also Fairtrade International, “How We Conduct and Use Research”: “There are many aspects of Fairtrade that are under-researched, and we encourage external researchers to try to fill some of those knowledge gaps.”
- 69 Alliance for Responsible Mining, “Our Impact.”
- 70 Alliance for Responsible Mining, “Our Impact.”
- 71 International Organization Development, [Ethical Trading Initiative External Evaluation Report](#) (Sheffield: IOD PARC, 2015), 13.
- 72 International Organization Development, *Ethical Trading Initiative*, 5.
- 73 International Organization Development, *Ethical Trading Initiative*, 15–22, discussing assessment findings.
- 74 Note that while ETI conducted an earlier impact study that included direct measurement of work impact, this was from 2006, and therefore, not within the last five years: Stephanie Barrientos and Sally Smith, [The ETI Code of Practice: Do workers really benefit?](#) (Sussex: Institute of Development Studies, 2006).
- 75 Fair Labor Association, *Are Companies’ Programs*, 1–2.
- 76 Fair Labor Association, *Are Companies’ Programs*, 1–2.
- 77 Fair Labor Association, *Are Companies’ Programs*, 17–18.
- 78 A. Loconto et al., [Participatory Analysis of the Use and Impact of the Fairtrade Premium](#) (Paris: LISIS, 2019).
- 79 Loconto et al., *Participatory Analysis*, 3, 37.
- 80 Loconto et al., *Participatory Analysis*, 3–4, 78.
- 81 Traidcraft Services India, [External Evaluation of “Ending Child Labour and Forced Labour in Apparel Supply Chains in India.” Implemented by GoodWeave and Funded by C&A Foundation](#) (Hyderabad: Traidcraft, 2018), 1.
- 82 Traidcraft Services India, *External Evaluation*, 1.
- 83 Traidcraft Services India, *External Evaluation*, 1.
- 84 Beekman et al., *Banana Supply Chain*.
- 85 Beekman et al., *Banana Supply Chain*, 10.
- 86 UTZ, *UTZ Hazelnut Program in Turkey*.
- 87 The five ISEAL members are Fairtrade International, GoodWeave International, Rainforest Alliance, Roundtable on Sustainable Palm Oil, and UTZ. [“Members and Subscribers.”](#) ISEAL Alliance, accessed January 23, 2020.
- 88 Forest Stewardship Council, [FSC Monitoring & Evaluation Program Report: Context, Figures, Effects, and Impacts](#) (Bonn: FSC, 2016). Sustainable Forestry Initiative, [Conservation Impact Project Summaries](#) (Washington, DC: SFI, 2019); The Extractive Industries Transparency Initiative’s (EITI) treatment of impact is discussed in Spotlight 6.1.
- 89 Gillian Petrokofsky and Steve Jennings, [The Effectiveness of Standards in Driving Adoption of Sustainability Practices: A State of Knowledge Review](#) (Oxford: 3Keel, March 2018), 57. “The majority of studies of the impacts and outcomes of certification simply do not have a control population, nor measurement of before and after certification. Without a counterfactual, it is impossible to evaluate whether standards systems have had an effect on practice.” C. Oya et al., [Effects of Certification Schemes for Agricultural Production on Socio-Economic Outcomes in Low- and Middle-Income Countries: A Systematic Review](#), *3ie Systematic Review 34* (London: 3ie, February 2017), i, 36, recommending that MSIs should develop adequate impact evaluations based on acceptable standards and that claims about impact should match what is possibly achievable and verifiable.
- 90 Petrokofsky and Jennings, *Effectiveness of Standards*, 57. “The majority of studies of the impacts and outcomes of certification simply do not have a control population, nor measurement of before and after certification. Without a counterfactual, it is impossible to evaluate whether standards systems have had an effect on practice.”
- 91 Jill Esbenshade, [“A Review of Private Regulation: Codes and Auditing in the Apparel Industry”](#) *Sociology Compass* 6/7, (2012): 545.
- 92 Niklas Egels-Zandén and Henrik Lindholm, “Do Codes of Conduct Improve Worker Rights in Supply Chains? A Study of Fair Wear Foundation,” *Journal of Cleaner Production* 107, (2015): 31.

