

# **RESPONSIBLE BUSINESS PRACTICE IN INDIA: AN ANALYSIS OF THE RELATIONSHIP BETWEEN CORPORATE POLICY AND CORPORATE PRACTICE**

A Report for Corporate Responsibility Watch by the Spring 2016  
Undergraduate Business and Human Rights Advocacy Lab

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This report was written by undergraduate students in Duke University's "Business and Human Rights Advocacy Lab" class, taught by Professor Suzanne Katzenstein in Spring 2016.

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# INTRODUCTION

## Background

In July 2011, India's Ministry of Corporate Affairs released the National Voluntary Guidelines on Social, Environmental, and Economic Responsibilities of Business (NVGs). This landmark document identifies nine principles that businesses should uphold in their capacity as responsible actors committed to respecting and promoting the general welfare of Indian society. The document reflects the global community's increasing attentiveness to the impact of corporations on their consumers, the environment, local communities, and other constituent stakeholders. The NVGs suggest a uniquely Indian strategy to encourage companies to hold themselves to standards of responsible business conduct that exceed those imposed by external regulatory structures.

Corporate Responsibility Watch – an initiative supported by fourteen Indian organizations and independent consultants – has strived to both understand and strengthen the NVGs by researching corporations' commitment (or lack thereof) to corporate social responsibility. In a wide range of reports examining India's CSR (corporate social responsibility) landscape, CRW has helped spur a productive dialogue on how to effectively motivate corporations to conduct their operations more responsibly and sustainably.

In October 2015, CRW published a report entitled "Making Growth Inclusive: Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies." The report analyses and evaluates corporations' disclosures and policy documents for their commitment to five key elements of corporate social responsibility: respecting employee dignity, non-discrimination at the workplace, community development, inclusive supply chain and community as business stakeholder. By scoring and ranking companies according to their performance in these categories, the Index provides an immensely useful resource for identifying patterns in corporations' progress towards realizing the NVGs' principles of business responsibility.

CRW is careful to note that the report's India Responsible Business Index relies on "self-reported company information" – the NVGs' primary accountability mechanism – that is not externally validated, and therefore not necessarily reflective of the company's compliance with its own policies.<sup>1</sup> As with any research methodology, this approach has its strengths and weaknesses. On the plus side, corporations' policies and disclosures are relatively easy to access – most companies that CRW examined publish such documents on their websites – and strong CSR policies seem an important predecessor to implementing responsible business practices.

However, relying on companies' policies and self-reporting also has its drawbacks. Companies may not effectively implement their policies, especially when doing so might involve considerable financial costs. Companies might not report violations of the NVGs or their own policies due to negligence, reputational concerns, or other strategic considerations. At worst, businesses might intentionally establish relatively progressive policies as a smokescreen to obscure their irresponsible practices. These drawbacks indicate the potential efficacy of a CSR analysis grounded in companies' practices, as well as their policies.

## Goal of Report

The objective of this report is to complement CRW's India Responsible Business Index by conducting cases studies to evaluate the correspondence between companies' policies and disclosures on the one hand, and their actual business practices on the other. We examined nine companies for this report. Although drawn from CRW's original report, the collection of case studies is not intended to be representative of all companies listed in the IRBI. Indeed, we focused on companies that performed either very well or very poorly on the IRBI in order to identify the most legible relationship between corporate policy and practice. Furthermore, each case study provides an important vantage point for understanding how a company's industry, reputation, or performance on CRW's policy metrics impacts the relationship between corporate policy and practice. Though our analysis of these variable is not exhaustive, we hope it serves to spur

1 "Making Growth Inclusive. Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies." October 2015. Accessed August 9, 2016. Pg. 10. [http://responsiblebiz.org/r\\_bizimg/IRBF.pdf](http://responsiblebiz.org/r_bizimg/IRBF.pdf).

discussion of how to both evaluate and encourage companies' commitment to the NVGs and CSR more broadly.

## Methodology

Each case study offers a brief analysis of a company's policies and disclosures, and then examines its violations of both the National Voluntary Guidelines and its own policies and initiatives. The case studies rely on a variety of sources – primarily English language news reports and academic articles – in order to identify a business's most prominent violations in India from 2008 to May 2016.<sup>2</sup> A significant drawback of this methodology is that violations are only captured in our case studies if they attract publicity, which usually requires a certain threshold of illegal activity or large-scale protests. Indubitably, many violations are likely to exist outside of the public eye, and are therefore beyond the scope of this report. Nonetheless, the irresponsible business practices captured by this report vary significantly in gravity and scale, and may constitute violations of one or more NVG principles or corporate policies. The primary objective of these case studies is not to compare companies' level of compliance with the NVGs, but rather to examine the correspondence between corporate policy and practice in the context of each particular company.

## General Pattern

Altogether, the case studies indicate a measure of consistency between a given company's policies and their actual business conduct. Though companies' practices typically fall short of their policies related to the NVGs – albeit to varying degrees – companies with strong policies, with one exception, tend to also perform well on implementing responsible business practices relative to their peers.<sup>3</sup> Intervening variables complicate the relationship between corporate policy and practice: the nature of a corporation's industry, the external regulatory environment, and the proximity of vulnerable stakeholders to a company's operations also bear considerable influence. Nonetheless, the case studies collectively indicate that corporate policy and practice are indeed correlated. The policy focus of both the NVGs and IRBI thus provide an insightful vantage point from which to evaluate and improve the efficacy of Indian businesses' corporate social responsibility landscape. The report covers the following corporations:

*Tata Steel Limited:* Tata Steel – a Tata Group company with mining and steel production operations – is an impressive performer on the India Responsible Business Index, indicating the adherence of its corporate policies to the NVGs. As with many companies in the extraction industry, Tata Steel has committed violations damaging to local stakeholders and the environment. Nonetheless, in both policy and practice, Tata Steel's CSR remains a cut above its industry peers.

*Jindal Steel and Power Limited:* Like most of India's top corporations, JSPL's practical adherence to the NVGs lags considerably behind its fairly progressive policy infrastructure. While Jindal has work to be done in improving its transparency and stakeholder consultations, the company is an industry leader in both policy and practice.

*The Adani Group:* The Adani Group – a conglomerate composed of Adani Ports, Adani Power and Adani Enterprises – is not particularly impressive in the breadth of its policy commitments to the NVGs, possibly because of its failure to adapt its policies to unique challenges of its constituent companies' disparate industries. In practice, Adani companies have violated the NVGs and their own corporate policies on many occasions – a phenomenon attributable to a lack of government oversight and regulation.

<sup>2</sup> Another useful resource we relied on for gathering violations were the Morgan Stanley Capital International (MSCI) Environmental, Social, and Governance Reports. The ESG reports collect and assess the severity of corporate violations accessible via online media outlets. For more information, see <https://www.msci.com/esg-indexes>.

<sup>3</sup> It is important to note that a company performing relatively well compared to its peers may still have committed grave violations of the NVGs or various corporate policies. This observation reflects the considerable progress towards CSR that many companies have yet to make.



*Tata Power Company Limited:* Though Tata Power's performance on the IRBI is not exemplary, the breadth of its policy documents suggests an attentiveness to the NVGs and CSR more broadly. However, these policies often lack concrete mechanisms to ensure responsible business principles are translated into practice – a failing reflected by the company's violations of environmental regulations and the rights of local communities.

*Reliance Power Limited:* Reliance Power performs exceptionally poorly across CRW's policy metrics, a characterization corroborated by the company's grave violations of environmental regulations, labor rights, and the interests of local stakeholders. The company's weak policy infrastructure reads most clearly in its operations at its coal power plant in Sasan.

*Mahindra and Mahindra Limited:* Mahindra and Mahindra – a large automobile manufacturing company – has exhibited a relatively strong policy commitment to the NVGs across IRBI metrics. Though M&M has tended to fall short of these policies in its treatment of employees, the company has demonstrated a commitment to resolving responsible business issues in a timely and effective manner.

*Hindustan Unilever Limited:* A successful consumer goods manufacturer, Hindustan Unilever has strong CSR policies that demonstrate a solid commitment to the core tenets of the NVGs. However, the company has committed violations particularly damaging to its employees and the environment, and its responses to these crises have largely been long-delayed or inadequate.

*GlaxoSmithKline:* GlaxoSmithKline, a company with both pharmaceutical and healthcare practices, scores relatively poorly across most categories of the India Responsible Business Index – indicating a failure to incorporate the NVGs into its core policy documents. GSK's business practices have regularly involved violations of the rights of clinical trial subjects, though this may be attributable to a lack of external regulation in addition to weak self-regulation mechanisms.

*Sun TV Network Limited:* Sun TV – a large broadcasting company – is among the worst performers on the India Responsible Business Index, indicating the substantial inadequacies of its policy documents, which barely acknowledge CSR principles. However, apart from a long-standing corruption scandal involving the sale of bandwidth, the company's violations are relatively infrequent and small in scale. Sun TV's respect for CSR in practice has out-paced the progressiveness of its policies, an anomaly suggesting that nature of industry bears significant influence over the relationship between corporate policy and practice.

# 1: Tata Steel: Responsible Policies Progressively Realized

Tata Steel's corporate policies demonstrate a strong commitment to responsible business. Tata's policies, many of which pre-date and have met or exceeded the standards of the NVGs, demonstrate an impressive attentiveness to responsible business issues. Tata Steel, furthermore, is constantly revising and improving its existing policies. However, Tata Steel has also committed harmful practices that have done significant damage to local stakeholders and the environment. The company has evaded regulations protecting populations affected by its business operations on numerous occasions. Despite examples of Tata Steel's irresponsible business practices, the company's policies and practices remain a cut above those of its peers in the resource extraction business – a in industry where corporate conduct has been particularly notorious.

## Company Overview

Tata Steel Limited's first steel plant, constructed in 1907, was at the time India's first and only integrated steel plant. The company produces flat steel products, long steel products, construction products, and end-stage manufactured products such as bearings and agricultural equipment. It also has mining operations in India, which provide many of the raw materials for its steel production.<sup>4</sup> Tata Steel is part of the Tata Group, a conglomerate made up of over 100 different companies across many industry sectors operating in over 100 countries.<sup>5</sup> Tata Steel is the Tata Group's flagship company and operates in over 26 countries. It is a fortune 500 company and one of the top-ten largest steel producers in the world.<sup>6</sup>

## IRBI Performance and Policy Analysis

Tata Steel performs particularly well on almost all categories of the India Responsible Business Index (IRBI). It is one of the top-ten highest-ranking companies for the community development, inclusive supply chain, and community as business stakeholder categories. The only category in which it ranks outside of the top 25 is non-discrimination in the workplace. As Table 1 shows, Tata Steel ranks 38th on Non-Discrimination in the Workplace, 19th on Employee Wellbeing, 8th on Community Development, 4th on Inclusive Supply Chain, and 6th on Community as Business Stakeholder.

**Table 1.1: Tata Steel Limited's Performance on the IRBI<sup>7</sup>**

	<b>Non-discrimination in the workplace</b>	<b>Employee wellbeing</b>	<b>Community development</b>	<b>Inclusive supply chain</b>	<b>Community as business stakeholder</b>
<b>RANKING</b>	38	19	8	4	6
<b>SCORE</b>	0.54	0.56	0.83	0.58	0.24

4 Tata Steel Limited. "Company Profile." <http://www.tatasteelindia.com/corporate/company-profile.asp>

5 Tata Steel Limited. "Group Profile." <http://www.tatasteelindia.com/corporate/group-profile.asp>

6 Tata Steel Limited. "Company Profile."

7 Praxis and Corporate Responsibility Watch. *Making Growth Inclusive: Analyzing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies*. 2015

## Policy Analysis: A Leader in Responsible Corporate Policy

Tata Steel's exceptionally high ratings on the IRBI capture its strong policy commitments to responsible business practices. The company appears to be fully committed to the NVGs as well as multiple other business and human rights initiatives. In all three of Tata Steel's required annual business responsibility reports, the company has reported that its policies comply with every single NVG principle.<sup>8</sup> In addition, the company reports that all policies were formulated in consultation with relevant stakeholders.<sup>9</sup>

Tata Steel's responsible policies pre-date the NVGs, indicating that the document's principles were already integral aspects of the company's policy infrastructure. For three years before the first mandated business responsibility report, Tata Steel had released annual corporate citizenship reports.<sup>10</sup> These reports disclosed Tata Steel's efforts and performance in environmental sustainability and in assuring the health and safety of its employees. The company was also one of the first Indian firms to adopt the Global Reporting Initiatives guidelines and has therefore produced a sustainability report every year since 2001.<sup>11</sup> Additionally, Tata Steel is a member of the UN Global Compact, which is an MSI established in 2000 to promote responsible business practices in the area of labor, human rights, environment and corruption,<sup>12</sup> and has received multiple SA 8000 certifications.<sup>13</sup>

Tata Steel's code of conduct was first created in 1998 and is perhaps the centerpiece of these policy commitments.<sup>14</sup> The code was revised in 2008 to take into account the company's growing international presence and to establish a push for gender equality.<sup>15</sup> The code has continued to evolve over the last several years. Since at least 2008, the code of conduct has been organized through the company's four-pillared system called Managing Business Ethics. The first pillar of this system, leadership, involves an ethics committee, which monitors adherence to the code and reports to the company's managing director. Compliance to the code is assured through multiple whistle-blower policies and grievance mechanisms, which constitute the second pillar, the compliance structure. New employees at Tata Steel are trained in the code of conduct, which makes the third pillar. A commitment to monitoring and evaluating the effectiveness of the code composes the fourth pillar.<sup>16</sup> The code of conduct applies to Tata Steel's relationship with its employees, its customers, the communities it operates in, the environment, the government, its financial stakeholders and its suppliers and service providers.<sup>17</sup>

8 For example, "Business Responsibility Report" in *Tata Steel Annual Report 2014-15*. [http://www.tatasteel.com/investors/annual-report-2014-15/html/pdfs/TS%20AR%202014-15\\_Final\\_Corporate%20Gov\\_BRR.pdf](http://www.tatasteel.com/investors/annual-report-2014-15/html/pdfs/TS%20AR%202014-15_Final_Corporate%20Gov_BRR.pdf)

9 Since the passage of the NVGs, Tata Steel's successive annual reports have provided decreasing information regarding the nine principles than in previous years. In the company's FY 2011 to 2012 annual report, which was the first year of the NVGs' existence, an entire multiple-page section is dedicated to each of the nine NVG principles. In the following year's annual report, each principle's related policies are described in only half a page. In the year after that, each principle receives a small paragraph of attention. And in the most recent annual report, FY 2014 to 2015, Tata Steel doesn't include a single mention of the NVGs. (For example, *Tata Steel Annual Report 2014-15*. <http://www.tatasteel.com/investors/annual-report-2014-15/html/index.html>). This decline in attention may reflect the company's reliance on the Business Responsibility Reports to convey its policy regarding the NVGs.

10 For example, *Tata Steel Group Corporate Citizenship Report, 2008/09*. [http://www.tatasteel.com/media/pdf/TataSteelGroup\\_CorporateCitizenshipReport\\_0809.pdf](http://www.tatasteel.com/media/pdf/TataSteelGroup_CorporateCitizenshipReport_0809.pdf)

11 Tata Steel Limited. "Sustainability Reports." <http://www.tatasteel.com/sustainability/csr-reports.asp>

12 Tata Steel Limited. "The Tata Steel Approach." <http://www.tatasteel.com/sustainability/the-tata-steel-approach.asp>

13 Social Accountability International. "Tata Steel Earns 4th SA8000 Certification." August, 2013. <http://sa-intl.org/index.cfm?fuseaction=Page.ViewPage&PageID=1512>. This internationally recognized certification requires a third-party auditing process and reportedly indicates Tata Steel's commitment to fair labor practices.

14 Tata Steel Limited. "Ethics." <http://www.tatasteel.com/corporate/ethics.asp>

15 *Tata Steel Limited Annual Report 2008-2009*, 97. <http://www.tatasteel.com/investors/annual-report-2008-09/annual-report-2008-09.pdf>

16 *Tata Steel Limited Annual Report 2014-2015*, 29. <http://www.tatasteel.com/investors/annual-report-2014-15/annual-report-2014-15.pdf>

17 *Tata Code of Conduct 2015*. <http://www.tatasteelindia.com/corporate-citizen/pdf/TCOC.pdf>

Tata Steel’s code of conduct is one of the company’s many publically accessible policy documents, which include a health and safety policy, a sustainability policy, and an environmental protection policy, all of which demonstrate Tata Steel’s policy commitment to responsible business conduct.<sup>18</sup> The breadth of these policies is perhaps inspired by Tata Steel’s touted investment in a “triple bottom line” of economic, social, and environmental goals, which it has maintained since at least 2000.<sup>19</sup> On a policy level, the company apparently meet its goal of being the industry’s “benchmark” for corporate citizenship.<sup>20</sup>

**Corporate Practice: Falling Short of the Policy Benchmarks**

To be sure, Tata Steel has committed many irresponsible corporate practices. Tata Steel’s violations of the NVGs include bribery, illegal mining operations, disrespect for local peoples, and employee injuries caused by poor safety practices. Violations occurred throughout Tata Steel operations, all over India, including in Chhattisgarh, Odisha, and Jharkhand. They tended to cluster around disregard for affected populations, and violations of government regulations. Tata Steel’s most severe violations of the NVGs relate to Principal Four – businesses should respect the interests of stakeholders – and Principal Five – businesses should respect and promote human rights. Failures to respect, protect, and make efforts to restore the environment, (Principle Six) also constitute worrisome shortcomings of Tata’s business practice. However, relative to its peers, the Tata Steel’s violations of the NVGs do not indicate a widespread disregard for the principles. A list of specific NVG violations since 2008 can be found in Table 2 below.