- 93 Scott R. Sanders, Michael R. Cope, and Elizabeth R. Pulsipher, "[Do Factory Audits Improve International Labor Standards? An Examination of Voluntary Corporate Labor Regulations in Global Production Networks](#)," *MDPI Social Sciences* 7, no. 6 (2018); Niklas and Lindholm, "Do Codes of Conduct," 31; Richard Locke, Fei Qin, and Alberto Brause, "[Does Monitoring Improve Labor Standards? Lessons from Nike](#)," *ILR Review* 61, no. 1 (2007): 21.
- 94 Sanders et al., "Do Factory Audits."
- 95 Stephanie Barrientos and Sally Smith, "[Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems](#)," *Third World Quarterly* 28, no. 4 (2007): 723.
- 96 Egels-Zandén and Lindholm, "Do Codes of Conduct," 38.
- 97 Egels-Zandén and Lindholm, "Do Codes of Conduct," 37.
- 98 Locke et al., "Does Monitoring Improve," 21.
- 99 Petrokofsky and Jennings, "Effectiveness of Standards," 3. The same review found that certification is linked to companies adopting better community relations practices, such as providing roads, schools, or training, or disbursing a premium for certified goods, but did not examine the impact of those practices. Petrokofsky and Jennings, "Effectiveness of Standards," 38–40.
- 100 Sanders et al., "Do Factory Audits," 10.
- 101 B. Brockmyer and J. Fox, [Assessing the Evidence: The Effectiveness and Impact of Public Governance-Oriented Multi-Stakeholder Initiatives](#) (London: Open Society, 2015), 49. The MSIs covered in the study are EITI, the Open Government Partnership, the Open Budget Survey, the Global Initiative for Fiscal Transparency, the Infrastructure Transparency Initiative, the Medicines Transparency Alliance, and the Open Contracting Partnership. Brockmyer and Fox, *Assessing the Evidence*, 1. Among these, only EITI met our criteria for inclusion in this chapter. The study is nonetheless useful in assessing the state of the evidence regarding the impact of transparency initiatives overall.
- 102 Lily L. Tsai et al., [What Is the Evidence That Efforts to Promote International Norms and Standards for Transparency and Accountability Have an Impact on Behaviors of Accountability Actors?](#) (Washington, DC: T/Al, 2018), 3.
- 103 Tsai et al., *What Is the Evidence*, 3.
- 104 Tsai et al., *What Is the Evidence*, 4.
- 105 Petrokofsky and Jennings, "Effectiveness of Standards," 57, also finding a concentration of research on four certifications schemes: those of the Rainforest Alliance, Fairtrade International, Forest Stewardship Council, and organically grown certification.
- 106 In addition to the studies discussed below, a recent review examined the conservation impacts of voluntary sustainability standards. K. Komives et al., [Conservation Impacts of Voluntary Sustainability Standards: How Has Our Understanding of the Conservation Impacts of Voluntary Sustainability Standards Changed since the 2012 Publication of "Toward Sustainability: The Roles and Limitations of Certification"?](#) (Washington, DC: Meridian Institute, 2018). It is not included in the discussion because our emphasis is on social impacts, but we found similar issues with the state of the evidence around conservation impacts: "While evidence has increased substantially since 2011, it is clear that research about [voluntary sustainability standards] impacts faces significant challenges, such as finding quality comparison groups (matches), establishing a picture of the pre-certification situation, and including adequate sample sizes." Komives et al., *Conservation Impacts*, 5.
- 107 Steering Committee, *Toward Sustainability*, 2–3.
- 108 Steering Committee, *Toward Sustainability*, 16.
- 109 Steering Committee, *Toward Sustainability*, 70.
- 110 Steering Committee, *Toward Sustainability*, 72.
- 111 Steering Committee, *Toward Sustainability*, 102.
- 112 Oya et al., *Effects of Certification Schemes*, i, 36. The certification schemes covered in the studies reviewed included the following MSIs in the MSI Integrity Database: Better Cotton Initiative, Ethical Trade Initiative, Fairtrade International, Rainforest Alliance, Roundtable on Sustainable Palm Oil, and UTZ.
- 113 Oya et al., *Effects of Certification Schemes*, v–vi.
- 114 Oya et al., *Effects of Certification Schemes*, v–vi.
- 115 Oya et al., *Effects of Certification Schemes*, vi–vii.
- 116 Oya et al., *Effects of Certification Schemes*, i, 36.
- 117 Ruth S. Defries et al., "[Is Voluntary Certification of Tropical Agricultural Commodities Achieving Sustainability Goals for Small-Scale Producers? A Review of the Evidence](#)," *Environmental Research Letters* 12, no.3 (2017): 8.
- 118 Defries et al., "Is Voluntary Certification," 8.
- 119 Defries et al., "Is Voluntary Certification," 8.
- 120 Defries et al., "Is Voluntary Certification," 9.
- 121 Evidensia, [Effects of Voluntary Sustainability Standards and Related Supply Chain Initiatives on Yield, Price, Costs and Income in the Agriculture Sector](#) (Evidensia, 2019), 27.
- 122 Evidensia, *Voluntary Sustainability Standards*, 19.
- 123 Evidensia, *Voluntary Sustainability Standards*, 28.



Conclusion:

MSIs have not lived up to their promise of advancing rights holder protection against business-related abuses



Conclusion:

MSIs have not lived up to their promise of advancing rights holder protection against business-related abuses

In the 1990s, MSIs emerged as a potentially transformative proposition and an exciting governance experiment to address harms caused by businesses. For years prior, many civil society organizations (CSOs) had been investigating and naming-and-shaming multinational corporations for their connection to sweatshop labor, deforestation, corruption, and other human rights-related issues. As this advocacy grew ever louder, rather than being barred from boardrooms, some of those CSOs—particularly international non-governmental organizations—were invited to collaborate in drafting good practice standards, designing oversight mechanisms, and creating novel multi-stakeholder governance frameworks for initiatives that—it was hoped and claimed—would prevent future abuses.

However, despite the efforts of many stakeholders to enter this governance arena, the grand experiment has not produced the positive human rights outcomes that were promised or hoped for. As summarized in the insights of this report, the evidence from our research and engagement in this field over the last decade sheds light on how MSIs have operated and the limitations of their ability to address business-related human rights abuses.

These insights are:

- 1. Influence: MSIs have been influential as human rights tools, but that influence, along with their credibility, is waning.**
- 2. Stakeholder Participation: MSIs entrench corporate power by failing to include rights holders and by preventing civil society from acting as an agent of change.**
- 3. Standards & Scope: Many MSIs adopt narrow or weak standards that overlook the root causes of abuses or risk creating a misperception that they are being effectively addressed.**
- 4. Monitoring & Compliance: MSIs employ inadequate methods to detect human rights abuses and uphold standards.**
- 5. Remedy: MSIs are not designed to provide rights holders with access to effective remedy.**
- 6. Impact: Little is known about whether MSIs are effective tools for protecting rights holders or closing governance gaps.**

Taken together, the insights show that MSIs have not lived up to their promise of advancing rights holder protection against business-related abuses. It is time for governments, businesses, civil society, and the wider public to rethink the role that MSIs—and all forms of private governance—play in addressing business-related human rights issues. MSIs have neither been designed nor operated to hold companies and governments accountable for human rights abuses; nor have they provided a route to remedies for rights holders if abuses occur. In other words, MSIs have not closed the governance gaps that provide companies with a permissive environment for abusive conduct. By failing in these key domains, MSIs actually may be contributing to corporate capture by allowing corporate actors to focus rhetorically on standards without transforming practices that are harmful to human rights protection. This is not to say that MSIs have not had any successes or positive impact, especially as institutions that foster dialogue and learning, but they have not been set up primarily to serve rights holders. Our insights underscore that MSIs are better designed to serve corporate interests than rights holders. As such, MSIs should no longer be relied upon as a default response to business-related human rights abuses.

1 Failures in the design of MSIs: MSIs better serve corporate interests than rights holder interests

Present across standard-setting MSIs, and underlying the six insights presented in this report, are two features that intrinsically limit the capacities of MSIs to protect rights.

First, MSIs are not rights holder-centric. MSIs employ a top-down approach to addressing human rights concerns, which fails to center the rights of affected individuals and communities. Not only are rights holders or their representatives absent from most MSI governing boards, but also MSIs largely do not empower them to know and exercise their rights, to participate in improving their working or living conditions, or to interrogate the impacts of MSI interventions. For example, MSIs have generally failed to invest in readily accessible complaints or monitoring procedures that address the risks and barriers rights holders face when attempting to report abuses. For the most part, they do not have procedures that require rights holders' input on appropriate remedies when abuses are found.

Yet, centering rights holders is essential for the efficacy of any initiative that purports to address human rights, including MSIs. Effective standards are those that respond to the key human rights issues in an industry. Rights holders have first-hand experience with these issues and the broader impacts of business-related human rights abuses by virtue of their close interactions with businesses—on factory floors, in fields, in the wider community impacted by business activities, and so on. Rights holders possess critical information on the local context and relevant industry. Therefore, their perspectives are essential in ensuring that standard-setting and implementation processes respond to their lived experiences: what issues are of greatest importance to be addressed? What sort of whistleblower protections do they need in order to feel safe reporting alleged abuse? Are MSI interventions positively impacting or benefiting them?

If rights holders were meaningfully involved and empowered in the design of a governance initiative, they would likely demand systems that offer robust human rights protections and access to effective remedy when those protections fail. Worker-driven Social Responsibility is an example of such a model. This worker-driven and developed system of private governance contains strikingly different central elements that uphold fundamental rights protections as compared to MSIs: legally binding and enforceable standards, a major focus on worker education, requirements around supply-chain transparency, economic responsibility for remediation, and independent and binding complaint mechanisms, among other features.¹ It demonstrates the process of designing governance initiatives—who is involved, and how much power they have—is intertwined with the substantive rights outcomes and upholding established rights protections.

MSIs will not be effective unless they harness the perspectives of rights holders while also centering and upholding the rights of communities on the ground. While CSOs play a role in communicating these needs within MSI spaces, they are not proxies for rights holders. Ultimately, by excluding rights holders, MSIs have compromised their ability to effectively advance rights holder protection from corporate abuses.

Second, MSIs have not fundamentally restricted corporate power or addressed the power imbalances that drive abuse. The premise of MSIs is that they actually share power among different stakeholder groups. But not all stakeholders are equal. Corporations have significantly greater power and resources than CSOs and rights holders, and indeed, many governments. Thus, without a concerted effort to fix this power imbalance, corporate interests have generally won out. Rather than insisting on rigorous mechanisms or binding commitments that would help curtail corporate power—such as requiring members to adopt legally enforceable standards, or subjecting members to the authority of a robust and independent grievance mechanism—at each turn in their design, MSIs have

adopted approaches that allow corporate interests to prevail. In this context, the regulated target—the company—is left with immense control over efforts to improve its conduct and extensive power to push for compromise in contested areas.

This is not to paint business representatives as Machiavellian, but rather to recognize that when confronted with making decisions or subscribing to systems that collide with an obligation to maximize profit—such as setting standards that would be costly to implement, or agreeing to reporting procedures that could expose a company to legal liability—companies will succumb to their incentives and pressures to resist such actions. MSIs have failed to address the power differential that allows profit motivations to continuously drive abuse, and instead have afforded companies significant latitude in the design, governance, and implementation of initiatives.

This has resulted in MSIs producing systems and processes that remain consistently dependent on the will of corporations to be regulated, change their behavior, and participate in the initiative. Put another way, companies have retained their autonomy and safeguarded their profit interests as conditions of their participation. For example, the mechanisms most central to rights protection—such as systems for detecting and remediating abuses, or upholding compliance—are riddled with structural weaknesses that do not change established power structures and require voluntary action by the regulated party in most circumstances (see **Insight 5: Remedy** and **Insight 4: Monitoring & Compliance**). The demands made of the most influential and powerful members in MSIs—multinational corporations and Global North governments—are weak relative to their resources and influence over rights. Instead of bearing the cost and responsibility of implementation, they have successfully placed the onus and spotlight primarily on weaker actors: in supply chains, the emphasis is placed on producers, not brands; in government-focused MSIs, the attention is primarily on the failures and actions of Global South governments, rather than on the responsibility of those from the Global North to control the corporations registered in their jurisdictions (see **Insight 3: Standards & Scope**). To the extent that powerful actors do act, it is largely based on their willingness and discretion to do so.