**Table 1.2: Tata Steel’s Non-Compliant Corporate Practices, since 2008**

Date	Violation/Controversy	Source
2006-on-going	Moving forward with developing a steel plant in Odisha despite a decade of local community members protesting.	<a href="http://indianexpress.com/article/business/business-others/nine-years-after-land-acquisition-protests-odisha-gets-tata-plant/">http://indianexpress.com/article/business/business-others/nine-years-after-land-acquisition-protests-odisha-gets-tata-plant/</a> & <a href="https://moonchasing.wordpress.com/2010/04/17/kalinganagar-%E2%80%98development-death-and-despair-%E2%80%99/">https://moonchasing.wordpress.com/2010/04/17/kalinganagar-%E2%80%98development-death-and-despair-%E2%80%99/</a>
Apr. 2010	Tata steel decided to continue with the construction of a steel plant in a conflict affected area of Chhattisgarh. May have benefited from the conflict.	<a href="http://indianexpress.com/article/cities/kolkata/govt-acquired-land-with-gun-on-farmers-head-sen">http://indianexpress.com/article/cities/kolkata/govt-acquired-land-with-gun-on-farmers-head-sen</a> AND <a href="http://www.thehindu.com/news/national/tata-steel-has-not-dropped-chhattisgarh-project/article395583.ece">http://www.thehindu.com/news/national/tata-steel-has-not-dropped-chhattisgarh-project/article395583.ece</a>
Jan. 2012	Tata Steel allegedly bribed a senior officer of a publically owned company.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 08 Jul 2015_THE PIONEER (INDIA)

18 Tata Steel Limited. “Policies.” <http://www.tatasteelindia.com/corporate/policies.asp>

19 For example, *Tata Steel Corporate Sustainability Report 2000-2001*. <http://www.tatasteel.com/sustainability/pdf/csr-2000-01.pdf>

20 For example, Tata Steel Limited. “Sustainability.” <http://www.tatasteel.com/sustainability/index.asp>

Nov. 2012	Mining above volume legal limits in Orissa.	On CRW noncompliance table and <a href="http://articles.economic-times.indiatimes.com/2012-11-05/news/34925656_1_captive-iron-ore-mines-shah-commission-vital-steel">http://articles.economic-times.indiatimes.com/2012-11-05/news/34925656_1_captive-iron-ore-mines-shah-commission-vital-steel</a>
Nov. 2013	One worker died and ten others were injured from a blast at a Tata Steel plant following a gas leak of a mixture of carbon monoxide, carbon dioxide, and nitrogen.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 2013/11/20_Business Standard
Aug. 2014	Tata Steel and other companies extracted iron and manganese ore without appropriate environmental permits in Jharkhand.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 2014/08/04_Economic Times of India
Aug. 2014	Tata Steel allegedly conducted mining operations in Odisha outside its leased areas.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 2014/08/04_Economic Times of India
Aug. 2014	One employee died after falling into a container filled with hot molten iron at Tata Steel's Jamshedpur Steel Works facility.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 09 Aug 2014_Times of India
Nov. 2015	People displaced by Tata Steel claimed that they were laid off from their jobs without prior notice, and that they were not properly compensated in the last nine months.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 18 Nov 2015_NEW INDIAN EXPRESS
Nov. 2015	Nineteen workers at Tata Steel's Jharkhand operations were injured from an ammonia scrubber explosion.	ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016. <b>Original Source:</b> 17 Nov 2015: Explosion at Tata Steel plant injures 19 workers. (HINDUSTAN TIMES)

Tata Steel's alleged complicity with human rights abuses, including the violent displacement of tribal peoples in the state of Chhattisgarh, constitutes the company's most severe contradiction of its own corporate policies aimed at protecting the interests of India's most vulnerable communities. The state faces political unrest due to a local communist guerilla group. Beginning in 2006, the Chhattisgarh government funded armed militias to fight the government dissidents. Human rights activist Dr. Binayak Sen claimed that these militia groups forcibly evacuated up to 800 villages with the aim of making room for



large industrial developments such as a new Tata Steel production plant.<sup>21</sup> Some sources claim that Tata Steel helped fund these militia groups to clear land for their business.<sup>22</sup> Whether or not Tata Steel colluded with the militia groups responsible for widespread human rights abuses, the company's decision to remain in the region after a decade-long delay demonstrates a willingness to derive benefits from the illegal and unethical displacement of vulnerable tribal populations. In response, Tata Steel has committed to performing a social audit to examine what affects the steel plant will have on local communities before beginning construction.<sup>23</sup> Though this due diligence is laudable, it is untimely and inadequate. At the very least, Tata's operations in Chhattisgarh have violated the company's pledge to "actively assist in the improvement of the quality of life of the people in the communities in which we operate."<sup>24</sup>

Tata's Odisha operations have entailed charges of illegal and excessive mining that constitute violations of Principle Six of the NVGs – which describes businesses' duty to respect and protect the environment – and also its own policy to "strive for environmental sustainability and comply with all applicable laws and regulations."<sup>25</sup> In 2012, Tata Steel was fined over 1 billion USD (6000 crore) for excessive mining in Odisha.<sup>26</sup> Two years later in Odisha, Tata Steel allegedly conducted mining operations outside of its legally leased land.<sup>27</sup> In that same year, the company was also accused of mining without appropriate environmental permits in Jharkhand.<sup>28</sup> Tata's repeated charges of illegal and excessive mining exacerbate environmental damages that have degraded already suffering ecosystems. In 2007, the Sukinda Valley in Odisha was ranked the fourth most polluted place in the world.<sup>29</sup> The state has India's largest reserves of chromite ore, the extraction of which has contaminated local groundwater with the deadly carcinogen hexavalent chromium, polluted soil, and led to the clearing of large swathes of forest.<sup>30</sup> These environmental damages – made worse by excessive mining – have had grave health consequences for local populations. Roughly 84% of deaths in the Sukinda mining areas have been attributed to chromite-related diseases.<sup>31</sup> Jharkhand has witnessed similarly devastating environmental and health impacts due to irresponsible and excessive mining practices.<sup>32</sup> While it is difficult to attribute any single environmental or health impact to a specific mining activity, Tata's multiple violations of regulations designed to mitigate these negative consequences explicitly contradict the NVGs' assertion that businesses should work to respect, protect, and make efforts to restore the environment.

21 "Govt Acquired Land With Gun on Farmers Head." *The Indian Express*, May 31, 2009. <http://indianexpress.com/article/cities/kolkata/govt-acquired-land-with-gun-on-farmers-head-sen/>

22 "An Uncomfortable Read: The Story of Dr. Binayak Sen." *Countercurrents.org*, March 18, 2011. <http://www.countercurrents.org/mookerjee180311.htm>

23 "Tata Steel Has Not Dropped Chhattisgarh Project." *The Hindu*, April 13, 2010. <http://www.thehindu.com/news/national/tata-steel-has-not-dropped-chhattisgarh-project/article395583.ece>

24 *Tata Code of Conduct 2015*. p. 21. <http://www.tatasteelindia.com/corporate-citizen/pdf/TCOC.pdf>

25 Ibid.

26 "Rs. 6,000cr fine on Tata Steel for illegal mining." *The Economic Times*, November 5, 2012. [http://articles.economictimes.indiatimes.com/2012-11-05/news/34925656\\_1\\_captive-iron-ore-mines-shah-commission-vital-steel](http://articles.economictimes.indiatimes.com/2012-11-05/news/34925656_1_captive-iron-ore-mines-shah-commission-vital-steel). The company appealed the fine, and no evidence was found that Tata Steel ended up paying any portion of this fine to the Odisha government.

27 "Crores Lost in Illegal Mining and Exports in Jharkhand: *Economic Times*, August 4, 2014. <http://economictimes.indiatimes.com/industry/indl-goods/svs/metals-mining/crores-lost-in-illegal-mining-and-exports-in-jharkhand-go-mb-shah/articleshow/39636510.cms>

28 Ibid

29 Blacksmith Institute. "The 2007 Top Ten of Worst Polluted Places." <http://www.blacksmithinstitute.org/the-2007-top-ten-of-worst-polluted-places.html>

30 Sahu, Priya Ranjan. "India's story about pollution, mining, and the environment." *Hindustan Times*: June 5, 2015. <http://www.hindustantimes.com/india/odisha-s-story-about-pollution-mining-and-the-environment/story-Y3t9TxTCqh3M8EBGhmBfXL.html>

31 Walsh, Bryan. "The World's Most Polluted Places: Sukinda, India." *Time*. [http://content.time.com/time/specials/2007/article/0,28804,1661031\\_1661028\\_1661018,00.html](http://content.time.com/time/specials/2007/article/0,28804,1661031_1661028_1661018,00.html)

32 Priyadarshi, Nitish. "Impact of Mining and Industries in Jharkhand." *South Asia Citizens Web*: November 16, 2008. <http://www.sacw.net/article302.html>

There is some evidence that Tata's practices are improving over time, and aligning more closely with its responsible business policies. For instance, in 2015 Tata Steel commissioned a new steel plant in Kalanganagar, Odisha, despite decade long-protests, and began producing its first steel products in 2016.<sup>33</sup> To ensure that the local community is positively impacted by this plant, Tata Steel reports that it has instituted a comprehensive rehabilitation and resettlement plan.<sup>34</sup> The core of any resettlement and rehabilitation requires new housing and amenities for the displaced people. By its own account, Tata Steel claims to have met this requirement and gone beyond it with the company's parivar (tr: family) concept.<sup>35</sup> Tata Steel has also established a communications team that includes members of the local tribal community. And it reports that it has a grievance redressal system that affected people can use to communicate their grievances to the company.<sup>36</sup> If Tata Steel's assertions are correct, than the company's concrete grievance and redressal policies seem likely to bring its business practices more in line with the essential values of the NVGs.

To be sure, Tata Steel's rehabilitation and resettlement commitments have previously fallen short of its policy commitments. About 1,500 people who were displaced had jobs on the construction of the Kalinganagar plant but, in 2015, were laid off as the plant neared completion. These people claim that this violated Tata Steel's promise of permanent employment and also alleged that although many oustees were employed in construction, none had been given jobs in the actual operations of the plant.<sup>37</sup> Though Tata's Code of Conduct does not explicitly reference the provision of jobs to communities affected by its business operations, Tata's promise of permanent employment aligns with its general commitment to improve the quality of life and minimize adverse impacts on local stakeholders. It appears that this policy has only achieved limited realization in Tata's practice, and a more sustained commitment on the company's part has been lacking.

Outside of Tata's practices related to the environment and community stakeholders, the company's protections of its employee has occasionally been problematic Working conditions have led to deaths and injuries in some instances. At Tata Steel's flagship integrated steel plant in Jamshedpur, one worker was killed and ten others were injured from an explosion in 2013.<sup>38</sup> A year later, at the same facility, a worker died after falling into a vat of molten metal.<sup>39</sup> Then in 2015, also at Tata Steel's Jamshedpur operations, 19 workers were injured in another explosion. Five of these workers were seriously injured and three out of those five workers suffered from fractures.<sup>40</sup> In addition to these incidents that made headlines, Tata Steel's annual sustainability reports, in compliance with Global Reporting Initiatives guidelines, include information on the number of fatalities at Tata Steel each year. There are evidently many fatalities without any popular press coverage. For example, the company reported five fatalities in 2015, but no information on any of these deaths for inclusion in this report's violations table. The company's reporting of fatalities is

33 A decade earlier, local community members had protested the construction of a new steel plant. During these protests, 12 locals were killed by police. Many locals continued to protest the creation of the steel plant, even as it was established in 2015. "Nine Years After Land Acquisition Protests, Odisha Gets Tata Plant." *Indian Express*. <http://indianexpress.com/article/business/business-others/nine-years-after-land-acquisition-protests-odisha-gets-tata-plant>

34 Tata Steel Limited. "R & R Overview." <http://www.tatasteel.com/global-network/tata-steel-kalinganagar/tata-steel-parivar/r-and-r-overview.asp>

35 Tata advertises that any displaced person is not only resettled but also becomes a member of the Tata Steel parivar. Since at least 2009, Tata Steel self reports that it has conducted skill development training programs to enable locals to find employment. *Tata Steel Limited Annual Report 2008-2009*.

36 "R & R Overview."

37 "Tata Ousteas Seek CM Intervention" *The New Indian Express*, November 18, 2015. <http://www.newindianexpress.com/states/odisha/Tata-Ousteas-Seek-CM-Intervention/2015/11/18/article3133932.ece>

38 The explosion occurred after a gas leak of a mixture of carbon monoxide, carbon dioxide, and nitrogen. The preliminary investigation of Jharkhand's Labor Commission reported that the lack of a safety drill at the facility could be one of the reasons that lead to the explosion. ESG Impact Monitor Report for Tata Steel Limited. Last Updated: Feb 15 2016.

39 "Tata Steel Employee Burnt to Death in Jamshedpur." *India Today*: August 8, 2014. <http://indiatoday.intoday.in/story/employee-burn-to-death-death-in-tata-steel-factory/1/376155.html>

40 Ibid.

part of its policy goal of zero fatalities.<sup>41</sup> In this process, which Tata Steel calls its Safety Excellence Journey, new safety strategies are consistently implemented and existing strategies are revised and replaced. For example, the company sustainability reports indicate that it implements an annual process to eliminate commonly accepted unsafe practices and employs engineering solutions to address fatality risks. These efforts seem to be effective because Tata Steel's Lost Time Injury Frequency Rate has been declining since 2008.<sup>42</sup> Though Tata has not always met its pledge to "provide a safe, healthy and clean working environment for our employees,"<sup>43</sup> the company appears to be taking substantive steps to address its failings.

### Tata Steel's Constructive Policies Indicate a Steady Improvement of Corporate Practice

Tata Steel's comprehensive policies indicate that the company's leadership has put significant thought into meeting the NVGs' standards, and in some areas, exceeding them. Tata's policy performance on metrics related to community development and community as business stakeholder are particularly important given these areas' relevance to the company's manufacturing and extraction operations. As might be expected due to its relatively progressive corporate policies, Tata has had limited success in fully realizing these guiding principles in practice. Some of these violations are indicative of challenges inherent in the extraction industry, which inevitably involve complex issues related to resettlement, environmental protections, and employee safety. While Tata's responses to its own wrongdoings have not always been adequate, the company has taken steps to improve its practices through social evaluations, grievance and redressal mechanisms, communications with local stakeholders, and long-term efforts to improve workplace safety. In conjunction, these measures suggest that Tata Steel's corporate policies are not merely symbolic: they are a substantive, if preliminary, step towards widespread responsible business practice.

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41 *Tata Steel Corporate Sustainability Report 2014-2015*. <http://www.tatasteel.com/sustainability/pdf/csr-2014-15.pdf>

42 For example, *Tata Steel Corporate Sustainability Report 2014-2015*.

43 *Tata Code of Conduct 2015*. p. 7. <http://www.tatasteelindia.com/corporate-citizen/pdf/TCOC.pdf>



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## 2: Jindal Steel and Power Limited: An Industry Leader in Corporate Policy and Practice

Since the passage of the NVGs, Jindal Steel and Power has had a great deal of success in integrating principles of responsible business into its policy documents. These policies, which demonstrate a consciousness of the company's impacts on the environment, local communities, public policy, and many other areas, are among Indian companies' most comprehensive and progressive. These policies appear to have positively impacted JSPL's corporate conduct, which, while not without its flaws, does not exhibit as numerous or as severe violations of the NVGs as many of its peer companies. Even so, problems remain: Jindal has work to do in order to improve its stakeholder consultations and its transparency in self-reporting violations. Nonetheless, using the NVGs as a rubric, JSPL seems to be an industry leader in both its corporate policy and practice.

### Company Overview

Jindal Steel and Power Ltd. (JSPL) was established in 1969 as Jindal Strips Limited by Shri O.P. Jindal, and has since grown to a \$3.3 billion USD company that dominates in India's steel and power production.<sup>44</sup> JSPL is part of the Indian multinational conglomerate Jindal Group, which encompasses a multitude of subsidiaries in various sectors, from polyester and film manufacture iron ore mining. Given JSPL's origins in metal production and mining, the company's metal and mining operations have expanded to many countries outside of India, such as Bolivia, Oman, and South Africa. While JSPL's investment in the power sector is more recent, it has already established thermal or coal generation facilities in a few Indian states. Currently, JSPL is India's third largest steel producer and employs over 50,000 people across the world, with ambitious plans to further expand its steel and power plants domestically and globally.<sup>45</sup>

### IRBI Performance

In CRW's inclusiveness index, JSPL ranks extremely well across all indicators. More than half its rankings are in the top 10 out of 100 companies, and none of its rankings fall below the top-performing quartile. JSPL's highest rankings tie at "Non-discrimination in the workplace" and "Inclusive supply chain", while its lowest ranking is for "Community development." Table 1 displays a snapshot of JSPL's rankings and scores

**Table 2.1: Jindal Steel and Power Ltd.'s Performance on the IRBI**

	Non-discrimination in the workplace	Employee wellbeing	Community development	Inclusive supply chain	Community as business stakeholder
	2	5	21	2	13
<b>SCORE</b>	0.74	0.67	0.74	0.65	0.16

As similarly stated for Tata Power, JSPL's high rankings do not necessarily indicate "good" performance. For example, while JSPL ranks 2nd for "Non-discrimination in the workplace" and 21st for "Com-

<sup>44</sup> "O.P. Jindal-A Tribute." JSPL. <http://www.jindalsteelpower.com/o-p-jindal-a-tribute.html> (accessed May 6, 2016); "Company Profile." JSPL. <http://www.jindalsteelpower.com/company-profile.html> (accessed May 6, 2016)

<sup>45</sup> "Company Profile." JSPL.

munity development,” both categories have achieved an identical score of 0.74 out of 1.00. Although data is too limited to make specific inferences, this may suggest that companies generally have made more progress in articulating community development policies than anti-discrimination policies. Furthermore, JSPL’s own median ranking of 13th for “Community as a business stakeholder,” while very high relative to its peers, has only earned a score of 0.16 out of 1.00.<sup>46</sup>

### Policy Analysis: Robust Policies Indicate Strong Commitment to the NVGs

Jindal Steel and Power has a comprehensive policy infrastructure that indicates the company’s strong policy commitment to responsible business practice – in keeping with Jindal’s obligations under the NVGs. JSPL provides annual Investor Reports (IRs), which address additional policy commitments to social responsibility established by its parent company Jindal Group (e.g. Code of Conduct, Whistle-blower Policy). Prior to the fiscal year 2013-2014, these IRs only extensively described its social commitment and CSR initiatives, but had no indicators or measurements for its achievements. However, starting from the fiscal year 2013-2014, JSPL began to utilize the National Voluntary Guidelines (NVGs) in both its IRs and newly-instituted annual Sustainability Reports, also established in the fiscal year 2013-14, to describe and assess its social responsibility efforts.

The company’s business responsibility report – included in the larger investor reports – provides extensive information on its compliance with the NVGs. Under the principle-wise policies section, Jindal provides the names and links to its various publicly accessible policy documents – a degree of detail and transparency atypical of its peer companies.<sup>47</sup> Jindal also asserts that it is a signatory to the World Steel Sustainable Development Charter, and that its policies “reflect the purpose and intent” of the UN Global Compact, the Global Report Initiatives, and other international standards.<sup>48</sup> Jindal’s extended responses on its principle-wise performance go into great length and detail regarding specific initiatives and policies intended to protect stakeholders, the environment, and uphold the company’s obligations as a responsible business entity. For example, the report outlines employee certifications, whistle blowing mechanisms, hiring practices, recycling practices, corporate social responsibility spending, NGO collaborators, and several other concrete and specific ethical procedures. Taken together, these policies indicate a company that had made significant strides to comply with the NVGs, and has made substantial efforts to apply responsible policies to its regular business operations.

The policies to which JSPL refers in its business responsibility report are listed on JSPL’s “Policies” webpage, and include an Environment Policy, Safety and Occupational Health Policy, Quality Policy, Total Productive Maintenance Policy, and Corporate Social Responsibility Policy. Requirements that the policy intends to meet are also listed (e.g. Under CSR Policy: Adhering to the CSR activities as required by the Law), and claim to abide by JSPL’s own set of Guiding Principles (no acknowledged relation to the UN Guiding Principles).<sup>49</sup> Both the Investor Reports and Sustainability Reports provide breakdowns of which policies JSPL has in place to address which NVG principle, as well as where each policy can be thus retrieved. The most recent 2014-2015 reports claim that JSPL has policies to adequately address all NVGs. However, not all of these policies are easily accessible for viewing.<sup>50</sup>

Interestingly, Jindal Group signed off on five new company policies in the fiscal year 2014-15. These included: Risk Management Policy, Policy for Policy Advocacy, Policy and Stakeholder Mapping and Engagement and Policy for Life cycle Sustainability, and Policy on Human Rights Protection. The company’s

46 Corporate Responsibility Watch. *Making Growth Inclusive - Disclosure Matters Series: Part III*. 2015. Accessed April, 2016. [http://www.corporatewatch.in/images/Making\\_Growth\\_Inclusive.pdf](http://www.corporatewatch.in/images/Making_Growth_Inclusive.pdf)

47 “Annual Report 2015-16.” Jindal Steel and Power. p.108

48 Ibid.

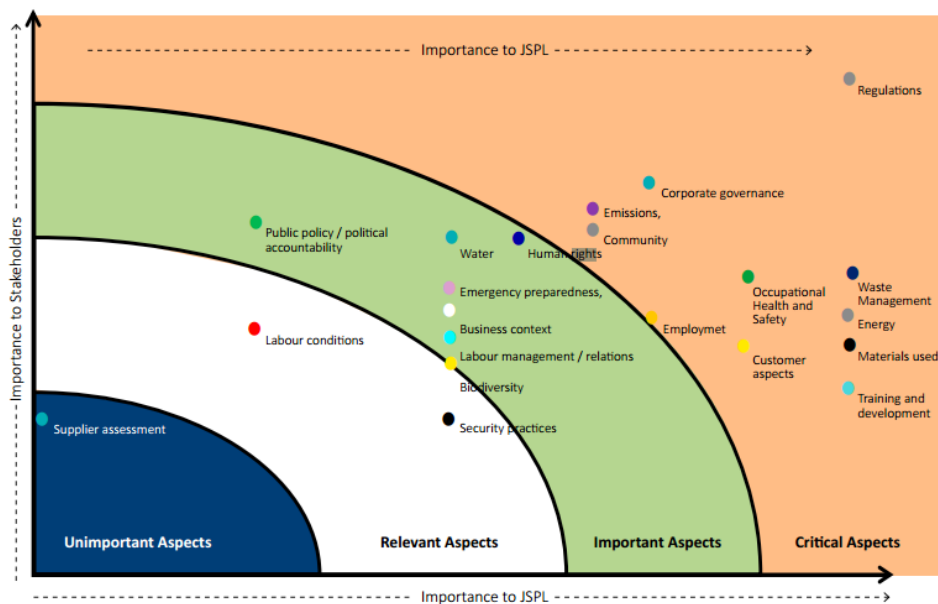
49 “Policies.” JSPL. <http://www.jindalsteelpower.com/policies.html> (accessed May 6, 2016)

50 While I was able to access Jindal Group’s Code of Conduct without issue, I was unable to obtain Jindal Group’s Human Rights policy and include in my report, even after contacting the listed Business Responsibility Director Mr. Rajeev Bhaduria in the 2014-2015 IR, via email. This is of concern as these policies are stated to uphold their respective NVG principles, such as the Human Rights policy for NVG Principle 5, but as of now, it is unknown how.

addition of these policies suggests a continuous effort to improve upon its compliance with the NVGs. Previously, Jindal Group had appealed that it upheld human rights across policies such as Code of Conduct, Whistle-blower Policy, and Safety and Occupational Health Policy. While human rights may be implicitly protected, it is worth noting that these policy statements do not mention the term “human rights.” While establishing a new Policy on Human Rights Protection is a step towards explicating a clear commitment to human rights, as of this report, the nature and content of these policy commitments are unknown.

On an additional note, JSPL’s Sustainability Report does provide a useful graph that ranks and compares the importance of “materiality issues” to JSPL and its stakeholders. The graph below was obtained from their most recent 2014-15 Sustainability Report.<sup>51</sup>

**Figure 2.1: Mapping of “Materiality Issues”**



It is curious that although JSPL ranks in the top 10 for the “Non-discrimination in the workplace,” “Employee well-being,” and “Inclusive supply chain” categories of the IRBI, issues of labor conditions, human rights, and supplier assessments are acknowledged as non-critical aspects of importance to JSPL. The correspondence between JSPL’s performance on the IRBI and their prioritization of various issue areas is limited. In fact, JSPL’s weakest performances are in the community development and community as business stakeholder categories, despite the company’s categorization of “community” as a critical aspect of its business practice. Furthermore, JSPL’s consideration of supplier assessment as an unimportant aspect presents a stark contrast from its excellent performance in the inclusive supply chain category. At the very least, JSPL’s transparency in relating its priorities exemplifies its upholding of Principal One of the NVGs, and provides a firm basis for continuing to remedy its policies’ shortcomings.

**Corporate Practice: Relative Few Violations Indicate Generally Responsible Business Practices**

Though Jindal’s corporate practice does not entirely live up to its exemplary policy infrastructure, relative to its industry peers, the company has not committed nearly as many violations of the NVGs. Furthermore, JSPL’s more serious violations since 2008 largely consist of failures to adequately take stakeholders’ interests into account (NVG Principle Four), and blind spots in its self-reporting of the resulting ethical and legal controversies (Principle One). Shortcomings in JSPL’s compliance with environmental regulations (Principle Six) round out the relatively short list of the company’s non-compliant corpo-

51 JSPL. 2<sup>nd</sup> Business Sustainability Report 2014-15.

rate practices. The inadequacy of Jindal’s consultation and accountability mechanisms conflicts with the company’s policy emphasis on these values. However, these divergences are limited in gravity and scale, indicating a measure of consistency between JSPL’s policy and practice.

**Table 2.2: Jindal Steel and Power’s Non-Compliant Corporate Practices, since 2008**

Date	Violation/Controversy	Source
November 2008	In January of 2014, India’s Directorate of Revenue found Jindal Steel and Power to have falsely declared an acquisition of an aircraft under a tax exemption provision to evade duty. The Directorate issued a show cause notice for Rs55 crore duty evasion as the aircraft was not used for purposes declared to authorities. A report found the aircraft to be used 50 percent by the promoters and directors of Jindal Steel and Power, and did not provide any charter services which it had claimed.	<a href="http://timesofindia.indiatimes.com/business/india-business/Notice-to-Jindal-firm-for-Rs-55-crore-tax-evasion/article-show/28716227.cms?">http://timesofindia.indiatimes.com/business/india-business/Notice-to-Jindal-firm-for-Rs-55-crore-tax-evasion/article-show/28716227.cms?</a>
March 2013	Since March of 2013, JSPL has allegedly been disregarding clean-energy regulations at its Chhattisgarh power plant. Failing to meet clean-power regulations threatens the environment and impedes other actors in the power industry by undermining India’s renewable-credit trading market. The State Electricity Regulatory Commission issued a fine set at Rs.290 crore.	<a href="http://www.livemint.com/">http://www.livemint.com/</a>
September 2013	On September of 2013, Jindal Steel and Power was criticized by local villagers for allegedly staging a skewed public hearing regarding its plans for its Chhattisgarh plant. Villages who attending this public hearing, including tribal communities and civil society members, accused the firm for paying and planting attendees in the public hearing, as well as selecting a venue that was inconvenient for the public to access due to distance from their villages. After the public hearing, the environmental clearing for the proposed coal block was approved.	IM Report

**2008-ongoing: Frequent community protests against power facilities in Chhattisgarh, India**

Recurring conflict between JSPL and communities affected by the company’s operations in Chhattisgarh indicate weaknesses in its stakeholder consultation processes – a violation of Principle Four of the NVGs. Protesters have repeatedly been overridden or ignored, suggesting that the company’s steps to include stakeholders by means of public hearings have not substantively shaped its business decisions. The superficiality of these consultation procedures does weaken JSPL’s status as a responsible actor, even as the company’s practice in this domain appears to be stronger than its peers.

In 2008, there were witnessed accounts of protests and open conflict between residents and project proponents regarding coal mines in the town, Khamaria, which cancelled an upcoming public hearing.<sup>52</sup> In May of 2010, local activist Ramesh Agrawal filed a formal complaint to the Ministry of Environment and Forests (MoEF), accusing JSPL of beginning construction on the Chhattisgarh site for a proposed power

52 Sugandh Juneja. “Chhattisgarh’s Industrial Jungle”. Down to Earth. Last modified Sept 15, 2010. <http://www.downtoearth.org.in/coverage/chhattisgarhs-industrial-jungle-1862> (accessed May 6, 2016)



plant prior to receiving environmental clearance. Mr. Agrawal filed a broader case to the Bilaspur High Court, drawing attention to the allegedly “ad hoc matter in which Chhattisgarh administration is scheduling and conducting public hearings” and that “the Chhattisgarh Environment Control Board (CECB) was delegating its duties to the district administration in violation of established norms.” JSPL responded that Mr. Agrawal was trying to extort the company by threatening to disrupt their public hearings and expansion projects.<sup>53</sup> Later in 2010, protests stalled a public hearing regarding a JSPL power plant expansion in the town, Tamnar, for 12 hours. The expansion, however, ultimately received environmental clearance.<sup>54</sup> JSPL’s failure to hold substantive public hearings appears to have motivated its shortcutting of critical environmental regulations. JSPL’s construction of the Khamaria Plant without environmental clearance violates its policy to “comply with all applicable statutory and other norms/requirements for environmental protection.”<sup>55</sup>

In June of 2011, Mr. Agrawal was arrested and imprisoned for two months for allegedly inciting a mob at a public hearing regarding the 2,400-MW thermal power plant proposed by Jindal Power Ltd. The power plant ultimately received environmental clearance. Later in 2011, Mr. Agrawal was ambushed and shot in the thigh at a local internet café. While his supporters claim he was “attacked for taking on JSPL,” a JSPL spokesman responded that, “We strongly condemn this act of violence. We deny the allegations and have nothing to do with this incident.”<sup>56</sup> More recently in 2013, JSPL was criticized by local villagers for allegedly staging a skewed public hearing regarding its plans for its Chhattisgarh plant. Villagers who attending this public hearing, including tribal communities and civil society members, accused the company of paying and planting attendees in the public hearing, as well as selecting a venue that was inconvenient for the public to access due to distance from their villages.<sup>57</sup> These issues with Jindal’s public hearings echo previous complaints regarding its stakeholder consultations. In each instance, community stakeholders were unsatisfied by perfunctory public hearings that did not adequately weigh their concerns. These failings indicate repeated shortcomings of Jindal’s transparency and accountability procedures, which constitute violations of Principles One and Four of the NVGs.

According to the Raigarh regional officer of Chhattisgarh Environment Conservation Board (CECB) A.C. Maloo, “people in Raigarh believe if they disrupt a hearing, the project will not get clearance. Instead of expressing their concern and registering their opinion on the project, people tend to get aggressive and resort to violence.” However, he also claimed that most of these protests occurred as residents did not want to give away land “at any cost.”<sup>58</sup> Another local NGO argued that people merely viewed public hearings as “a formality the state government carries out, no rules are followed, false reports are sent to the ministry.” As of now, the Raigarh Superintendent of Police also admitted that due to the persistent protests in the state, the number of police at the public hearings now exceeded the number of people.<sup>59</sup> Though communities’ antagonism to large power projects is perhaps unavoidable to some degree, Jindal’s public hearings appear only to have exacerbated popular distrust of the companies’ motives and willingness to take their concerns into account. These concerns throw the sincerity of JSPL’s intentions to conduct itself responsibly into some doubt. Nonetheless, by merely holding these hearings, JSPL has demonstrated a stronger commitment to responsible practices than many of its industry peers.

With regard to the expansion of power industries in Chhattisgarh, Mr. Agrawal recently stated that “the outcome of the public hearing is not important anymore as the MoEF cannot stop any coal-based

53 Aman Sethi. “Environmental activist shot and wounded in Chhattisgarh”. Last modified July 8, 2012. <http://www.thehindu.com/news/national/environmental-activist-shot-and-wounded-in-chhattisgarh/article3613848.ece> (accessed May 6, 2016)

54 Sugandh Juneja. “Chhattisgarh’s Industrial Jungle”.

55 “Policies.” JSPL. <http://www.jindalsteelpower.com/policies.html> (accessed July 22, 2016)

56 Aman Sethi. “Environmental activist shot and wounded in Chhattisgarh”.

57 Suvojit Bagchi. “A public hearing in Tamnar against the public”. Last modified Sept 24, 2013. <http://www.thehindu.com/news/national/other-states/a-public-hearing-in-tamnar-against-the-public/article5163069.ece> (accessed May 6, 2016)

58 Sugandh Juneja. “Chhattisgarh’s Industrial Jungle”

59 Suvojit Bagchi. “A public hearing in Tamnar against the public”

project. There is huge pressure on the Ministry to clear all the projects to meet the energy needs.”<sup>60</sup> Mr. Agrawal’s comment points to the government’s role in prioritizing economic development – particularly in the energy sector – to such an extent that environment and social protections have not been adequately enforced. In turn, that has allowed corporations like JSPL to operate with near impunity – in spite of government and privately-imposed regulations that suggest a prioritization of ethical standards. This observation suggests that by establishing a lax policy environment, the government shares culpability with JSPL in failing to protect and amplify the voices of local stakeholders.

JSPL has operated in the Chhattisgarh state for the past couple decades, and these reports of frequent protests indicate a still-turbulent relationship between the company and community. The local opposition to public hearings indicates that these hearings are providing to some degree stakeholder consultation, but that local voices are still unheard. If this is the case, then JSPL is failing its own commitment to hold meaningful public hearings, as well as violating Principle Four of the NVGs, which asserts that businesses should “be responsive towards all stakeholders.”

JSPL’s conduct is also troubling in that the dissatisfaction and antagonism of the community towards JSPL’s industrial activity is not mentioned in Investor Reports since 2008 or Sustainability Reports since 2014. The omission demonstrates a lack of transparency – a crucial element of NVG Principle One. Though it is relatively common for companies not to mention ongoing violations in their reports, JSPL’s failure to do so is still a significant barrier to its goal of becoming a responsible business actor. These reports do discuss the region-specific CSR initiatives, such as health programs and community colleges, while JSPL’s broader Code of Conduct states that it will “provide an infrastructure and support mechanism to help employees contribute to society in a meaningful manner.”<sup>61</sup> While it is difficult to ascertain that these protests are clear policy or NVG violations, the local community does not seem to be engaged in “meaningful” consultation or as stakeholders in the business. Chhattisgarh also exhibits the lowest Human Development Index (0.358) among the Indian states in which JSPL operates, yet aside from CSR initiatives, any additional measures JSPL has taken to protect this economically vulnerable community in business activity and negotiations are not mentioned.<sup>62</sup>

In addition to this lack of response and accountability from JSPL, there is also a troubling absence of action or assistance taken by the government for its people. Other than allotting more policemen to standby at these public hearings, the MoEF seems to overlook the community’s tribulations and pass environmental clearances for these projects regardless. Weak government enforcement may enable JSPL to elude any investigation, prosecution or accountability under the law. While there is substantial evidence that JSPL’s stakeholder consultation processes are flawed, the offenses in Chhattisgarh pale in comparison to the large-scale human rights and environmental abuses frequently committed by other companies. JSPL’s shortcomings largely center around allowing stakeholders a more primary role in its decision-making processes and transparently reporting its failings in its annual policy documents.

### ***2007-2013: Clearance confusion for JSPL’s steel plant in Odisha, India***

In the past decade, JSPL’s 6 million tonne steel project in Odisha has repeatedly violated important environmental regulations. Although SPL received an environmental clearance for its proposed steel plant in 2007, in 2010, the Environment Ministry threatened to revoke this clearance because the company had already began civil construction work at the site without obtaining additional mandatory forest clearance.<sup>63</sup> In 2010, JSPL did obtain stage-1 forest clearance for the Odisha steel plant, but this approval was later accused of being illegally obtained, through the suppression of vital information by officials on the State Pollution Control Board and with the Principal Chief Conservator of Forests.<sup>64</sup> In 2013, the Odisha

60 Aman Sethi. “Environmental activist shot and wounded in Chhattisgarh”

61 “Group Code of Conduct”. JSPL. Last modified Aug 23, 2013. [http://www.jindalsteelpower.com/img/admin/report/pdf/CoC\\_revised\\_on\\_29\\_4\\_13.pdf](http://www.jindalsteelpower.com/img/admin/report/pdf/CoC_revised_on_29_4_13.pdf)

62 JSPL. *2<sup>nd</sup> Business Sustainability Report 2014-15*.

63 “Forest clearance to Jindal: action sought against ‘guilty’ officials”. The Hindu. Last modified Nov 28, 2010. <http://www.thehindu.com/todays-paper/tp-national/tp-otherstates/forest-clearance-to-jindal-action-sought-against-guilty-officials/article919348.ece> (accessed May 6, 2016)

64 Nageshwar Patnaik. “Officials hid info on forest norms violation by JSPL”. The Economic Times. Last

High Court directed the Environment Ministry to look into this potential violation of the Environmental (Protection) Act, 1986.<sup>65</sup>

The investigation against the involved government officials is still pending; however, operations in Odisha are running as per usual. JSPL's 2008-09 Investor Report states that as a measure of environmental protection, "the company strictly complies with all applicable environmental regulations. As a matter of policy, all environmental clearances are obtained before the project is commissioned."<sup>66</sup> Yet none of the reports to date mention the controversy or alleged illegalities with the environmental and forest clearances for the Odisha steel plant. This threatens the transparency of JSPL's operations, which, given the NVGs reliance on company's self-reporting, is a troubling transgression.