By not addressing corporate power and the underlying drivers of abuse, MSIs have ensured their own failure as governance tools. This is because relying on the goodwill of corporations fails to recognize the profit incentives and power imbalances that drive abuse. When that goodwill breaks down—as it often has—MSIs can do little to protect human rights. This makes them distinctly unsuitable as governance tools.

2 MSIs are unlikely to ever be reliable tools to protect human rights

The hope for many stakeholders within MSIs, particularly CSOs, had been that, over time, the quality and rigor of the systems and standards they had initially agreed to would become robust tools for human rights protection. However, the honeymoon period for MSIs has ended, and we now face the reality that MSIs have not evolved to become transformative or effective human rights tools. On the contrary, as outlined in **Insight 1: Influence**, there is now mounting evidence of MSIs' failures to detect or remedy human rights abuses in the industries they oversee. Concerns about MSIs' effectiveness have grown louder, and civil society supporters have begun to retreat from MSIs. Moreover, as outlined in **Insight 2: Stakeholder Participation**, advancing major pro-human rights reforms in MSIs has proved incremental and slow at best—and very resource-intensive. While MSIs have certainly evolved over the years, with some revising their standards and bylaws in important ways, it has been rare to see deep or substantial overhauls take place. Instead, nearly two decades after the emergence of MSIs, their standards and accountability mechanisms generally remain weak and incapable of adequately addressing the key human rights issues in an industry.

Likely contributing to this sluggishness is the importance MSIs place on the growth in their membership (see **Insight 6: Impact**). While trying to change the behavior of as many companies (or governments) as possible is laudable, we believe it has put downward pressure on an MSI's compliance requirements, the quality of its standards, and other implementation mechanisms in order to attract a wider membership base. This “big tent” approach has the potential to diffuse or weaken norms instead of strengthening them, and this may gradually influence government and corporate practices on an industry-wide or “landscape” scale in detrimental ways.

As voluntary endeavors, there are also internal pressures on an MSI to grow, or at the very least retain, its membership: the cost of operating. Membership dues and contributions from corporations can be a central revenue stream for covering the cost of an MSI's staff and operations. MSIs who shrink beyond a certain size in membership may also struggle to justify their impact to numbers-hungry donors.

Thus, while an alternative model could be imagined for MSIs, whereby a small handful of committed companies stand out from the remainder of the industry by adopting exceptional practices, this has not transpired. Instead, MSI standards and certification systems are useful for a company to demonstrate that it appropriately manages risk in global supply chains or engages in supposed “best practices.” The procedures favored by MSIs reflect an elevation of bureaucracy and techniques, over the transformation of mindset required to deliver impactful change.

Put another way, instead of evolving to offer robust rights protection or accountability, MSIs have morphed into something closer to corporate engagement efforts, that better serve corporate interests than those of rights holders. MSIs' crystallization as corporate-dominated ventures further underscores our insight that the influence of MSIs as human rights tools capable of closing governance gaps has peaked; further, they should not remain the default response to human rights issues in the future given their design limitations—at least among stakeholders who are concerned about corporate accountability, remedy, and rights holder protection.

Can MSIs be reformed to reliably and effectively provide robust rights protection and accountability? We think this is unlikely, if not impossible. It would require remediating the two qualities we identified above: the lack of rights holder-centrality and the absence of governance and implementation mechanisms to curtail corporate power. Such a transformation cannot be achieved through incremental or minor modifications of policies. Rather, it entails a comprehensive overhaul of the culture, governance, procedural mechanisms, and practices of MSIs. It necessitates a shift in power away from corporations and towards rights holders as the privileged and central stakeholder. Based on our observations of earlier efforts to obtain even piecemeal reform in MSIs, we believe that—absent any binding corporate commitment to such transformation from the outset—reform efforts are likely to be protracted, subject to unsatisfactory compromise, and ultimately, unsuccessful. Corporate power is too entrenched within MSIs. This entrenchment has also tainted the legitimacy of MSIs in the eyes of other stakeholders, furthering our doubts that reform efforts would be successful.

The Way Forward

The insights and conclusions presented in this report underscore, to us, the need for two major steps to be taken in order to provide meaningful rights protection and address corporate-related abuses.

1 Rethink the role of MSIs

A. Recognize that MSIs have become tools for corporate engagement rather than instruments of human rights protection.

i) *MSIs are not effective tools for accountability, remedy, or human rights protection.*

We should no longer see MSIs as human rights tools capable of closing governance gaps. MSIs have not fulfilled their promise of advancing rights holder protection, nor have they fundamentally changed power imbalances that drive rights abuses. While the labels and assurances offered by MSIs may signal that their corporate members are willing to do more than others in the industry—at the very least, by recognizing the value and importance of the issues addressed by the initiative—they ought not to be seen as a meaningful guarantor of rights protections. While MSI grievance mechanisms form part of the present constellation of remedial tools available to rights holders and communities, these mechanisms have not reliably provided access to effective remedy, and there is no indication that they will in the future. Although company sites and policies are subject to MSI monitoring and auditing, these should not be seen as assurances that those companies or their policies are in fact respecting rights.

ii) *MSIs provide platforms for dialogue, experimentation, learning, and relationship-building.*

We should no longer expect MSIs to fulfill certain functions, namely closing governance gaps. Rather, we should only ask MSIs to focus on particular functions where they have been able to demonstrate some success: providing platforms for dialogue, experimentation, learning, and relationship-building. Many stakeholders have reported to us that MSIs offer a powerful space for dialogue, learning and knowledge-exchange, experimentation, and relationship-building that make membership in an MSI worthwhile. These are all important functions that can contribute to promoting human rights and building norms that businesses should uphold such rights. By articulating these more limited functions in a way that emphasizes and amplifies MSIs' ability to bring stakeholders together to understand new challenges, to identify and develop good practices, and to innovate and learn about approaches for protecting and promoting human rights, it would help avoid unmerited praise for what MSIs can achieve, and would better play on the strengths of multi-stakeholderism as currently practiced.

In some circumstances, and subject to careful reflection aimed at mitigating corporate power's distorting effects, MSIs can also play a role in norm creation and diffusion through their standard-setting activities. By bringing together the companies and/or governments that are willing to commit to better practices—even if without robust accountability or enforcement mechanisms to uphold them—MSIs can contribute to establishing norms of good practice for an industry. Similarly, we note that some MSIs also engage in public policy and legislative reform efforts to support more rights-promoting outcomes, consistent with these norms.

The caveat here is that MSIs' standard-setting and advocacy activities will only be effective from a human rights perspective if they are conducted in a rights-maximizing manner. There is, therefore,

a risk that the norms that gain support, and the resulting policy reforms that may be advocated for, are those that align with profit motivations, or otherwise have the support of those with power in an MSI—typically corporate stakeholders. In practice, this can mean focusing on the role of Global South actors over those in the Global North, or choosing to focus on reforms that boost rather than threaten profit, such as freedom of expression, but not privacy. MSIs will do more harm than good if they dilute or weaken interpretations of the scope of human rights norms, or if they whittle down their standards to the lowest-common denominator in order to reach negotiated outcomes. Thus, it is important to critically interrogate the norms set or advanced by MSIs to ensure that they are appropriate, rigorous, and rights-consistent, and they reflect the needs of rights holders.

What are appropriate roles for MSIs?



- Protecting human rights
- Providing access to effective remedy
- Closing governance gaps
- Holding corporations accountable for abuse
- Norm creation and diffusion *
- Policy reform *
- Building trust and relationships
- Learning and knowledge exchange
- Experimentation
- Engaging corporations

* Care needs to be taken to ensure that the standards MSIs adopt and/or advocate for appropriately reflect the views and needs of rights holders and are rights-maximizing. Otherwise, there is a risk that MSIs will only promote positions that are profit-aligned, or that reflect the views and interests of corporations and the other stakeholders who are sufficiently resourced and empowered to participate in MSIs.

B. Recognize that MSIs do not replace the need for public regulation.

Our insights underscore that MSIs do not eliminate the need to protect rights holders from corporate abuses through effective public regulation and enforcement. To the contrary, MSIs should be perceived as signaling to stakeholders that there are governance gaps that need to be filled.

The presence of an MSI within an industry or an issue field does not, by itself, satisfy the state duty to protect rights holders from corporate abuses. Rather, the existence of an MSI should put governments on notice—particularly governments whose companies participate in MSIs, or governments in whose jurisdictions MSIs are operating—that a governance gap exists and that they need to act alongside the voluntary efforts of that MSI with mandatory measures at local, national, and international levels. Such measures should establish the legal liability of companies for human rights violations, ensure rights holders have access to an effective remedy, and provide incentives and robust frameworks to prevent

abuses. Importantly, given their structural weaknesses, neither participating in MSIs nor following their monitoring, reporting, or related processes should necessarily be appropriate evidence of sufficient due diligence.

In this way, MSIs can contribute to a “smart mix” of voluntary and mandatory efforts, by building on public regulation with standards that raise the floor set by the law, rather than replacing public regulation altogether. This is what it means in the *United Nations Guiding Principles on Business and Human Rights* to have a “smart mix” of measures: not that voluntary efforts, such as MSIs, can replace mandatory efforts, but rather that the two must work alongside each other.

Too often, MSIs are seen by governments, businesses, or civil society as substituting, rather than complementing, public regulation. This is not to say that hard law should always be viewed as a panacea or the singular approach. Contexts and sectors will vary. In some situations, hard law may be the primary approach, but in others, a web of human rights protections that includes a strong foundation of public regulation aligned with voluntary efforts may be quite effective.

2 Challenge the corporate form

Center workers and affected communities in the governance and ownership of businesses.

We believe that the failure of MSIs is inextricably linked to the corporate form itself. Major corporations avoid sharing power with other stakeholders—such as rights holders and affected communities—because to do so threatens their obligations to shareholders and their accumulation and management of profit. As long as corporations are primarily beholden to investors, not only will companies fail to adequately center vulnerable workers or communities in their business decisions, but they will also resist human rights initiatives that threaten their profits or power, and continue to run the unacceptable risk of making decisions that harm people and the planet.

This is because companies are run and controlled by a board of directors, executive management, and shareholders, who do not directly experience the on-the-ground consequences of the company’s decisions. They are not the people who live near or work in the mine sites, farmland, or factories where the repercussions of business practices reverberate. Those with power in companies are normally not the rights holders about whom human rights initiatives are most concerned. This, combined with the fact that boards are legally prohibited from making decisions that prioritize community or societal interests above the financial interests of shareholders, means that decision makers in a corporation are neither structurally situated nor primarily motivated to consider human rights impacts. Instead, companies are incentivized—and often obligated—to make whatever decisions will maximize shareholder profits, without sharing those returns with workers or affected communities. This has caused extreme economic inequality between those who own or run companies and those who do not.

Therefore, perhaps the most significant and transformative human rights project is one that has received little attention within the human rights domain: challenging the corporation itself and reimagining our economic enterprises. To us, this means developing and promoting business models and policy transformations whereby:

(1) Workers and/or affected communities are at the center of decision-making. What if businesses were legally and operationally accountable not to shareholders, but to the workers and/or the communities affected by their decisions? What if workplace democracy was a universally recognized human right? What if affected communities and workers determined who governed an organization or how that organization was run?