In the more recent 2013-14 Investor Report, JSPL states that it has received environmental clearance from MoEF and consent from Odisha State Pollution Control Board, and thus plans to complete the steel plant expansion by 2016.<sup>67</sup> There was no evidence found of the resolution between JSPL and the Odisha High Court, or of any penalties faced by JSPL for allegedly-illegal activity from back in 2007 and 2010. Even if JSPL has found a resolution to its legal troubles, the company's policies indicate a threshold of responsibility that not only meets, but exceeds the letter of the law. JSPL has yet to meet the demands of that higher ethical standard. Nonetheless, issues with the company's transparency indicates that compared to most of its peers in the energy and extractions industries, JSPL's violations are not nearly as detrimental or directly harmful to stakeholders.

### ***2013: Violation of clean energy regulations at Chhattisgarh power plant***

Since March of 2013, JSPL has reportedly been disregarding clean-energy regulations at its Chhattisgarh power plant. Failing to meet clean-power regulations is not only an environmental threat, but also impedes other actors in the power industry by undermining India's renewable-credit trading market. The State Electricity Regulatory Commission issued a fine set at Rs.290 crore.<sup>68</sup>

When it comes to environmental protection, JSPL's Group Code of Conduct states that the company should "not to perform any act that pollute the environment."<sup>69</sup> While the alleged pollution at the Chhattisgarh plant is therefore a violation by JSPL's own standards, it is not explicitly brought up in the Investor or Sustainability reports. JSPL 2013-14 Investor's Report states that there were 3 pending cases of show cause/legal notices received from the State Pollution Control Board, but whether this includes this Chhattisgarh power plant case is unknown.<sup>70</sup>

### **Excellent Corporate Policy Performance Achieves Relative Success in Practice**

Jindal Steel and Power performs impressively relative to its peers on many of the IRBI's policy metrics. In practice, the company's faults generally fall into two categories: a lack of substantive stakeholder

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modified Nov 30, 2010. [http://epaper.timesofindia.com/Repository/getFiles.asp?Style=OliveXLib:LowLevelEntityToPrint\\_ETNEW&Type=text/html&Locale=english-skin-custom&Path=ETD/2010/11/30&ID=Ar00601](http://epaper.timesofindia.com/Repository/getFiles.asp?Style=OliveXLib:LowLevelEntityToPrint_ETNEW&Type=text/html&Locale=english-skin-custom&Path=ETD/2010/11/30&ID=Ar00601) (accessed May 6, 2016)

65 Chetan Chauhan. "Forest panel to look into green violations by Jindal steel plant in Odisha". Hindustan Times. Last modified Nov 20, 2013. <http://www.hindustantimes.com/india/forest-panel-to-look-into-green-violations-by-jindal-steel-plant-in-odisha/story-EZpULaaSD1qeThxrXhtsvI.html> (accessed May 6, 2016)

66 JSPL. *Annual Report 2008-09*. [http://www.jindalsteelpower.com/img/admin/report/pdf/File\\_2009\\_ar-2008-09.pdf](http://www.jindalsteelpower.com/img/admin/report/pdf/File_2009_ar-2008-09.pdf) (accessed May 6, 2016)

67 JSPL. *Annual Report 2014-15*. [http://www.jindalsteelpower.com/img/admin/report/pdf/JSPL\\_Annual\\_Report\\_2014\\_15.pdf](http://www.jindalsteelpower.com/img/admin/report/pdf/JSPL_Annual_Report_2014_15.pdf) (accessed May 6, 2016)

68 "SAIL, Jindal Steel threatened with fines for clean-power lapses". Live Mint. Last modified Jul 2, 2013. <http://www.livemint.com/Industry/1508QtZ1MfEOJ2FW6iakyN/SAIL-Jindal-Steel-threatened-with-fines-for-clean-power-lap.html> (accessed May 6, 2016)

69 "Group Code of Conduct". JSPL

70 JSPL. *Annual Report 2013-14*. [http://www.jindalsteelpower.com/img/admin/report/pdf/jspl\\_ar\\_2013\\_14-0.pdf](http://www.jindalsteelpower.com/img/admin/report/pdf/jspl_ar_2013_14-0.pdf) (accessed May 6, 2016)



consultations, and a lack of transparency in reporting violations. These shortcomings are particular evident in JSPL's Chhattisgarh operations, where popular distrust and complaints with the company's conduct have remained consistent for several years. Furthermore, JSPL's violations of environmental regulations indicate that the company must continue to work towards legal compliance, in addition to meeting the voluntary standards imposed by the NVGs and its own corporate policies. However, the relatively small scale of the company's violations since 2008 indicate that the company's ethical policy commitments have achieved marked practical realization. Compared to its competitors, JSPL has not committed nearly as many or as damaging violations of the NVGs. Though JSPL's corporate practice is not without its flaws, the company appears well on its way to becoming a responsible business actor.

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### 3: The Adani Group: Lack of Government Oversight Enables Violations of Corporate Policy

The Adani Group's policy statements suggest a solid commitment to the NVGs in explicitly addressing the nine principles, referencing some core human rights documents, and in some cases going into detail on how Adani group implements the principles. But there is reason to be cautious in expecting too much of these commitments: each of the three conglomerates in the Adani group – Adani Ports,<sup>71</sup> Adani Power and 'Adani Enterprises' – have adopted these statements wholesale – without any effort to make the policies company or industry specific.<sup>72</sup> This uniformity in policy across Adani members casts some doubt on how meaningful the policies can be in guiding the practice of very different companies. The company's business practices, moreover, appear to diverge from its corporate policies most significantly when government laws and regulations protecting workers, the environment, and affected communities are deficient.

The Adani Group's violations of its policy commitments under the NVGs are mainly clustered in the Mundra Special Economic Zone, where Adani conducts a large amount of its corporate activity, and benefits from a lack of regulations and oversight. We can understand these violations as a function of an intensely neo-liberal economic climate in India. Further, these are assisted by political policies and a general lack of oversight and regulation. Ultimately, the pattern of the Adani Group's violations suggests that it best conforms to its own policy when there is greater regulatory oversight and political pressure to do so.

#### Company Overview

The Adani Group is a multinational conglomerate, with its headquarters in India and comprised of different Adani companies, across diversified businesses. The Adani Group reported revenues of US \$17.5 billion in the 2014/15 financial year, with Adani Enterprises currently ranking 19th in the top 500 companies in India.<sup>73</sup> The major companies within the Adani Group are Adani Enterprises Ltd, Adani Ports and Special Economic Zones Ltd, Adani Power Ltd and Adani Transmission Ltd<sup>74</sup>. Founded by Gautam Adani in 1988 as a commodity-trading firm, the Adani Group has experienced exponential growth. By the mid-1990s, the firm began attracting attention, including "attention of the unwelcome kind."<sup>75</sup> During the era of economic liberalisation in India, beginning in the early 1990s, the Adani Group to experienced huge economic growth. By 2002, Adani's Mundra Port became India's largest private port, and by 2006, Adani was India's largest coal exporter.<sup>76</sup>

The tale of Adani's economic success is rarely told without mention of Gautam Adani's close relationship with Narendra Modi, the current prime minister of India and former chief minister of the Indian state of Gujarat, a region in which a large portion of Adani's corporate activities took place. Adani's rise to prominence has been characterized by frequent human rights violations. Recently, Adani has begun to invest in projects abroad, the largest of which is a mining project in Australia. The prospect of this development garnered significant international attention, particularly from the Western media, to Adani's poli-

71 "Adani Ports and Special Economic Zone Limited: Principle-wise (as per NVGs) Business Responsibility Policies." <http://www.adaniports.com/wps/wcm/connect/www.adaniports.com/15901/56fa9734-5c9d-4c18-a1cf-b9a42edeabc42/BRR%2BPolicies.pdf?MOD=AJPERES>

72 Adani Ports operates nine ports and terminals across the Indian coastline, Adani Power owns several coal and solar power plants, and Adani Enterprises is the flagship enterprise of the Adani group, which supports many aspects of the group's business operations.

73 "ET500 Toppers" *Economic Times of India*. 2015. <http://economictimes.indiatimes.com/et500>

74 "Investor Relations" <http://www.adani.com/investors>

75 Thankurta, Paranjay Guha, "The Incredible Rise and Rise of Gautam Adani: Part One" *The Citizen*. April 11, 2016. <http://www.thecitizen.in/index.php/OldNewsPage/?Id=3375>

76 "The Other Big" *The Economic Times Mumbai*. September 5, 2013. <http://epaper.timesofindia.com/Repository/ml.asp?Ref=RVRNLzIwMTMvMDkvMDUjQXlwMjIwMA==>

cies and practices in India, bringing many of the companies’ human rights violations to the light of a larger audience.

**IRBI Performance**

In CRW’s “Making Growth Inclusive” report, the Adani Group shows mixed results. The report treats three different companies in the conglomerate separately. Of the three companies listed, The Adani Ports and Special Economic Zone Ltd was ranked the best across all the indicators, followed by Adani Power then Adani Enterprises. Adani Enterprises was ranked roughly average across all indicators except for community as business stakeholders, where it ranked particularly poorly at 90th. Adani Ports and Special Economic Zones ranked average in all categories except for community as business stakeholders as well, however, there it performed particularly well, ranking 13th. Finally, Adani Power was ranked average across all the categories, performing best in the community as business stakeholders category, where it ranked 28th, and worst in inclusive supply chain, where it was 86th.

**Table 3.1: Adani Ports and Special Economic Zone Ltd’s Performance on the IRBI**

	<b>Non-discrimination in the workplace</b>	<b>Employee wellbeing</b>	<b>Community development</b>	<b>Inclusive supply chain</b>	<b>Community as business stakeholder</b>
<b>RANKING</b>	57	32	39	66	13
<b>SCORE</b>	0.45	0.48	0.67	0.26	0.16

**Table 3.2: Adani Power Ltd’s Performance on the IRBI**

	<b>Non-discrimination in the workplace</b>	<b>Employee wellbeing</b>	<b>Community development</b>	<b>Inclusive supply chain</b>	<b>Community as business stakeholder</b>
<b>RANKING</b>	52	85	61	86	28
<b>SCORE</b>	0.48	0.24	0.60	0.09	0.10

**Table 3.3: Adani Enterprise’s Performance on the IRBI**

	<b>Non-discrimination in the workplace</b>	<b>Employee wellbeing</b>	<b>Community development</b>	<b>Inclusive supply chain</b>	<b>Community as business stakeholder</b>
<b>RANKING</b>	68	56	61	68	90
<b>SCORE</b>	0.38	0.41	0.60	0.25	0.01

### Policy Analysis: Blanket Policies Lacking Specificity and Substance

The Adani Group has issued “Business Responsibility Principles” that outline the way in which its constituent companies purport to implement the NVGs in their business policy and practice.<sup>77</sup> This publication articulates each of the NVGs and details the Adani Group’s specific policies that address each of the nine principles. In doing so, the Adani Group shows some commitment, at the policy level, to the NVGs. However, the central document issued by the Adani Group has been published -- without any changes -- under the names of each of the three major companies in the conglomerate: Adani Ports,<sup>78</sup> Adani Power<sup>79</sup> and Adani Enterprises.<sup>80</sup> The Principles’ lack of specificity for each distinct industry suggests that Adani’s policy commitments may be superficial.

In some cases, these policies reference international human rights law. For instance, Adani’s policy related to Principle Two of the NVGs states that the “Group will respect the Universal Declaration of Human Rights, International Labour Organisation’s fundamental conventions on core labour standards and operate as an equal opportunity employer.”<sup>81</sup> The Adani Group’s explicit commitment to two major international conventions demonstrates an acknowledgement of the global human rights framework and an acceptance of Adani’s place within it. These instruments are again referenced under Principle Five.

These policies generally do not specify concrete oversight mechanisms to ensure the companies uphold their commitments to responsible business practice. In some instances, however, the policy documents identify the precise ways in which the NVGs will be implemented. For example, according to the “Business Responsibility Principles” reports, the companies’ websites “will contain a special window called ‘Help-desk’ which may be accessed by investors and customers of the Company for redressal of their grievances” in an effort to uphold Principle One, which commits the Group to conducting business and governing itself with ethics, transparency and accountability. However, this window could not be located on any of the companies’ websites, indicating that the Adani Group has yet to follow through on its pledge.

The details for the professed implementation of the NVGs are the same across all three companies, and the documents are in no way specific to the unique challenges arising from each particular industry. The fact that identical policies have been issued by all three companies may demonstrate a lack of genuine commitment to the NVGs, since they do not address the unique challenges each business might face.

### Corporate Practice: Violations Enabled by Insufficient Government Regulation

The Adani Group’s corporate practice does not live up to its corporate policy, or its stated adherence to the NVGs. The majority of Adani’s violations occurred in the Mundra SEZ, within the period in which Narendra Modi was Chief Minister of the region. The concentration of violations in the region suggests that a lack of enforced regulation and close relationships between big business and the government enables poor human rights practices. Ultimately, it appears that Adani’s corporate policies have done very little to encourage ethical business practices mindful of local communities, workers, and the environment.

77 Adani Enterprises Limited: Principle-wise (as per NVGs) Business Responsibility Policies.” pg. 3 (viii.) Date last accessed: 3 May, 2016 <http://www.adanienterprises.com/wps/wcm/connect/www.adanienterprises.com28791/a1369b45-e3e6-4690-8737-97bb5360027f/BRR+Policies.pdf?MOD=AJPERES>

78 “Adani Ports and Special Economic Zone Limited: Principle-wise (as per NVGs) Business Responsibility Policies.” <http://www.adaniports.com/wps/wcm/connect/www.adaniports.com15901/56fa9734-5c9d-4c18-a1cf-b9a42edebc42/BRR%2BPolicies.pdf?MOD=AJPERES>

79 Adani Power Limited: Principle-wise (as per NVGs) Business Responsibility Policies.” [http://www.adanipower.com/Common/Uploads/InvestorRelationTemplate/36\\_InvBotDL\\_APL\\_BRR%20Policies.pdf](http://www.adanipower.com/Common/Uploads/InvestorRelationTemplate/36_InvBotDL_APL_BRR%20Policies.pdf)

80 Adani Enterprises Limited: Principle-wise (as per NVGs) Business Responsibility Policies.” <http://www.adanienterprises.com/wps/wcm/connect/www.adanienterprises.com28791/a1369b45-e3e6-4690-8737-97bb5360027f/BRR+Policies.pdf?MOD=AJPERES>

81 Adani Enterprises Limited: Principle-wise (as per NVGs) Business Responsibility Policies.” pg. 3 (viii.) Date last accessed: 3 May, 2016 <http://www.adanienterprises.com/wps/wcm/connect/www.adanienterprises.com28791/a1369b45-e3e6-4690-8737-97bb5360027f/BRR+Policies.pdf?MOD=AJPERES> pg. 3



**Table 3.4: Adani’s Non-Compliant Corporate Practices, since 2008**

Date	Location	Basic Detail of Complaint
April 2008	Mundra SEZ	Displacement of 10, 000 fisherfolk engaged in traditional fishing practices in the Mundra, who were physically displaced from their settlement. <sup>A</sup>
April 2008	Mundra SEZ	The acquisition of grazing land has been carried out at extremely subsidised rates by the Adani group, only to be resold by the MPSEZL to buyer companies at much higher rates to garnish a substantial profit –suggesting Adani and the Gujarat government’s participation in a major land scam. <sup>B</sup>
2010	Ahmedabad	Seven migrant workers died after drinking polluted water at a brick kiln in Ahmedabad. <sup>C</sup>
December 2010	Mundra SEZ	Violations of Adani Mundra’s environmental coastal zone regulation and Coastal Zone management plan. Environmental harm included destruction of mangroves and obstruction of creeks and the tidal system due to largescale coastal reclamation. Adani Mundra had developed an airport and township apparently without the proper clearance. <sup>D</sup>
February 2011	Mundra SEZ	Two workers who were working in the chimney of Adani Mundra power plant died. <sup>E</sup>
July 2011	Karnataka	Illegal mining - Adani Enterprises has port facilities in Karnataka which, a report alleged, were used for illegally exporting iron ore. The Lok Ayukta accused the company of forging permits to transport iron ore. <sup>F</sup>
July 2011	India (corporate headquarters?)	Adani Enterprises was involved in the large-scale illegal export of iron ore. Adani Enterprises had bribed local officials to receive “undue favour for illegal exports.” Forged permits were found in Adani Enterprises Ltd’s offices. <sup>G</sup>
December 2013	Karnataka	The Ministry of Finance is reportedly “investigating gross overvaluation of import of equipment and machinery by various entities of Adani Group from a [United Arab Emirates] UAE-based intermediary,” according to an internal report of the Directorate of Revenue Intelligence which had been prepared in December 2013. This report alleges that “an amount of ₹2,322.75 crore has been siphoned off abroad by Adani Group by resorting to over-valuation of imports in the name of various group firms.” <sup>H</sup>

A Wass, Gabriella, “Corporate Activity and human rights in India” Social Legal Information cent, 2011. Pg. 101

B Ramani, Srinivasan, “Development and Displacement: Resentment in the Kutch”, Economic and Political Weekly, 45 (2010): 15 – 18

C “Vibrant Gujarat? Your coast is not clear, Mr Adani”, Telhaka. <http://www.tehelka.com/2011/02/vibrant-gujarat-your-coast-is-not-clear-mr-adani/>

D CRW violations table

E “Vibrant Gujarat? Your coast is not clear, Mr Adani”, Telhaka. <http://www.tehelka.com/2011/02/vibrant-gujarat-your-coast-is-not-clear-mr-adani/>

F Thankurta, Paranjay Guha, “The Incredible Rise and Rise of Gautam Adani: Part One” The Citizen. April 11, 2016. <http://www.thecitizen.in/index.php/OldNewsPage/?Id=3375>

G CRW violations table

H Thankurta, Paranjay Guha, “The Incredible Rise and Rise of Gautam Adani: Part One” The Citizen. April 11, 2016. <http://www.thecitizen.in/index.php/OldNewsPage/?Id=3375>

January 2014	Mundra SEZ	The Gujarat High Court ordered a shutdown of 12 units in Adani Ports and Special Economic Zone (APSEZ) in the Mundra, Kutch district. The court held that APSEZ violated environmental guidelines by allotting land to individual units without obtaining a mandatory clearance under the Environment Impact Assessment (EIA) Notification, 2006. <sup>I</sup>
September 2014	Mundra SEZ	An investigation found that during the construction of an Adani-owned luxury housing facility, the company hired underage workers and failed to establish adequate safety standards. Contaminated drinking water led to regular cholera outbreaks among labourers. <sup>J</sup>
September 2014	Mundra SEZ	Almost one fourth of workers received wages amounting to fewer than 230 rupees per day, the minimum wage for unskilled construction workers in Gujarat. <sup>K</sup>

I “Gujarat HC orders shutdown of 12 units in Adani Ports and SEZ” Business Standard, January 14, 2014. [http://www.business-standard.com/article/companies/gujarat-hc-orders-shutdown-of-12-units-in-adani-ports-and-sez-114011300817\\_1.html](http://www.business-standard.com/article/companies/gujarat-hc-orders-shutdown-of-12-units-in-adani-ports-and-sez-114011300817_1.html)

J Koutsoukis, Jason and Flitton, Daniel, “Concerns at Barrier Reef contractor’s humanitarian, environmental record” The Sydney Morning Herald. September 5, 2014. <http://www.smh.com.au/federal-politics/political-news/concerns-at-barrier-reef-contractors-humanitarian-environment-record-20140904-10cgxk.html>

K Ibid.