(2) Benefits and ownership accrue to the workers who generate value for a business and/or to the communities and rights holders who are impacted by its behavior. What if the primary economic beneficiaries of enterprises were the workers or wider communities impacted by those businesses? What if businesses who contribute a net harm to society lose their legal license to operate?

These are important human rights questions that need urgent attention. There is much to learn from the workers, movements, and individuals who have long been creating and promoting resilient alternatives to the corporation and those fighting for a just, sustainable, and new economy. Ultimately, if we are serious about addressing corporate human rights abuses, then we need to learn from the failings of MSIs and reimagine the corporation itself: as an entity that must be accountable to, and inclusive of, workers and communities. The lessons learned from the grand experiment of MSIs can also provide important insights, from understanding the conditions under which co-governance between multiple types of stakeholders can—or cannot—function effectively, to ensuring that the participation of workers, rights holders, and communities represents a meaningful transfer of decision-making power away from dominant corporate interests.

Our experience with MSIs has led us to see the importance of placing rights holders at the center of the solutions that aim to improve their lives and livelihoods. We implore the readers of this report to join us in addressing the root cause of abuse—the corporate form—by exploring and promoting alternative models that can grow to scale, challenge corporate power, and deliver a vibrant economy that rewards and respects workers and communities.

Endnotes

1 Worker-driven Social Responsibility Network, [Comparison Chart of WSR vs CSR and MSIs](#) (WSR Network, 2017).

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May all our work be a step towards justice and dignity for workers and communities.

Acronyms and Abbreviations

ARM	Alliance for Responsible Mining
CHRB	Corporate Human Rights Benchmark
CoST	Infrastructure Transparency Initiative
CSO	Civil Society Organization
EITI	Extractive Industries Transparency Initiative
ETI	Ethical Trading Initiative
FLA	Fair Labor Association
FSC	Forest Stewardship Council
FWF	Fair Wear Foundation
GNI	Global Network Initiative
GRI	Global Reporting Initiative
ICoC	International Code of Conduct for Private Security Providers
ICoCA	International Code of Conduct for Private Security Providers Association
ICTI	International Council of Toy Industries
IHRC	International Human Rights Clinic at Harvard Law School
ILO	International Labour Organisation
IMF	International Monetary Fund
INGO	International Non-Governmental Organization
ISEAL	International Social and Environmental Accreditation and Labeling
MSC	Marine Stewardship Council
MSG	Multi-Stakeholder Group
MSI	Multi-Stakeholder Initiative
NAP	National Action Plan
NCP	National Contact Point

NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OGM	Operational-Level Grievance Mechanism
OPPUK	Organisasi Penguatan Dan Pengembangan Usaha-Usaha Kerakyatan
PEFC	Programme for the Endorsement of Forest Certification
PT MAS	PT Mitra Austral Sejahtera
PWYP	Publish What You Pay
RSPO	Roundtable on Sustainable Palm Oil
SAI	Social Accountability International
SFI	Sustainable Forestry Initiative
TAI	Transparency and Accountability Initiative
TuK Indonesia	Transformation for Justice Indonesia
UNGPs	United Nations Guiding Principles on Business and Human Rights
VPs	Voluntary Principles on Security and Human Rights
WEST	Worker Engagement Supported by Technology
WSR	Worker-driven Social Responsibility
WRAP	Worldwide Responsible Accredited Production



Appendices



APPENDIX 1: MSIs Included in this Report

The sources and any explanations relating to the mission statements can be found in our datasets, which are available on our website at www.msi-integrity.org/datasets. This information, along with the examples of participants, was sourced in June 2019.

MSI Name	Mission Statement (or, in absence of a mission statement, other language identifying the MSI's purpose)	Examples of corporate participants
Alliance for Responsible Mining	"We facilitate the empowerment of artisanal and small-scale miners, their organization and the adoption of good practices, promoting favorable environments for the inclusion of artisanal and small-scale miners in the formal economy. We create voluntary standard systems for production and trade and support the creation of responsible supply chains."	San Luis SA mining organization
Alliance for Water Stewardship	"Our vision is a water-secure world that enables people, cultures, business and nature to prosper, now and in the future. To achieve this, our mission is to: Ignite and nurture global and local leadership in credible water stewardship that recognizes and secures the social, cultural, environmental and economic value of freshwater."	Apple; Danone; Nestlé S.A
Better Biomass	"The Better Biomass certificate is used by organizations to demonstrate that the biomass they produce, process, trade or use meets well established international sustainability criteria."	Axpo Sverige AB
Better Cotton Initiative	"The Better Cotton Initiative exists to make global cotton production better for the people who produce it, better for the environment it grows in and better for the sector's future. BCI aims to transform cotton production worldwide by developing Better Cotton as a sustainable mainstream commodity. To achieve this mission, BCI works with a diverse range of stakeholders across the cotton supply chain to promote measurable and continuing improvements for the environment, farming communities and the economies of cotton-producing areas. Our four specific aims: Reduce the environmental impact of cotton production; Improve livelihoods and economic development in cotton producing areas; Improve commitment to and flow of Better Cotton throughout supply chain; Ensure the credibility and sustainability of the Better Cotton Initiative."	Amazon.com Services, Inc.; Nike, Inc.
Equitable Food Initiative	"We bring together growers, farmworkers, retailers and consumers to transform agriculture and improve the lives of farmworkers."	Costco Wholesale Corporation; Whole Foods Market
Equitable Origin	"Our mission is to protect people and the environment by ensuring that energy development is conducted under the highest social and environmental standards."	Pacific Exploration & Production (formerly certified site)
Bonsucro	"Our mission is to ensure that responsible sugarcane production creates lasting value for the people, communities, businesses, economies and eco-systems in all cane-growing origins."	The Coca-Cola Company; Ferrero Group; Hershey
Ethical Trading Initiative	"ETI exists to improve working conditions in global supply chains by developing effective approaches to implementing the ETI Base Code of labour practice."	Arco; Marks & Spencer