Most of Adani’s violations are clustered in the Mundra Special Economic Zone between 2008 – 2014. This is a region where there is a general lack of regulatory oversight (characteristic of a SEZ) as well as a state in which Adani enjoyed a close relationship with former Chief Minister Narendra Modi. These two factors, coupled with a climate favouring economic growth, have allowed Adani to pursue aggressive expansion “to the detriment of the traditional livelihoods in the Mundra-Kutch region.”<sup>82</sup> Indeed, this economic growth has not benefitted local communities: the development of the Mundra port led to the displacement of 10,000 fisherfolk – indicating Adani’s failure to respect the interests of local stakeholders (Principle Four).<sup>83</sup> With reference to the allegations of their practice in the Mundra, Adani defended its activities by claiming that, “there is no significant commercial fishing in the area, hence no question of displacement, relief or rehabilitation.”<sup>84</sup> Construction of the Mundra Port was also pursued at the expense of the ecosystem, causing mass environmental degradation in the area, a clear violation of Principle Six of the NVGs. Specifically, the destruction of the mangroves in the area and the obstruction of creek and the tidal system due to coastal reclamation were in violation of the environmental Coastal management plan,<sup>85</sup> to which the Adani Group had agreed. Adani’s denial of its role in harming local stakeholders and ecosystems suggests a flippant attitude of the Group toward these communities, and does not imply a true commitment to its policy under Principle Six of the NVGs to, “respect the rights of people in communities impacted by our activities.”<sup>86</sup>

Further, in September 2014, an investigation into the treatment of 6,000 construction labourers at an Adani luxury housing project in the Gujarat “uncovered lax safety standards, underage workers and regu-

82 Ramani, Srinivasan, “Development and Displacement: Resentment in the Kutch”, *Economic and Political Weekly*, 45 (2010): 15 - 18

83 Wass, Gabriella, “Corporate Activity and human rights in India” *Social Legal Information cent*. 2011

84 Wass, Gabriella, “Corporate Activity and human rights in India” *Social Legal Information cent*, 2011. Pg. 101

85 “High Court directs enquiry on destruction of mangroves by Adani Group”. *The Hindu*. September 20, 2011.

86 Adani Enterprises Limited: Principle-wise (as per NVGs) Business Responsibility Policies.” pg. 7 (iv.)

<http://www.adanienterprises.com/wps/wcm/connect/www.adanienterprises.com28791/a1369b45-e3e6-4690-8737-97bb5360027f/BRR+Policies.pdf?MOD=AJPERES>



lar cholera outbreaks,<sup>87</sup> as well as almost one fourth of the workers receiving far below the minimum wage for this region.<sup>88</sup> These failings constitute clear violations of Principle Three of the NVGs, which asserts businesses' duty to promote the wellbeing of their employees. However, the lack of enforced regulation in the Mundra meant that Adani could pursue their projects in this area with no real fear of consequences, illustrating, "the very process of deregulation and removal of welfare provisions that accompany neoliberal growth have left common citizens at the bottom of an exploitative chain."<sup>89</sup> A lack of robust legal protections or effective government oversight has allowed Adani the space to commit violations it sees as economically advantageous, illustrating that the corporation's policies do not reflect substantive commitments to the NVGs.

Adani's divergence from its own policy can be explained partly by two major, intertwined factors. Following drastic reforms in the 1990s, India's economic liberalisation and deregulation brought with it a change in norms and rhetoric in the popular culture in India. This shift was accompanied by "persistent and persuasive 'corporate messaging' in the media," which, "increasingly trains the public to see this accumulation of great wealth as legitimate and justifies whatever means are used to obtain the ends."<sup>90</sup> This popular ideological shift may have enabled corporations like Adani to violate already lax standards in areas such as employee safety and environmental protections. The emergence of Special Economic Zones – regions in which corporations can bypass such critical regulations as Environmental Assessments – has allowed corporations like Adani even more room to circumvent or ignore policies that protect workers, communities, and the environment.

Furthermore, Gautam Adani's close relationship with Prime Minister Narendra Modi, former Chief Minister of the Indian state of Gujarat, appears to have insulated the Adani Group from strict oversight and allowed them diverse economic benefits. For example, many activists and scholars have claimed that Adani's acquisition of the land used for the Mundra Port was bought far below the market price,<sup>91</sup> suggesting favouritism by the government toward Adani. Indeed, Adani's "skyrocketing success as a businessman has relied upon deep government connections and the ability to navigate the political economy with a purpose."<sup>92</sup> The close relationship between Modi and Adani, and the benefits that both parties have received from this relationship illustrates an interesting paradox: even though the economic and political climate tends to favour neo-liberal norms, like the free market and transparency, "the old networks of patronage and influence are still very much in place."<sup>93</sup> Taken together, these factors help explain the Adani Group's rapid growth and poor human rights practices, in spite of the company's stated policy commitments to responsible business practice.

### Without Accountability, Corporate Practice Falls Short of Policy

The fact that we see diverse and large-scale human rights violations in the Mundra SEZ, rather than in areas with perhaps more genuine regulation (outside of Special Economic Zones), suggests that where there is a lack of real, enforceable regulation, companies deviate from their corporate policy. Outside of the Mundra, we see violations of a more careless, or random nature, which do not conform to a pattern.

87 Koutsoukis, Jason and Flitton, Daniel, "Concerns at Barrier Reef contractor's humanitarian, environmental record" *The Sydney Morning Herald*. September 5, 2014. <http://www.smh.com.au/federal-politics/political-news/concerns-at-barrier-reef-contractors-humanitarian-environment-record-20140904-10cgxk.html>

88 Koutsoukis, Jason and Flitton, Daniel, "Concerns at Barrier Reef contractor's humanitarian, environmental record" *The Sydney Morning Herald*. September 5, 2014. <http://www.smh.com.au/federal-politics/political-news/concerns-at-barrier-reef-contractors-humanitarian-environment-record-20140904-10cgxk.html>

89 Shiva, Vandana, "The Indian Oligarchs" 81 – 105

90 Shiva, Vandana, "The Indian Oligarchs" 81 – 105

91 Ramani, Srinivasan, "Development and Displacement: Resentment in the Kutch", *Economic and Political Weekly*, 45 (2010): 15 - 18

92 Chadha, Sunaina, "Modi, Mundra and zeal: How Adani made it to top 10 Indian billionaire list", *F. Business*. September 18, 2014. <http://www.firstpost.com/business/corporate-business/modi-mundra-and-zeal-how-adani-made-it-to-top-10-indian-billionaire-list-2011805.html>

93 Shiva, Vandana, "The Indian Oligarchs" 81 – 105

For example, the death of seven migrant workers, who died after drinking polluted water in Ahmedabad.<sup>94</sup> Without diminishing the tragedy of this event, this instance does seem to be of a more careless, rather than intentional nature, although it does represent a violation of Adani's policy related to the NVGs that, "The Group will provide workplace environment that is safe, hygienic and upholds the dignity of the employee."<sup>95</sup>

Ultimately, the pattern we see in the Adani Group's corporate practice is one that does not reflect its corporate policy. The majority of abuses are clustered in the Mundra Special Economic Zone, supporting the claim that a lack of regulation will produce departures from policy where it is in the Group's significant economic interest to do this. Further, a public discourse favoring economic growth 'at all costs,' coupled with an intimate relationship between Adani and the current Prime Minister, has perpetuated poor human rights practices. Adani's violations suggest that corporate policies are less robust without strong external accountability mechanisms. When those mechanisms are compromised by corruption or insufficient government regulation, companies are unlikely to meet the standards identified by the NVGs or their corresponding policies.

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94 "Vibrant Gujarat? Your Coast is not clear, Mr Adani" Tehelka

95 Adani Enterprises Limited: Principle-wise (as per NVGs) Business Responsibility Policies." pg. 4 (iii.) <http://www.adanienterprises.com/wps/wcm/connect/www.adanienterprises.com28791/a1369b45-e3e6-4690-8737-97bb5360027f/BRR+Policies.pdf?MOD=AJPERES> pg. 3

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[http://www.adanipower.com/Common/Uploads/InvestorRelationTemplate/36\\_InvBotDL\\_APL\\_BRR%20Policies.pdf](http://www.adanipower.com/Common/Uploads/InvestorRelationTemplate/36_InvBotDL_APL_BRR%20Policies.pdf)

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Ramani, Srinivasan, “Development and Displacement: Resentment in the Kutch”, *Economic and Political Weekly*, 45 (2010): 15 – 18

“Vibrant Gujarat? Your coast is not clear, Mr Adani,” *Telhaka*, 26 February, 2011. <http://www.tehelka.com/2011/02/vibrant-gujarat-your-coast-is-not-clear-mr-adani/>

Wass, Gabriella, “Corporate Activity and human rights in India” *Social Legal Information cent*, 2011. Pg. 101

## 4: Tata Power: Responsible Policies in Need of Concrete Protections for Stakeholders

Tata Power's corporate policies are by no means exemplary. However, the breadth of the company's policy documents, which cover topics ranging from the environment to employee safety, suggests that the company has paid considerable attention to responsible business issues. These documents – while impressive in their scope – often do not specify concrete mechanisms by which Tata Power will evaluate and respond to allegations of corporate misconduct. These shortcomings at least partially account for Tata Power's failures to realize the principles of the NVGs and its own policies in its business practices. Two prominent controversies at Tata's Mundra and Trombay power stations indicate that the company falls particularly short of its commitments to respecting the environment (Principle Four) and stakeholders local to its operations (Principle Six). Furthermore, Tata's failures to adequately respond or even acknowledge these violations suggest that a lack of transparency and accountability are possible root causes of the company's misconduct. The company's potential perception of its CSR initiatives as off-sets to its irresponsible business practices might also play a role. Overall, Tata Power's policy and practice come closer to realizing the NVGs' core principles than some of its industry competitors – but there are still opportunities for Tata Power to enhance its performance on both fronts.

### Company Overview

Tata Power Co. Ltd was founded in 1911 by Dorabji Tata, and is India's oldest private-sector power producer and electric utility company today. Tata Power is part of the Indian multinational conglomerate Tata Group, which includes other large-scale corporations such as Tata Steel and Tata Motors.<sup>96</sup> Tata Power's operations span multiple energy sectors, such as coal, solar, and hydropower, as well as power supply chains ranging from fuel sources and generation to distribution and trading. While its main offices are based in Mumbai, India, Tata Power's generation facilities and those of its 28 subsidiaries are scattered all across India, as well as in countries including Indonesia, South Africa, and Vietnam. Although Tata Power was recently surpassed by Adani Power as India's largest power producer, Tata Power aims to scale up its power generation capacity from 9130 MW to 18,000 MW by 2022.<sup>97</sup>

### IRBI Performance

In CRW's inclusiveness index, Tata Power's ranking for all five indicators range from particularly well to average. Its highest ranking is for "Employee wellbeing" and its lowest ranking is for "Inclusive supply chain." Table 1 displays a snapshot of Tata Power's rankings and scores.

**Table 4.1: Tata Power Co. Ltd.'s Performance on the IRBI**

	Non-discrimination in the workplace	Employee wellbeing	Community development	Inclusive supply chain	Community as business stakeholder
<b>RANKING</b>	23	22	49	50	28
<b>SCORE</b>	0.58	0.55	0.63	0.33	0.10

96 "About us." Tata Power. <http://www.tatapower.com/aboutus/profile.aspx> (accessed April 10th, 2016)

97 "Corporate Profile." Tata Power. <http://www.tatapower.com/corporate-profile.pdf> (accessed April 10th, 2016)

Although Tata Power performs well in three of the five indicators relative to its peers, even in these categories, performing highly does not necessarily translate to “good” performance. For instance, Tata is ranked 28 on the “Community as business stakeholder” category, but received an absolute rating of only 0.10 out of 1.

### Policy Analysis: A Series of Responsible Policies, Some Lacking Substance

Tata Power’s policy documents testify to the company’s long-standing efforts to integrate responsible practices into its business model. The company has a wide range of policies covering issue areas ranging from employee safety to customer service. Overall, the breadth of these policy documents indicates a substantial commitment to the NVGs’ essential principles. However, Tata’s policies sometimes suffer from a lack of substantive and specific measures intended to realize the ethical standards they promote. In those instances, failures to identify monitoring and enforcement mechanisms indicate that the company may merely be paying lip service to corporate responsibility norms. Nonetheless, Tata Power’s policies generally illustrate an attention to the risks its business operations can pose to stakeholders in the absence of ethical constraints and considerations.

Since the fiscal year 2012-13, Tata Power has integrated information on its compliance with the National Voluntary Guidelines (NVGs) into annual sustainability reports.<sup>98</sup> Even prior to the implementation of NVGs, Tata Power was in the minority of businesses that released corporate governance reports, defined procedures to inform board members of risk assessment, and disclosed policies in regard to age limit and tenure of directors, according to a systemic audit conducted by Subhash Chandra Das in 2004-05.<sup>99</sup> This observation is in keeping with other Tata Group companies – such as Tata Steel – that have displayed long-standing policy commitments to responsible business practice, oftentimes pre-dating the NVGs. In Tata Power’s business responsibility report, the company asserts its compliance with the Tata Code of Conduct, a policy document which applies to all aspects of its business operations and “enables it to embark on a path of ethics.”<sup>100</sup>

Since 2012, Tata Power has claimed to have policies in place for all nine principles of the NVGs. Tata Power reports that all of these policies were formulated in consultation with the relevant stakeholders and have mechanisms to ensure implementation and address stakeholders’ grievances. Furthermore, Tata Power asserts that its policies are based on the NVGs and conform to international standards set by the International Labor Organization (ILO) and the United Nations Global Compact (UNGC).<sup>101</sup> Tata also specifies various sustainability initiatives designed to improve the energy efficiency and mitigate the environmental impacts of its power plants. For example, Tata seeks to utilize 100% of the Fly Ash generated by coal plant, though its report does not include information on its progress in realizing that goal.<sup>102</sup> Tata also references several of its own initiatives directed towards engaging with disadvantaged, vulnerable, and marginalized stakeholders, which include educational programs, agricultural interventions, and the provision of basic essential amenities to historically disadvantaged indigenous groups local to the companies’ business operations.<sup>103</sup> Though information on Tata Power’s policies largely rely on its self-reporting, the company’s initiatives and accreditations indicate the relative strength of its corporate policies.

Tata Power has a wide variety of publicly accessible policy documents in areas including sustainability, the environment, safety and health, community relations, responsible supply chain management, and human rights. Though the breadth of Tata Power’s policy documents suggests the company’s awareness of

98 Tata Power. *A Decade of Sustainability Reporting: Sustainability Report 2012-13*. [http://www.tatapower.com/sustainability/pdf/sustainability\\_report-12-13.pdf](http://www.tatapower.com/sustainability/pdf/sustainability_report-12-13.pdf) (accessed April 10th, 2016)

99 Subhash Chandra Das, *Corporate Governance in India*. (2012). Available at: <https://books.google.com/books?id=O9NU7AgVUbUC&pg=PA183&lpg=PA183&dq=tata+power+violations+non-compliance&source=bl&ots=Bt6A8B7kyd&sig=HilLr6M9m6e-ZdLsyb3ZcPOsbMo&hl=en&sa=X&ved=0ahUKewjtp43c5ovMAhXJKh4KHTvyDL8Q6AEIHDA#v=onepage&q=tata%20power%20&f=false> (accessed April 10, 2016)

100 Tata Power. *Business Responsibility Report: 2014-2015*. p. 5. <http://www.tatapower.com/investor-relations/pdf/business-responsibility-report-fy15.pdf> (accessed April 10, 2016)

101 Ibid, p. 4.

102 Ibid, p. 5.

103 Ibid, p.7.

its responsibilities as a good corporate citizen, the policies vary in specificity and comprehensiveness. For example, Tata's CSR policy is a 14-page document that identifies specific actions the company will take – like the pro-active consultation of stakeholders – and major “thrust areas” to which Tata will direct its CSR spending. The document also identifies each initiative's implementation modality and provides a quarterly schedule for the projects' completion.<sup>104</sup>

However, other policy documents only briefly outline general commitments to areas like human rights or employee safety, without specifying implementation mechanisms or addressing concerns with the company's business practices.<sup>105</sup> Tata Power's “Responsible Supply Chain Management Policy,” for example, articulates general expectations applicable to suppliers and contractors' business practices, but does not specify any accountability mechanisms or identify the consequences of its suppliers' violations.<sup>106</sup> This lack of specificity likely accounts for Tata Power's middling performance on certain IRBI measures, particularly in the Inclusive Supply Chain category. Still, the essential principles of the National Voluntary Guidelines figure prominently in Tata's corporate policies, indicating that the company has devoted significant attention to developing a more robust policy infrastructure. Whether these policies have positively impacted Tata Power's corporate conduct, however, is an entirely different question.

### **Corporate Practice: Superficial Monitoring and Evaluation Systems Fail to Protect the Environment and Local Stakeholders**

Tata Power's corporate practice for certain cases appears to sharply diverge from the company's varied, but at times pronounced policy commitment to the NVGs, and also underscores the shortcomings of Tata Power's own reporting and disclosures. This analysis focuses on two key cases of Tata's serious disregard for communities in the vicinity of its power plants. In both scenarios, Tata has violated several principles of the NVGs and its own corresponding corporate policies related to respecting human rights, vulnerable and disadvantaged populations, and the environment – as well as obligations to conduct its operations with transparency and accountability. The cases suggest a need to be cautious, even skeptical, of Tata Power's self-reporting that it is in compliance with the NVGs and its own policies – a self-reporting which CRW carefully notes forms the basis of the IRB index. Tata Power's most serious violations have taken place at two coal power plants – one in Mundra and one in Trombay – whose operation have had grave environmental and public health consequences for local communities.

104 “Corporate Social Responsibility (CSR) Policy.” Tata Power. Last modified July 16, 2014. <http://www.tatapower.com/aboutus/pdf/csr-policy-14.pdf>

105 For example, “Human Rights Policy.” Tata Power. March 26, 2013. <http://www.tatapower.com/aboutus/pdf/HumanRights-14.pdf>; “Health and Safety Policy.” Tata Power. November 16, 2015. <http://www.tatapower.com/aboutus/pdf/health-and-safetypolicy.pdf>

106 “Responsible Supply Chain Management Policy.” September 30, 2013. <http://www.tatapower.com/aboutus/pdf/RSCM-14.pdf>



**Table 4.2: Tata Power’s Non-Compliant Corporate Practices, since 2008**

Date	Violation/Controversy	Source
2007-ongoing	In 2007, the Tata Power subsidiary Coastal Gujarat Power Limited (CGPL) developed a 4,150 MW coal-fired generation facility in the port town of Mundra. Local Mundra fisherman had already stated their opposition to this development due to the existing coal plant owned by Adani Power in the vicinity. However, in 2011, the Machimar Adhikar Sangharsh Sangathan (English translation: Association for the Struggle for Fishworkers’ Rights) (MASS) which represents the local fisherman and community filed a complaint to the IFC’s Compliance Advisor Ombudsman (CAO). Reportedly, the thermal pollution discharged from the coal plant damaged the health, environment, and thus the economic well-being of the community (much of which relied on the fishery for income). In 2013, the CAO audit concluded with substantial evidence that CGPL had failed to conduct meaningful consultation with the local communities and had performed flawed social and environmental impact assessments.	World Bank ( <a href="http://sitere-sources.worldbank.org/CSO/Resources/DrawingLessons-FromTata1.pdf">http://sitere-sources.worldbank.org/CSO/Resources/DrawingLessons-FromTata1.pdf</a> )
March 2013	In March of 2013, a public hearing was held in regard to Tata Power’s plan to modernize Unit 6 of their Trombay Thermal Power Station. Both residents and political parties rejected this plan under claims that the conversion to coal would lead to extreme pollution that would subsequently affect the health of the local community.	Down to Earth ( <a href="http://www.downtoearth.org.in/news/residents-protest-tata-powers-modernisation-plans-for-trombay-plant-40592">http://www.downtoearth.org.in/news/residents-protest-tata-powers-modernisation-plans-for-trombay-plant-40592</a> )
December 2015	In late 2015, an A1:I6 engineer at Tata Power’s CGPL Mundra coal plant accused the company of non-compliance with the power purchase agreement (PPA) due to overpricing for construction and a commission of up to \$800 million USD. Tata Power dismissed these allegations as “malicious” and “an attempt to defame it.” In January of 2016, India’s Central Electricity Commission (CERC) launched a probe into this complaint.	The Economic Times ( <a href="http://economictimes.indiatimes.com/industry/energy/power/cerc-looks-into-alleged-billing-issues-of-tata-powers-mundra-plant/article-show/50461041.cms">http://economictimes.indiatimes.com/industry/energy/power/cerc-looks-into-alleged-billing-issues-of-tata-powers-mundra-plant/article-show/50461041.cms</a> )

***2007-ongoing, the Mundra Case: Social and environmental impacts of thermal pollution generated by Coastal Gujarat Power Ltd. coal plant***

Tata Power’s irresponsible business practices at its Mundra coal plant constitute violations of several NVG principles – most notably, Principle Four, Principle Five and Principle Six regarding respect for the interests of stakeholders, human rights promotion, and environmental protections. These violations also constitute failures of Tata Power to live up to its corresponding corporate policies, indicating that the company’s policy commitments have yet to yield the due diligence and accountability mechanisms necessary to ensure consistently responsible corporate conduct.

In 2007, the Tata Power subsidiary Coastal Gujarat Power Limited (CGPL) developed a 4,150 MW coal-fired generation facility in the port town of Mundra. Local Mundra fisherman had already stated their opposition to this development due to the existing coal plant owned by Adani Power in the vicinity.<sup>107</sup> Nevertheless, by 2008, the International Finance Corporation had approved of CGPL's coal plant and provided a \$450 million loan for its development. However, in 2011, the Machimar Adhikar Sangharsh Sangathan (*English translation: Association for the Struggle for Fishworkers' Rights*) (MASS) which represents local fisherman and the larger community filed a complaint to the IFC's Compliance Advisor Ombudsman (CAO). Reportedly, the thermal pollution charged from the coal plant damaged the health, environment, and thus the economic well-being of the community (many of whom relied on fishery). In 2013, the CAO audit found substantial evidence that CGPL had failed to conduct meaningful consultation with the local communities and had performed flawed social and environmental impact assessments.<sup>108</sup> Domestic legal obligations and Tata's policies require these consultations and assessments, but in the Mundra case, it appears that these procedures were merely treated as formalities – shortcomings that violate Tata's promise to comply “with the requirements and spirit of applicable environmental laws [and] to exceed required levels of compliance wherever feasible.”<sup>109</sup>

Both the IFC and Tata Power ignored the CAO findings and made no adjustments to funding or to the generation facility to reduce the pollution emitted. This failure to account for the findings of the audit indicates that Tata's due diligence for the Mundra plant was more symbolic than substantive. By proceeding with its operations despite the flaws in its initial monitoring systems, Tata Power fell short of its obligations under Principle One of the NVGs to conduct itself with transparency and accountability. In 2013, with the CAO evidence and with the support of over 100 Indian NGOs, MASS filed a lawsuit against the IFC in U.S. courts for continuing to fund CGPL despite its violation of the loan stipulations. In March 2016, the U.S. District Court for D.C. found the IFC immune and dismissed the case. MASS and its legal representatives EarthRights International (ERI) intend to appeal the decision.<sup>110</sup>

The Mundra case exposes violations of the NVGs and Tata Power's own policies, as well as initiatives in which Tata claims to participate such as the UN Global Compact, which requires that companies perform “meaningful and effective consultation with the directly affected communities.”<sup>111</sup> Furthermore, Tata Power and the IFC's internal monitoring and auditing processes – intended to ensure compliance with social and environmental standards – were inadequate on many levels. For example, Tata Power did not include social baseline data for its risk assessments of the coal plant.<sup>112</sup> External auditing by the CAO was then dismissed by both organizations. As a result, Tata's compliance with NVG Principle Six, holding that businesses should protect, respect, and make efforts to restore the environment, was undermined given the inadequacy of measures taken to mitigate damages to the local environment.

Throughout the MASS complaints, CAO audit, and lawsuit against IFC, Tata Power has remained largely silent on issues related to the Mundra Plant. Throughout this decade-long ordeal, Tata Power has not acknowledged the human rights and sustainability violations it committed at CGPL. The impact of the CGPL coal plant on the Mundra fishworkers and their larger community is not mentioned in any Sustainability Reports or Business Responsibility Reports from 2007 until today. The company has only released a statement that “it shares a very healthy relationship with the local communities and continues to work

107 World Bank. *Chronology: Demanding Bank accountability in Tata Mundra coal plant*. <http://siteresources.worldbank.org/CSO/Resources/DrawingLessonsFromTata1.pdf> (accessed April 10, 2016)

108 Ibid.

109 “Corporate Environment Policy.” Tata. <http://www.tatapower.com/aboutus/pdf/Corporate-Environment-Policy.pdf>

110 “Tata Mundra Coal Power Plant”. EarthRights International. Last modified 2016. <https://www.earthrights.org/legal/tata-mundra-coal-power-plant> (accessed April 10<sup>th</sup>, 2016)

111 “Principle One: Human Rights”. United Nations Global Compact. <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-1> (accessed April 10<sup>th</sup>, 2016)

112 “Local Gujarati group sends letter to Dr. Kim urging withdrawal from Tata Mundra.” Bank Information Center. Last modified Nov 18, 2013. <http://www.bankinformationcenter.org/local-gujarati-group-sends-letter-to-dr-kim-urging-withdrawal-from-tata-mundra/> (accessed April 10<sup>th</sup>, 2016).



with them on various platforms and multiple community development initiatives.”<sup>113</sup> This lack of acknowledgment of the ongoing humanitarian and environmental concerns suggests that the company’s violations of human rights and the environment stem from its failure to remain transparent and accountable – ideals that are central to the NVGs’ very first principle. It is in this context that the company’s reference to its CSR spending initiatives in local communities risk becoming a tactical rather than sincere approach to responsible business practices – a scenario in which Tata points to its community development projects (such as access to potable water) in order to side-step a discussion of its actively harmful business operations.<sup>114</sup>

But Tata’s “doing good” initiatives do not counter the harm it has done in these communities.<sup>115</sup> The central issue of the MASS complaint was that the CGPL thermal pollution depleted the fish stocks that the fish workers economically depended on. CSR projects such as solar-powered boats and knowledge of market linkages barely mitigates, let alone resolves, this harmful impact. Similarly, as the construction of the coal plant involved the “destruction of mangroves, sand dunes and other features of the coastline,” planting 1000 mangroves and breeding Mahseer fish can only mitigate an already grievous environmental loss.<sup>116</sup> Though CSR spending is an important aspect of its responsible business practice, Tata Power’s local initiatives also allow the company to more easily evade accountability for the Mundra violations while bolstering its reputation as a socially responsible firm.

One final note: due to the falling price of coal, the Tata Power stock fell about 30% in the past fiscal year. Due to the subsequent losses incurred at the CGPL generation facility, Tata Power is considering shutting down this controversial coal plant.<sup>117</sup> This news also sheds unfortunate light on the profit-driven nature of such corporations, where the reality is that human rights is often not enough to systematically change a business, but the market can be. Though Tata Power has demonstrated some consciousness of its Mundra operations’ detrimental impact on local communities and the environment, the company’s response has been inadequate. Despite the company’s relatively impressive policy infrastructure, Tata Power’s Mundra plant illustrates that policies describing stakeholder consultations and environmental responsibility initiatives are not necessarily realized in practice.

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113 Premal Balan, “Gujarat fishermen sue IFC in US Court for funding Tata Power’s Mundra UMPP” The Times of India. <http://timesofindia.indiatimes.com/india/Gujarat-fishermen-sue-IFC-in-US-Court-for-funding-Tata-Powers-Mundra-UMPP/articleshow/47161150.cms>

114 According to the latest 2014-15 Sustainability Report, Tata Power’s CSR initiatives have included providing Mundra with a Fishermen Information Center, which helps the local community “get access to quality infrastructure, healthcare, sanitation and clean drinking water,” and allows Mundra fishermen to “easily access knowledge on market linkages and liaise with the fishery department.” Furthermore, Tata’s Enhancing Programs on Livelihood and Employability are striving to provide these fishermen with solar-powered boats. On the environment front, Tata Power planted 1000 hectares of mangroves along the Gujarat Coast, and have also invested in Mahseer conservation and sea turtle monitoring in the Mundra area. Many of these initiatives were implemented and/or expanded with increasing complaints and international scrutiny of the CGPL coal plant. Tata Power. *A Century of Invisible Goodness: Sustainability Report 2014-15*. [https://www.tatapower.com/sustainability/pdf/sustainability\\_report-14-15.pdf](https://www.tatapower.com/sustainability/pdf/sustainability_report-14-15.pdf) (accessed April 10, 2016)

115 In addition, it is worth noting that MASS’s follow-up and examination of initiatives assert that Tata Power’s CSR Programs do not measure up to the extensiveness and generosity it portrays. “IFC Hide behind Tata’s False Claims”. MASS. [http://masskutch.blogspot.com/2014\\_05\\_01\\_archive.html](http://masskutch.blogspot.com/2014_05_01_archive.html) (accessed April 10, 2016)

116 JAM v. IFC, Class Action Complaint for Damages and Equitable Relief. (United States District Court for the District of Columbia, 2015) [http://www.bankinformationcenter.org/wp-content/uploads/2015/04/ifc\\_tata\\_mundra\\_complaint.pdf](http://www.bankinformationcenter.org/wp-content/uploads/2015/04/ifc_tata_mundra_complaint.pdf)

117 Maulik Madhu. “Tata Power: Regaining energy.” The Hindu Business Line. Last modified Feb 28, 2016. <http://www.thehindubusinessline.com/portfolio/firm-calls/tata-power-regaining-energy/article8292472.ece> (accessed April 10<sup>th</sup>, 2016); Amritha Pillay. “Tata Power focuses overseas as losses pile up at Mundra plant.” Last modified Apr 24, 2015. <http://www.livemint.com/Companies/jIUG43bLcqjP5AXieGeNRO/Tata-Power-focuses-overseas-as-losses-pile-up-at-Mundra-plan.html> (accessed April 10<sup>th</sup>, 2016)

### *2013: Residents of Chembur, Mumbai protest modernization of Trombay Thermal Power Station*

Tata Power's handling of an update to the Trombay Thermal Power Station has involved violations similar to the Mundra case. The most severe violations constitute failures to uphold Principles Four and Five of the NVGs, as well as the company's related policies regarding the environment and the health and safety of affected stakeholders. Again, Tata demonstrates that ethical considerations have taken a back-seat to profit incentives and expedited business practices. The shortcomings of Tata Power's consultations processes, monitoring and evaluations systems may stem from the company's failure to remain transparent and accountable in its business practices. The fact that the Trombay controversies arose after and during the company's construction of the Mundra plant also indicate that Tata Power has struggled to apply lessons learnt from previous violations – undermining characterizations of Tata's responsible business practice as continuously improving.

In March of 2013, a public hearing was held in regard to Tata Power's plan to modify Unit 6 of their Trombay Thermal Power Station by switching the plant's fuel source to low sulphur imported coal. Both residents and political parties rejected this plan, claiming it would lead to extreme pollution that would subsequently affect the health of the local community. Although Tata Power presented its Environmental Impact Assessment Report, the advocate residents argued that as this report was prepared by a Tata research institute, it "cannot be impartial."<sup>118</sup> However, the public hearing was halted due to the reported ruckus caused by the political parties.<sup>119</sup> Furthermore, the Expert Appraisal Committee felt that "even if a second public hearing [was] conducted, the chances of disruption by the same elements seem inevitable," and thus did not hold another hearing.<sup>120</sup>

In June of 2013, the Indian far-right regional political party Shiv Sena organized a protest march against the new fuel source, highlighting concerns with the "grave threat to citizens already suffering from respiratory infection because of the Deonar dumping ground, the chemical fertilizer factory and the oil refineries in the area."<sup>121</sup> In spite of this, in May of 2014, Tata Power received environmental clearance from the Ministry of Environment and Forests to proceed with their plans.<sup>122</sup>

Tata Power's compliance with NVG Principles Four and Five for this project is questionable. Given that the public hearing regarding the conversion was turbulent, cut short, and not reinitiated, the necessary meaningful consultation with the local community appears to be lacking. Furthermore, given the concentration of potential polluters already in the vicinity, local individuals with pre-existing respiratory infections may be identified as vulnerable stakeholders whose interests were not granted the special consideration described in NVG Principle Four. Without an external and independent environmental assessment of the effects of the Trombay thermal plant's conversion to coal, the risk of exacerbated pollution constitutes a grave threat to the local environment and the health of local communities. Though Tata Power's policy documents generally provide only vague commitments to environmental responsibility, the company's handling of the Trombay project does not indicate an effort to both obey environmental regulations and "exceed required levels of compliance."<sup>123</sup> Furthermore, the decision to go forward with the new

118 Akshay Deshmane. "Residents protest Tata Power's modernisation plans for Bombay Plant." Down to Earth. Last modified March 14, 2013. <http://www.downtoearth.org.in/news/residents-protest-tata-powers-modernisation-plans-for-trombay-plant-40592> (accessed April 10<sup>th</sup>, 2016)

119 "Pollution, health fears fuel protests at Tata power plant." Hindustan Times. Last modified Jan 16, 2013. <http://www.hindustantimes.com/mumbai/pollution-health-fears-fuel-protests-at-tata-power-plant/story-IHzS7RGwVeEwZadWEu9iPL.html> (accessed April 10<sup>th</sup>, 2016)

120 Tata Power. Minutes of the 74th Meeting of Re-constituted Expert Appraisal Committee on Environmental Impact Assessment of Thermal Power and Coal Mine Projects. New Delhi, May 20-21, 2013. <http://www.tatapower.com/businesses/pdf/moef-eac-mom-20-21-may-2013.pdf> (accessed April 10<sup>th</sup>, 2016)

121 "Sena rally to protest Tata Power coal-run plant." Mid-day. Last modified June 7, 2013. <http://www.mid-day.com/articles/sena-rally-to-protest-tata-power-coal-run-plant/217133#sthash.ERmu801R.dpuf> (accessed April 10<sup>th</sup>, 2016)

122 Government of India Ministry of Environment & Forests. Ministry of Environments & Forests to The Tata Power Company Ltd, May 8, 2014. Letter. From Tata Power. <http://www.tatapower.com/businesses/pdf/trombay-unit-6-modernization-8-5-14.pdf> (accessed April 10, 2016)

123 "Corporate Environment Policy." Tata. <http://www.tatapower.com/aboutus/pdf/Corporate-Environment->

fuel source represents a violation of Tata's efforts to "minimize health and safety hazards to our stakeholders" and proactively improve on safety and health metrics.<sup>124</sup>

In Tata Power's 2013-14 BRR report, when assessing its compliance with Principles Four and Five of the NVGs,<sup>125</sup> the company responds positively to all questions, with no mention of the Chembur protests and community concerns. Tata Power claims that it has upheld Principle Four because its Affirmative Action policy and other special initiatives are "designed to address the socially disadvantaged sections of the society, mainly scheduled castes and scheduled tribes."<sup>126</sup> There is no mention of those with respiratory infections who are physically more vulnerable to pollution. With regard to Principle Five, Tata Power answers that there was only 1 complaint from "society" that was "satisfactorily resolved by the management." While the protests and troubled public hearing would suggest otherwise, perhaps Tata Power requires a formal procedure of reporting complaints. Yet throughout the previously examined MASS complaint, where an official lawsuit was filed and over 100 Indian NGOs were pressuring Tata Power and IFC to alter their practices, Tata Power similarly continued to report that "no complaints were received" from stakeholders during fiscal years 2012 onwards.<sup>127</sup>

Tata Power's failure to publicly account for ongoing and recent controversies – particularly when they endanger local stakeholders and the environment – demonstrate a resistance to adopting its policy commitments under the NVGs. By failing to report these potential violations, the company has also departed from NVG Principle One – which describes businesses' duty to remain transparent and accountable – and the company's related commitment to "promptly report violations, incidents, investigate for root causes and ensure lessons learnt [are] shared and deployed across the company."<sup>128</sup>

### Respecting Local Stakeholders Requires Transparency and Accountability

In many instances, Tata Power has demonstrated a willingness to create policies and integrate responsible practices into its business model. For example, Tata's social and environmental assessments and external audits have aimed to mitigate (or at least anticipate) the detrimental impacts of various projects on the local environment and affected communities. However, these measures have not satisfied the stakeholders they intended to protect. In both the Mundra and Trombay cases, the result has been violations of the NVGs and Tata's own corporate policies related to human rights, protecting local communities, and respecting the environment. Tata's failure to acknowledge these violations in its annual reports also inhibits the company's progress towards a consistently transparent and accountable business model. Though Tata Power's ethical corporate policies demonstrate an evolving respect for stakeholders and the environment, their practical application – in the form of grievance mechanisms, stakeholder consultations, and environmental impact assessments – indicates a commitment to responsible business practice at times more superficial than substantive.