MSI Name	Mission Statement (or, in absence of a mission statement, other language identifying the MSI's purpose)	Examples of corporate participants
Extractive Industries Transparency Initiative	"The objective of the EITI Association is to make the EITI Principles and the EITI Requirements the internationally accepted standard for transparency in the oil, gas and mining sectors, recognising that strengthened transparency of natural resource revenues can reduce corruption, and the revenue from extractive industries can transform economies, reduce poverty, and raise the living standards of entire populations in resource-rich countries."	BP Oil International Ltd; Chevron Corporation; ExxonMobil; Royal Dutch Shell
Fair Labor Association	"The mission of the Fair Labor Association is to combine the efforts of business, civil society organizations, and colleges and universities to promote and protect workers' rights and to improve working conditions globally through adherence to international standards."	adidas; Nestlé S.A.; GoodWeave International
Fairtrade International	"Our mission is to connect disadvantaged producers and consumers, promote fairer trading conditions and empower producers to combat poverty, strengthen their position and take more control over their lives."	Starbucks Corporation
Florverde Sustainable Flowers	"Florverde Sustainable Flowers is an independent social and environmental standard for the flower sector that is backed by a strong team of agronomists, social workers and other professionals. This team is responsible for reviewing and updating the standard under the guidance of an advisory council made up of flower growers, agronomists, non-governmental organizations (NGOs), and government officials."	Whole Foods; 1-800 Flowers; Costco Wholesale Corporation
Food Alliance	"Food Alliance works at the juncture of science, business and values to define and promote sustainability in agriculture and the food industry, and to ensure safe and fair working conditions, humane treatment of animals, and careful stewardship of ecosystems."	Clif Family Winery and Farm; Haricot Farms Inc.
Forest Stewardship Council	"The Forest Stewardship Council mission is to promote environmentally sound, socially beneficial and economically prosperous management of the world's forests."	IKEA of Sweden AB
Global Coffee Platform	"The mission of the GCP is to be the leading multi-stakeholder sustainable coffee platform, guiding the sector towards mainstream sustainability in a non-competitive arena where all relevant stakeholders are given the opportunity to participate. Core functions of the GCP are paid by all members through the membership fees."	Nestlé S.A.; Tesco plc
Global Network Initiative	"The mission of the Global Network Initiative is to protect and advance freedom of expression and privacy rights in the ICT industry by setting a global standard for responsible company decision making and serving as a multistakeholder voice in the face of government restrictions and demands."	Google; Facebook; Microsoft; Vodafone
Global Reporting Initiative	"Our Mission is to empower decisions that create social, environmental and economic benefits for everyone."	Coca-Cola HBC AG; Nestlé S.A.; Ceres
Global Sustainable Tourism Council	"To be an agent of change in the world of sustainable travel and tourism by fostering the increased knowledge, understanding, adoption and demand for sustainable tourism practices."	Airbnb
GoodWeave International	"GoodWeave works to end child labor in global supply chains, from the producer's hands to the consumer's."	Target

MSI Name	Mission Statement (or, in absence of a mission statement, other language identifying the MSI's purpose)	Examples of corporate participants
Hydropower Sustainability Assessment Protocol	"The Hydropower Sustainability Assessment Protocol is a tool that promotes and guides more sustainable hydropower projects...The HSAP offers a way to assess the performance of a hydropower project across more than 20 sustainability topics."	Electrobras
ICTI Ethical Toy Program	"Our program focuses on social sustainability issues which impact well-being of workers involved in toy manufacture globally. Our requirements incorporate best practice and are reviewed on an ongoing basis to reflect the needs of all stakeholders in the toy industry supply chain."	Crayola; Hallmark; Leggo; Mattel; Walmart
Infrastructure Transparency Initiative	"Disclose, validate and interpret infrastructure data to empower stakeholders to hold decision-makers to account."	Various private sector operators and public sector entities, such as the Province of Buenos Aires
Initiative for Responsible Mining Assurance	"Our mission is to protect people and the environment directly affected by mining. We do this by creating financial value for mines independently verified to achieve best practices, and share this value with the businesses that purchase material from these mines."	Microsoft
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International Code of Conduct for Private Security Providers	"The International Code of Conduct for Private Security Service Providers (the Code) is the fruit of a multi-stakeholder initiative launched by Switzerland, with the over-arching objectives to articulate human rights responsibilities of private security companies (PSCs), and to set out international principles and standards for the responsible provision of private security services, particularly when operating in complex environments."	ACADEMI; G4S; Triple Canopy
International Sustainability and Carbon Certification	"Contributing to the implementation of environmentally, socially and economically sustainable production and use of all kinds of biomass in global supply chains. Our way: Implementing social and ecological sustainability criteria; Monitoring deforestation-free supply chains; Avoiding conversion of biodiverse grassland; Calculating and reducing GHG emissions; Establishing traceability in global supply chains."	BP Oil International Ltd
Marine Stewardship Council	"Our mission is to use our ecolabel and fishery certification program to contribute to the health of the world's oceans by recognising and rewarding sustainable fishing practices, influencing the choices people make when buying seafood and working with our partners to transform the seafood market to a sustainable basis."	McDonald's; Tesco; Walmart
Programme for the Endorsement of Forest Certification	"We endorse national forest certification systems developed through multi-stakeholder processes and tailored to local priorities and conditions. We believe that forest certification needs to be local; this is why we choose to work with national organizations to advance responsible forestry. Forest certification is at our core. We provide forest owners, from the large to the small, with a tool to demonstrate their responsible practices, while empowering consumers and companies to buy sustainably."	WestRock Company