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125 This entails addressing questions **4b.)** *Out of the above, has the company identified the disadvantaged, vulnerable, & marginalized stakeholders?* **4c.)** *Are there any special initiatives taken by the company to engage with the disadvantaged, vulnerable and marginalized stakeholders?* **5b.)** How many stakeholder complaints have been received in the past financial year and what percent was satisfactorily resolved by the management?

126 Tata Power. *Business Responsibility Report: 2013-2014*. <https://www.tatapower.com/investor-relations/pdf/business-responsibility-report-fy14.pdf> (accessed April 10, 2016)

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## 5: Reliance Power: A Failure to Uphold the NVGs in Policy and Practice

Reliance Power's corporate policies reveal a lack of commitment to responsible business, and the company's businesses practices reflect these weak policies. Reliance Power's policies fail to uphold the NVGs' nine principles and often do not explicitly apply to many relevant stakeholders, which explains the company's poor performance on the India Responsible Business Index. Since the passage of the NVGs in 2011, Reliance Power has shown little to no progress in improving its policies' compliance with domestic standards. With respect to practice, Reliance Power's troubling conduct is exemplified by its operations at the Sasan Ultra Mega Power Project (UMPP), where Reliance Power has displaced local communities without adequate resettlement, polluted the environment and abused the labor rights of its employees. Even if Sasan UMPP is an anomaly among Reliance Power's operations – a possibility this case study does not disqualify – the company's disregard for the NVGs, as well as domestic and international standards on responsible business, makes the failures of the company's policies and practices blatantly obvious. Reliance Power's weak policy infrastructure is reflected in its repeated violations of indigenous rights, the rights of local communities, and environmental standards.

### Company Overview

Reliance Power Limited was incorporated in 1995 under the name Bawana Power Private Limited. After a few iterations of name changes, its name was changed to the current Reliance Power Limited in July 2007.<sup>129</sup> It is part of the Reliance Group of businesses, which includes operations in telecommunications, financial services, media and entertainment, infrastructure and energy. Reliance Power Limited is India's largest private sector coal resources and power-generation company. It specializes in power generation using gas, coal and hydroelectric power plants<sup>130</sup> and is currently developing wind and solar-powered power plants.<sup>131</sup> All of Reliance Power Limited's power generation facilities are located within India,<sup>132</sup> but it has recently signed an agreement to begin developing Bangladeshi power capacity as well.<sup>133</sup>

### IRBI Performance

Reliance Power performs particularly poorly on all elements of the India Responsible Business Index. On the Non-Discrimination in the Workplace element, Reliance Power is the lowest ranked company of all one hundred companies included in the index. It is ranked 79th on Employee Wellbeing, 87th on Community Development, 90th on Inclusive Supply Chain, and 90th on Community as Business Stakeholder. Even Reliance Power's highest ranking element is still particularly poor in comparison to the other included companies. These somewhat abysmal rankings make Reliance Power one of only four businesses ranked in the bottom ten worst for three or more India Responsible Business Index elements. The company's rankings and ratings on the IRBI can be seen in Table 1 below.

129 The Economic Times. "Reliance Power, Ltd." ETmarkets.com. <http://economictimes.indiatimes.com/reliance-power-ltd/infocompanyhistory/companyid-4422.cms>

130 Reliance Power Limited. "About Us." [http://www.reliancepower.co.in/about\\_us/company\\_profile.htm](http://www.reliancepower.co.in/about_us/company_profile.htm)

131 Reliance Power Limited. "Initiatives in Renewable Energy." [http://www.reliancepower.co.in/business\\_areas/initiatives\\_in\\_renewable\\_energy.htm](http://www.reliancepower.co.in/business_areas/initiatives_in_renewable_energy.htm)

132 Reliance Power Limited. "Business Areas" [http://www.reliancepower.co.in/business\\_areas/power\\_projects.htm](http://www.reliancepower.co.in/business_areas/power_projects.htm)

133 The Economic Times. "Reliance Power, Ltd."



**Table 5.1: Reliance Power Limited’s Performance on the IRBI<sup>134</sup>**

	Non-discrimination in the workplace	Employee wellbeing	Community development	Inclusive supply chain	Community as business stakeholder
<b>RANKING</b>	99	79	87	90	90
<b>SCORE</b>	0.18	0.28	0.41	0.07	0.01

### Policy Analysis: Stagnant Policies Lack Substantive Commitments to the NVGs

Reliance Power’s poor performance on the India Responsible Business Index stems from the company’s lack of policy commitment to the NVGs. The only references to the NVGs in Reliance Power’s policy documents are the company’s annual Business Responsibility Reports, which were mandated by the Securities and Exchange Board of India as of August 13, 2012, and require explicit reference to the NVGs. Those reports consistently demonstrate that RP’s corporate policies insufficiently uphold or fail to even mention many of the NVGs’ nine principle.<sup>135</sup> For instance, in annual reports over the past several years, Reliance Power discloses that it does not have business policies for Principle 5—businesses should respect and promote human rights—or Principle 7—businesses, when engaged in influencing public and regulatory policy, should do so in a responsible manner. Of the other seven principle-related policies, only six have been approved by the Board/CEO, and only two of them conform to national/international standards. Reliance Power only consulted relevant stakeholders for policies that relate to Principle 1—businesses should conduct and govern themselves with ethics, transparency and accountability—Principle 3—businesses should promote the well being of all employees—and Principle 6—businesses should respect, protect and make efforts to restore the environment.<sup>136</sup> Furthermore, despite the company’s claims in the last three years of business responsibility reports that the grievance “mechanism will be gradually extended to cover other stakeholders,” the current grievance policy still only addresses grievances of Reliance Power’s equity shareholders.<sup>137</sup>

Outside of the Business Responsibility Reports, Reliance Power’s official Corporate Social Responsibility policy states, “We believe that our success in executing and operating large-scale mining/generation projects is critically dependent on following a participatory development-oriented approach that strengthens our bond with the local population.”<sup>138</sup> RP’s commitment to a “participatory development-oriented approach” has been included in every annual report since FY 2009-2010, dating back to even before the Companies Act 2013 required businesses to create an official CSR policy.<sup>139</sup>

134 Praxis and Corporate Responsibility Watch. *Making Growth Inclusive: Analyzing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies*. 2015

135 For example, *Reliance Power Business Responsibility Report FY 2014-2015*. [http://www.reliancepower.co.in/pdf/Business\\_Responsibility\\_Report-2014-15-RPower.pdf](http://www.reliancepower.co.in/pdf/Business_Responsibility_Report-2014-15-RPower.pdf); *Business Responsibility Report – Reliance Power Limited (2012-13)*. [http://www.reliancepower.co.in/2013/Business\\_Responsibility\\_Report\\_for\\_2012-13\\_RPower\\_Final.pdf](http://www.reliancepower.co.in/2013/Business_Responsibility_Report_for_2012-13_RPower_Final.pdf)

136 *Reliance Power Business Responsibility Report FY 2014-2015*. [http://www.reliancepower.co.in/pdf/Business\\_Responsibility\\_Report-2014-15-RPower.pdf](http://www.reliancepower.co.in/pdf/Business_Responsibility_Report-2014-15-RPower.pdf). Page 3.

137 Ibid, pages 3-4.

138 *Reliance Power CSR Policy*. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

139 For example, *Reliance Power Annual Report 2009-10*. [http://www.reliancepower.co.in/1104/7\\_102.pdf](http://www.reliancepower.co.in/1104/7_102.pdf)

**Reliance Power's current CSR policy is directed by the company's seven Guiding Principles:**

1. Honour the spirit of law and be a responsible corporate citizen.
2. Pursue growth through harmony with the community via innovative management techniques.
3. Adopt an approach that aims at achieving a greater balance between social development and economic development.
4. Respect culture and customs of every project / plant location.
5. Work towards elimination of all barriers for the social inclusion of disadvantaged groups - such as the poor, socially backward, differently abled and others.
6. Develop practices aimed at inclusive growth.
7. Thrust on Environment Protection.<sup>140</sup>

In accordance with the Companies Act 2013, Reliance Power reported committing a full 2% of its profits to CSR activities by funding day care oncology centers in rural Maharashtra<sup>141</sup> – a region in which the company operates a large coal power plant and a small wind power plant. The company's annual report provides few details regarding why the region or sector was chosen, so it remains unclear whether this CSR spending was directed towards mitigating or distracting from abuses stemming from Reliance Power's corporate practice. At the very least, the company's CSR spending – which began during the 2014-15 fiscal year – demonstrates a partial commitment to supporting the communities surrounding its business operations.

Aside from Reliance Power's CSR spending under the Companies Act 2013, and in spite of the company's annual publication of business responsibility reports, Reliance Power appears to have made few substantive changes to corporate policy documents related to CSR, human rights, or the NVGs since at least 2008.<sup>142</sup> Even with respect to its new CSR spending policies, Reliance Power's guiding principles are nearly exactly the same as the company's guiding principles included in every annual report examined for this memo. The only difference is that in the official 2014 CSR policy, a commitment to “foster a corporate culture that enhances both individual creativity and value of team work” and an “aim to provide clean electricity” have been removed.<sup>143</sup>

In FY 2010-2011 Reliance Power created an Environment, Health, Safety, Security, Rehabilitation and Resettlement Committee constituted by the board of directors. The goals of this group were 1) “Review of the Company's health, safety, security and the environmental policies and performance including processes to ensure compliance with applicable laws and regulations,” 2) “Reporting to the Board periodically on health, safety, security, environment and rehabilitation issues affecting the Company,” 3) “Develop a policy on rehabilitation and resettlement of persons affected by the Company's projects which can be seamlessly integrated with the Company's business objectives.”<sup>144</sup> These objectives remained the same until FY 2013-2014. In response to the 2013 Companies Act, which required a CSR committee for the top 100 Indian companies, the name of this committee was changed to the Corporate Social Responsibility Committee. This committee then took charge of developing Reliance Power's CSR policy.<sup>145</sup>

140 Reliance Power CSR Policy. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

141 Reliance Power Annual Report 2014-15. Page 28. [http://www.reliancepower.co.in/1104/Annual\\_Report\\_Unabridged\\_2014-15.pdf](http://www.reliancepower.co.in/1104/Annual_Report_Unabridged_2014-15.pdf)

142 According to the company's annual report, Reliance Power committed its CSR spending to a non-profit engaged in the construction of daycare centers in rural Maharashtra. *Reliance Power: Annual Report 2014-15*. Page 28. [http://www.reliancepower.co.in/1104/Annual\\_Report\\_Unabridged\\_2014-15.pdf](http://www.reliancepower.co.in/1104/Annual_Report_Unabridged_2014-15.pdf)

143 Reliance Power CSR Policy. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

144 Reliance Power Annual Report 2010-11. [http://www.reliancepower.co.in/1104/9\\_102.pdf](http://www.reliancepower.co.in/1104/9_102.pdf)

145 Reliance Power Annual Report 2013-14. [http://www.reliancepower.co.in/1104/Annual\\_Report\\_2013-14\\_Full-RPower.pdf](http://www.reliancepower.co.in/1104/Annual_Report_2013-14_Full-RPower.pdf)

Despite Reliance Power’s guiding principle to “honour the spirit of law,”<sup>146</sup> its policy changes have only responded to the exact letter of new laws over the past seven years. The company appears to have complied with binding regulations on reporting and framing policies in the language of CSR while neglecting to make substantive policy enhancements and to aspire to compliance with the NVGs.

**Corporate Practice: Failures to Respect the Environment, Local Communities Reveal Superficial Policy Protections**

Reliance Power has proved itself a regular violator not only of the NVGs, but of many binding domestic and international laws. Reliance Power irresponsible and sometimes illegal business practices have involved abuses of fundamental human rights, the environment, and have been particularly harmful to the community stakeholders near its operations. Reliance Power’s consistently irresponsible business practices fall well short of even its own corporate policies. The company’s lack of grievance mechanisms for affected stakeholders and seeming resistance to the philosophical tenets of the NVGs at least partially account for inconsistencies between RP’s policy and practice. A list of specific NVG violations since 2008 can be found in Table 2 below.

**Table 5.2: Reliance Power’s Non-Compliant Corporate Practices**

Year	Violation/Controversy	Source
2008	Received “undue benefits” in Sasan Ultra Mega Power Project (UMPP) resulting from negotiations with Ministry of Power and Ministry of Coal conferring a financial value of 29,033 crore to RP.	<a href="http://www.thehindu.com/news/national/reliance--power--got--undue--benefit--of--rs--29033--cr--cag/article3784810.ece">http://www.thehindu.com/news/national/reliance--power--got--undue--benefit--of--rs--29033--cr--cag/article3784810.ece</a> from CRW list
2008	Received “undue favours” from environment ministry in construction of Sasan UMPP, specifically, an exemption from a law requiring that RP provide an area of compensatory afforestation due to the company’s diversion of pre-existing forest land.	<a href="http://www.thehindu.com/news/national/cag-slams-environment-ministry-for-favouring-reliance-power-firm/article5100832.ece?ref=relatedNews">http://www.thehindu.com/news/national/cag-slams-environment-ministry-for-favouring-reliance-power-firm/article5100832.ece?ref=relatedNews</a>
2012-2016	Irresponsible delay on state-sponsored power plant construction in Andhra Pradesh	<a href="http://economictimes.indiatimes.com/industry/energy/power/krishnapatnam-umpp-procurers-ask-reliance-power-to-withdraw-petitions-to-exit-project/articleshow/51221630.cms">http://economictimes.indiatimes.com/industry/energy/power/krishnapatnam-umpp-procurers-ask-reliance-power-to-withdraw-petitions-to-exit-project/articleshow/51221630.cms</a> and <a href="http://www.moneycontrol.com/news/buzzing-stocks/4-states-slap-rs-400cr-finer-power-stock-down-23_683321.html?utm_source=ref_article">http://www.moneycontrol.com/news/buzzing-stocks/4-states-slap-rs-400cr-finer-power-stock-down-23_683321.html?utm_source=ref_article</a> from CRW list

146 Reliance Power CSR Policy. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

2010-*	Sasan UMPP causes deforestation and excess pollution	Ghio, N. "U.S. Export-Import Bank's Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India."(2014), Sierra Club.
2010-*	Forceful and irresponsible displacement of people for construction of Sasan UMPP	Ghio, N. "U.S. Export-Import Bank's Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India."(2014), Sierra Club.
2010-*	Disregard for labor standards and safe workplace environment at Sasan UMPP	Ghio, N. "U.S. Export-Import Bank's Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India."(2014), Sierra Club.
2010-*	Mistreatment of Indigenous peoples living near Sasan UMPP	Ghio, N. "U.S. Export-Import Bank's Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India."(2014), Sierra Club.
2013	Labor leaders arrested and local laborers excluded and replaced at Sasan UMPP	Ghio, N. "U.S. Export-Import Bank's Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India."(2014), Sierra Club.
2015	Employee convicted of bribery by CBI	ESG Impact Monitor Report for Reliance Power Limited. Last Updated: Feb 23, 2016.

\*These are all issues associated with the Sasan Plant and reported in an NGO fact-finding report published in 2014. Construction began on the plant around 2010. Reliance Power hasn't made any public move to resolve these issues, so they may be ongoing.

The majority of Reliance Power's violations of its corporate policy commitments under the NVGs – particularly those related to environmental responsibility and respect for human rights – stem from the company's Sasan Ultra Mega Power Project (UMPP).<sup>147</sup> However, another violation is ongoing at the time of writing this case study (spring 2016) at a different power plant in Andhra Pradesh. A Reliance Power subsidiary was awarded the contract for the Krishnapatnam UMPP, which was to provide power to four surrounding states. In 2012 the project had been stalled for three months, which was in violation of the contract and left the underdeveloped region without the power that its communities had been expecting. As of March 2016, Reliance Power is seeking to exit the power plant contract. Claiming that increased coal prices had made the project financially unfeasible to complete, Reliance Power has requested that the states purchase the ownership of all assets and land of the Krishnapatnam UMPP.<sup>148</sup> Reliance Power's defaulting on the contract constitutes a violation of Principle One of the NVGs, as the company has failed to remain accountable to the Andhra Pradesh government and the terms of their agreement. Furthermore, the company has violated its own corporate policy to "honour the spirit of the law and be a responsible corporate citizen,"<sup>149</sup> wording that suggests RP would fall short of its own ethical standards even if it found a legal remedy for the stalled project.

The Sasan UMPP has also been involved in cases of illegal collusion between government ministries and Reliance Power, violations of anti-corruption laws and Reliance Power's obligations under Principle

147 An exception is that in 2015, a Reliance Power employee was arrested by the Central Bureau of Investigation on charges of bribery. This employee had allegedly paid money to government officials in exchange for confidential documents. ESG Impact Monitor Report for Reliance Power Limited. Last Updated: Feb 23, 2016.