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Rainforest Alliance	"We envision a world where people and nature thrive in harmony. The Rainforest Alliance is an international non-profit organization working at the intersection of business, agriculture and forests. We aim to create a better future for people and nature by making responsible business the new normal."	Nescafe; Mayfair; Tenzing

MSI Name	Mission Statement (or, in absence of a mission statement, other language identifying the MSI's purpose)	Examples of corporate participants
Roundtable on Responsible Soy	"Encourage current and future soybean is produced in a responsible manner to reduce social and environmental impacts while maintaining or improving the economic status for the producer."	Bayer AG; Danone
Roundtable on Sustainable Biomaterials	"The RSB offers trusted, credible tools and solutions for sustainability & biomaterials certification that mitigate business risk, fuel the bioeconomy and contribute to the UN Sustainable Development Goals in order to enable the protection of ecosystems and the promotion of food security."	Royal Dutch Shell
Roundtable on Sustainable Palm Oil	"RSPO will transform markets to make sustainable palm oil the norm: advance the production, procurement, finance and use of sustainable palm oil products; develop, implement, verify, assure and periodically review credible global standards for the entire supply chain of sustainable palm oil; monitor and evaluate the economic, environmental and social impacts of the uptake of sustainable palm oil in the market; engage and commit all stakeholders throughout the supply chain, including governments and consumers."	Costco Wholesale Corporation; Dunkin' Brands Group, Inc; Nestlé S.A.; Unilever
Social Accountability International	"SAI advances human rights at workplaces."	Microsoft
Sustainable Forestry Initiative	"A world that values the benefits of sustainably managed forests."	Disney; Eileen Fisher; Gucci; HP
UN Global Compact	"At the UN Global Compact, we aim to mobilize a global movement of sustainable companies and stakeholders to create the world we want. That's our vision. To make this happen, the UN Global Compact supports companies to: 1. Do business responsibly by aligning their strategies and operations with Ten Principles on human rights, labour, environment and anti-corruption; 2. Take strategic actions to advance broader societal goals, such as the UN Sustainable Development Goals, with an emphasis on collaboration and innovation."	Pepsico, Inc.; Royal Dutch Shell
UTZ*	"Our mission is to create a world where sustainable farming is the norm. Sustainable farming helps farmers, workers and their families to fulfill their ambitions and contributes to safeguard the world's resources, now and in the future."	IKEA of Sweden AB; Mars; McDonald's; Migros
Voluntary Principles on Security and Human Rights	"Established in 2000, the Voluntary Principles on Security and Human Rights are a set of principles designed to guide companies in maintaining the safety and security of their operations within an operating framework that encourages respect for human rights."	BP Oil International Ltd; Chevron; ExxonMobil; Newmont; Rio Tinto
Worldwide Responsible Accredited Production	"Worldwide Responsible Accredited Production (WRAP) is an independent, objective, non-profit team of global social compliance experts dedicated to promoting safe, lawful, humane and ethical manufacturing around the world through certification and education."	Genesis Apparel, Page Industries Limited

* In January 2018, UTZ merged with Rainforest Alliance. At the time of our research, they continued to maintain separate standards and procedures, and we have therefore reviewed and listed them separately.

APPENDIX 2: MSIs in Order of Date Launched

	MSI Name	Launch Year
1.	Rainforest Alliance	1992
2.	Forest Stewardship Council	1993
3.	GoodWeave International	1994
4.	Sustainable Forestry Initiative	1994
5.	Fairtrade International	1997
6.	Global Reporting Initiative	1997
7.	Marine Stewardship Council	1997
8.	Social Accountability International	1997
9.	Ethical Trading Initiative	1998
10.	Fair Labor Association	1999
11.	Fair Wear Foundation	1999
12.	Programme for the Endorsement of Forest Certification	1999
13.	UN Global Compact	2000
14.	Voluntary Principles on Security and Human Rights	2000
15.	Worldwide Responsible Accredited Production	2000
16.	Extractive Industries Transparency Initiative	2002
17.	Florverde Sustainable Flowers	2002
18.	UTZ*	2002
19.	Alliance for Responsible Mining	2004
20.	ICTI Ethical Toy Program	2004
21.	Roundtable on Sustainable Palm Oil	2004
22.	Better Cotton Initiative	2005
23.	Food Alliance	2005
24.	Fair Stone	2006

MSI Name	Launch Year
25. Hydropower Sustainability Assessment Protocol	2006
26. Initiative for Responsible Mining Assurance	2006
27. Roundtable on Responsible Soy	2006
28. Diamond Development Initiative	2007
29. Global Sustainable Tourism Council	2007
30. Roundtable on Sustainable Biomaterials	2007
31. Alliance for Water Stewardship	2008
32. Bonsucro	2008
33. Global Network Initiative	2008
34. Equitable Origin	2009
35. International Code of Conduct for Private Security Providers	2010
36. International Sustainability and Carbon Certification	2010
37. Better Biomass	2011
38. Infrastructure Transparency Initiative	2012
39. Equitable Food Initiative	2015
40. Global Coffee Platform	2016

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