148 "Krishnapatnam UMPP procurers ask Reliance Power to withdraw petitions to exit project." *The Economic Times*, March 2, 2016, <http://economictimes.indiatimes.com/industry/energy/power/krishnapatnam-umpp-procurers-ask-reliance-power-to-withdraw-petitions-to-exit-project/articleshow/51221630.cms>

149 *Reliance Power CSR Policy*. Page 4. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

One of the NVGs. A report published by the Comptroller Auditor General provided evidence that Reliance Power had received undue post-bid concessions from the Ministry of Power and Ministry of Coal.<sup>150</sup> No evidence has surfaced as to whether or not Reliance Power offered the Ministry any incentives in return. Whereas two coal blocks were initially considered adequate to power the Sasan UMPP, Reliance Power was granted one additional coal block after a competitive bidding process for the Sasan plant had already been completed. Then the ministry of coal conceded to let Reliance Power use surplus coal from these three coal blocks for other company operations unrelated to the Sasan UMPP. The Comptroller Auditor General estimated financial benefit of Rs. 29,033 crore for Reliance Power from this decision.<sup>151</sup> The suspect circumstances surrounding RP's Sasan UMPP operations suggest that the company has undermined both the free market and the local government's accountability to its constituents. By renegeing on contracts and accepting unfair concessions, Reliance Power has repeatedly defied its policy commitment to "uphold the guiding principles of trust, integrity and transparency in all aspects of interactions and dealings."<sup>152</sup>

There is also evidence that the environment ministry unduly relaxed environmental regulations for Reliance Power's development of the Sasan UMPP.<sup>153</sup> As another report by the Comptroller Auditor General demonstrated, the environment ministry released Reliance Power from its legal obligation to provide 1384.96 hectare for afforestation based on a bureaucratic error in a certificate granted by the Madhya Pradesh Chief Secretary. The Comptroller Auditor General claims that this clearly demonstrates the Environmental Ministry's unjust favoring of Reliance Power. The instance highlights Reliance Power's insufficient policies and troubling practice related to NVG Principle Six<sup>154</sup> — businesses should respect, protect, and make efforts to restore the environment. Though the government is culpable for exempting Reliance Power from a legal obligation, the company's complicity in the violation contradicts its policy to "honour the spirit of the law and be a responsible corporate citizen." By taking advantage of corrupt government practices, Reliance Power has circumvented legislation designed to protect the environment, the free market, and the democratic rights of local communities.

The irresponsible government interactions involved in the Sasan UMPP pale in comparison to RP's more blatant human rights abuses committed on the ground, in violation of the company's various commitments to respect people's culture and customs, support inclusive growth, and pursue economic development through harmony with local communities.<sup>155</sup> A 2014 Sierra Club Report found that in multiple cases, locals who protested the resettlement were abducted and never found.<sup>156</sup> In some instances, Reliance Power demolished protester's homes at night while the families were still living inside. Locals were either compensated below the legal requirement for their land or not at all. Even the housing at the resettlement community was not available to all displaced peoples. The resettlement community lacked basic amenities including water and public schools. Reliance Power promised individuals who lost their livelihoods preference in hiring at the new plant and in the construction process, but many contract laborers were brought in from out of state instead.<sup>157</sup>

The laborers working on the plant faced labor rights abuses as well. Reliance Power did not take necessary precautions to prevent their exposure to dangerous materials in the plant, and did not accurately report worker deaths and injuries.<sup>158</sup> Reliance Power's failure to take adequate measures to protect employ-

150 Union Government Ministry of Power, Report No. 6 of 2012-13. *Report of the Comptroller and Auditor General of India on Ultra Mega Power Projects under Special Purposes Vehicles for the year ended March 2012.*

151 "Reliance Power Got Undue Benefits of Rs. 29,033 cr: CAG." *The Hindu*, August 17, 2012. <http://www.thehindu.com/news/national/reliance--power--got--undue--benefit--of--rs--29033--cr--cag/article3784810.ece>

152 *Reliance Power: Annual Report 2014-15*. Page 3.

153 Union of Government Ministry of Environment and Forests, Report No. 21 of 2013. *Report of the Comptroller Auditor General of India on Compensatory Afforestation in India.*

154 Union of Government Ministry of Environment and Forests, Report No. 21 of 2013. *Report of the Comptroller Auditor General of India on Compensatory Afforestation in India.*

155 *Reliance Power CSR Policy*. Page 4. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

156 Ghio, N. "U.S. Export-Import Bank's Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India." (2014), Sierra Club, 2.

157 *Ibid*, 3

158 *Ibid*, 3



ees is a clear violation of Principle Three of the NVGs – that businesses should promote the wellbeing of their employees – and the company’s commitment to achieving excellence in workplace safety.<sup>159</sup>

The company also did not obtain free, prior and informed consent from indigenous people living in the Sasan area in violation of Principle Three of the NVGs, which mandates that companies respect the interests of stakeholders, particularly the disadvantaged and vulnerable. Many of these people depended on the forest commandeered by Reliance Power for their livelihoods. Many indigenous people were not compensated the required legal amount for their displacement, and for those who were resettled, many were still living in temporary housing as of 2014. Those who do live in the permanent resettlement colonies have found that they are not conducive to maintaining their traditional way of life.<sup>160</sup> The shortcomings of RP’s resettlement process clearly contradict its commitment to “adopting Rehabilitation and Resettlement (R&R) policies which go beyond the norms set out by the Government,”<sup>161</sup> indicating that the company’s policies on resettlement have not translated into reality. More generally, RP’s commitments to respect local cultures and pursue growth through harmony with community have clearly not protected local stakeholders from its irresponsible business practices.

Lastly, the plant’s effects on the environment have had severe consequences for the local population. Wind blows the coal dust into surrounding communities, and locals complain that ash ponds leaking into the groundwater make it unfit to drink.<sup>162</sup> Because RP lacks a process for filing grievances, affected local stakeholders have little to no means of making their voices heard.<sup>163</sup> RP’s business operations have damaged the environment, and as a consequence, the local communities that depend upon its resources. At the very least, the irresponsible and illegal pollution of groundwater violates Principle Six of the NVGs and Reliance Power’s pledge to “thrust on environmental protection.”<sup>164</sup>

Reliance Power has made no policy adjustments to address the lack of grievance mechanisms. According to RP’s policies, only the company’s most empowered stakeholders — the shareholders — have access to a grievance mechanism. For three years in a row, Reliance Power has committed in their business responsibility reports to extend these policies to other relevant stakeholders. And for at least three years the company has failed to adjust its policy.<sup>165</sup> Consistent abuses of local communities and the environment at the Sasan Plant demonstrate that RP’s abuses in practice reflect its policy shortcomings. Without the mechanisms to formally submit complaints and demand change, vulnerable and suffering communities will likely continue to go unheard.

Just as the local stakeholders lack access to a grievance mechanism to voice their complaints against the company’s practice, they also lack a voice to inform the development of company policies. In developing policies related to NVG Principle Four, which explicitly refers to vulnerable and marginalized stakeholders, Reliance Power did not consult the communities affected by its operations.<sup>166</sup> At Sasan UMPP this lack of consultation has left community members vulnerable to whatever Reliance Power deems is in the company’s best interests.

Reliance Power’s policy commitments and practice at the Sasan UMPP suggest that the company does not uphold its obligations to protect or even avoid abusing human rights. In response to the lack of a policy on human rights or compliance with NVG Principle Five, Reliance Power claims, “It is widely believed that governments have a duty to protect human rights.”<sup>167</sup> The comment indicates RP’s resistance of the central philosophy behind the NVGs: that the government and the private sector share an obligation to respect human rights. RP’s justification diverges from domestic and international legal documents such

159 *Reliance Power: Annual Report 2014-15*. Page 3.

160 *Ibid*, 3 and 11

161 *Reliance Power Annual Report 2008-09*. [http://www.reliancepower.co.in/1104/1\\_102.pdf](http://www.reliancepower.co.in/1104/1_102.pdf)

162 *Ibid*, 3

163 *Ibid*, 13

164 *Reliance Power CSR Policy*. Page 4. [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

165 For example, *Reliance Power Business Responsibility Report FY 2014-2015*. [http://www.reliancepower.co.in/pdf/Business\\_Responsibility\\_Report-2014-15-13\\_RPower\\_Final.pdf](http://www.reliancepower.co.in/pdf/Business_Responsibility_Report-2014-15-13_RPower_Final.pdf)

166 *Ibid*

167 *Reliance Power Business Responsibility Report FY 2012-2013*. Page 6. [http://www.reliancepower.co.in/pdf/Business\\_Responsibility\\_Report-2014-15-RPower.pdf](http://www.reliancepower.co.in/pdf/Business_Responsibility_Report-2014-15-RPower.pdf)



as the NVGs and the UN Guiding Principles on Business and Human Rights, both of which reflect the widespread recognition that governments and companies both have a responsibility – moral and in some cases legal – to protect human rights. Reliance Power’s sense of its limited obligations to uphold the NVGs remains salient across many aspects of its business practice, such as its environmental impacts, safety standards, and accountability to various stakeholders. In part because of this resistance to the NVGs, the values and promises outlined in Reliance Power’s vague policy documents have not been substantively or consistently realized in its business operations.

### Lacking Substance, Corporate Policies Go Unrealized

The shortcomings of Reliance Power’s business policies materialize in abuses at Sasan UMPP. The concentration of violations there suggest that the surrounding communities are particularly vulnerable to corporate abuse. The affected communities have already been displaced for previous projects and live with heavy pollution.<sup>168</sup> Perhaps the acceleration of industrial development in the region has motivated the local government to prioritize the provision of power over the rights of some of its constituents. These pressures may have been amplified by the Government of India’s ambitious UMPP agenda.

Reliance Power has three other operational coal-burning power plants and two more under development. This case study’s focus on RP’s Sasan operations is unable to assess the severity or frequency of violations at these other sites. It is possible that any apparent differences among Reliance Power’s projects are consequences of varying exposure, and not extraordinarily different practices. Sasan is the world’s largest integrated coal power plant,<sup>169</sup> so it likely received extra media and international NGO attention. The Plant also received funding from the U.S. Import-Export Bank, which drew attention from U.S.-based fact-finding teams.<sup>170</sup>

Regardless of the company’s broader track record, Reliance Power’s lack of responsible business policies – such as grievance mechanisms for local stakeholders – unequivocally points to a disregard for the NVGs and evolving human rights norms about corporate conduct. Reliance Power fails to meet even the relatively low threshold of respect for stakeholders and the environment established by its own corporate policies.

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<sup>168</sup> Ghio, N. “U.S. Export-Import Bank’s Dirty Dollars: U.S. tax dollars supporting human rights, environment, and labor violations at the Sasan Coal-Fired Power Plant and Mine, in India.”(2014), Sierra Club, 4

<sup>169</sup> Ibid

<sup>170</sup> Ibid

Reliance Power Limited. “Business Areas” [http://www.reliancepower.co.in/business\\_areas/power\\_projects.htm](http://www.reliancepower.co.in/business_areas/power_projects.htm)

*Reliance Power Annual Report 2008-09.* [http://www.reliancepower.co.in/1104/1\\_102.pdf](http://www.reliancepower.co.in/1104/1_102.pdf)

*Reliance Power Annual Report 2009-10.* [http://www.reliancepower.co.in/1104/7\\_102.pdf](http://www.reliancepower.co.in/1104/7_102.pdf)

*Reliance Power Annual Report 2010-11.* [http://www.reliancepower.co.in/1104/9\\_102.pdf](http://www.reliancepower.co.in/1104/9_102.pdf)

*Reliance Power Annual Report 2011-12.* [http://www.reliancepower.co.in/1104/11\\_102.pdf](http://www.reliancepower.co.in/1104/11_102.pdf)

*Reliance Power Annual Report 2012-13.* [http://www.reliancepower.co.in/1104/12\\_102.pdf](http://www.reliancepower.co.in/1104/12_102.pdf)

*Reliance Power Annual Report 2013-14.* [http://www.reliancepower.co.in/1104/Annual\\_Report\\_2013-14\\_Full-RPower.pdf](http://www.reliancepower.co.in/1104/Annual_Report_2013-14_Full-RPower.pdf)

*Reliance Power CSR Policy.* [http://www.reliancepower.co.in/2015/CSR\\_Policy.pdf](http://www.reliancepower.co.in/2015/CSR_Policy.pdf)

*Reliance Power Business Responsibility Report FY 2014-2015.* [http://www.reliancepower.co.in/pdf/Business\\_Responsibility\\_Report-2014-15-13\\_RPower\\_Final.pdf](http://www.reliancepower.co.in/pdf/Business_Responsibility_Report-2014-15-13_RPower_Final.pdf)

*Reliance Power Business Responsibility Report FY 2013-2014.* [http://www.reliancepower.co.in/2013/Business\\_Responsibility\\_Report\\_for\\_2014-14\\_RPower\\_Final.pdf](http://www.reliancepower.co.in/2013/Business_Responsibility_Report_for_2014-14_RPower_Final.pdf)

*Reliance Power Business Responsibility Report FY 2012-2013.* [http://www.reliancepower.co.in/2013/Business\\_Responsibility\\_Report\\_for\\_2012-13\\_RPower\\_Final.pdf](http://www.reliancepower.co.in/2013/Business_Responsibility_Report_for_2012-13_RPower_Final.pdf)

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The Economic Times. “Reliance Power, Ltd.” ETmarkets.com. <http://economictimes.indiatimes.com/reliance-power-ltd/infocompanyhistory/companyid-4422.cms>

Praxis and Corporate Responsibility Watch. *Making Growth Inclusive: Analyzing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies.* 2015

## 6: Mahindra and Mahindra Limited: Responsible Policies and Practices Hampered by Issues with Treatment of Employees

Research and analysis of Mahindra and Mahindra Ltd. (M&M) suggests that its practice is reflective of its policy. On a policy level, the company has exhibited a strong level of commitment to advocating for responsible business practices. A variety of publicly accessible policy documents highlight Mahindra & Mahindra's commitment to sustainability, human rights, and many initiatives and policies aimed at improving its impacts on stakeholders and the environment. In practice, M&M has tended to fall short of its commitment to respecting the rights of employees – particularly in its hiring practices, treatment of unions, and issues concerning low wages. Nonetheless, Mahindra has proved itself committed to resolving these violations in a timely and equitable manner, suggesting that the company's strong policy infrastructure has translated into largely responsible business practices.

### Company Overview

M&M is an Indian multinational automobile manufacturing corporation that operates under its parent company, The Mahindra Group. Mahindra & Mahindra Ltd. was first incorporated as a steel trading company in 1945 with the name Mahindra & Mohammed Ltd and was eventually renamed Mahindra & Mahindra Ltd in 1948. In the 1950s and 1960s, M&M diversified into businesses like steel, tractors and much more. The Mahindra Group is now organized in ten business sectors with a presence in the following industries: energy, consulting services, defense, components, automotive, agribusiness, aftermarket, aerospace, two wheelers, steel processing, retail, real estate and infrastructure, logistics, leisure and hospitality, information technology, industry equipment, financial services and farm equipment. Today, M&M has a leading presence in key sectors of the Indian economy and is among the top 10 industrial houses in India.<sup>171</sup>

### IRBI Performance

Figure 1 provides a chart of M&M's performance in CRW's inclusiveness index that includes its ranking as well as its score. Figure 2 is a graphical representation of its ranking compared to the other 100 companies on the CRW index, which illustrates it ranks among the top across the categories. M&M is #5 in community development, #10 in employee wellbeing, #17 in non-discrimination at workplace, #19 in inclusive supply chain, and #28 in community as business stakeholder.<sup>172</sup> Hence, this indicates it ranks particularly well across all of the categories. Furthermore, in the CRW report, M&M was one of the seven companies in the entire CRW report, to spend a minimum 2 per cent of profits on social responsibility activities in the first fiscal year 2014-15.

**Table 6.1: Mahindra and Mahindra's Performance on the IRBI<sup>173</sup>**

	<b>Non-Discrimination at Workplace</b>	<b>Employee Wellbeing</b>	<b>Community Development</b>	<b>Inclusiveness in Supply Chain</b>	<b>Community as Business Stakeholder</b>

171 "Mahindra & Mahindra Ltd." Business Standard. Accessed April 13, 2016. <http://www.business-standard.com/company/m-m-365/information/company-history>.

172 "Making Growth Inclusive. Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies." October 2015. Accessed April 12, 2016. [http://responsiblebiz.org/r\\_bizing/IRBF.pdf](http://responsiblebiz.org/r_bizing/IRBF.pdf).

173 "Making Growth Inclusive. Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies." October 2015. Accessed April 12, 2016. [http://responsiblebiz.org/r\\_bizing/IRBF.pdf](http://responsiblebiz.org/r_bizing/IRBF.pdf).

<b>RANKING</b>	17	10	5	19	28
<b>SCORE</b>	0.63	0.63	0.9	0.48	0.1

### Policy Analysis: A Strong Commitment to the National Voluntary Guidelines

In its 2015 annual report, M&M describes in-depth its policies on responsible business practices in accordance with the reporting requirements under the National Voluntary Guidelines. The company explains its view on human rights (NVG Principle Five) by stating that, “human rights are a non-negotiable premise. We [M&M] place utmost importance on upholding the dignity of every individual associated with us. Any acts of discrimination, forced & compulsory labor and child labor be it within or beyond Mahindra boundaries, are denounced.”<sup>174</sup> Based on the company’s website as well as its published reports, M&M demonstrates strong corporate policy commitment as it provides relatively clear breakdowns and explanations for how it upholds the principles of the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs) as well as The United Nations Global Compact (UNGC).<sup>175</sup>

Figure 3 in the appendix illustrates M&M’s Business Responsibility Policy that addresses the nine principles as per the NVGs. As highlighted in its annual report, this policy is operationalized and supported by various other policies, guidelines and manuals.<sup>176</sup> Furthermore, Mahindra elaborates on its principle-wise performance for each individual category by providing additional details explaining how it abides by them. Under each principle it describes various initiatives and efforts aimed at promoting the implementation of the principles. An example of this is its Green Supply Chain Management, which aims to improve awareness with regard to legal compliance, employee health and safety initiatives.<sup>177</sup> Mahindra also identifies specific steps it has taken to reduce waste, save energy, and save water.<sup>178</sup> This indicates that on a policy level, M&M has made significant efforts to uphold the principles. Throughout its annual report, it also provides links to other released publications that elaborate on its practices relating to specific issues such as its Sustainability Review.

In 2001, M&M became one of the first Indian companies to be a signatory to the UNGC.<sup>179</sup> Since then, it has formally incorporated the UNGC principles into its human rights policy and remains dedicated to operating in sync with its principles on labor standards. In its 2013-2014 Sustainability Review, M&M includes an index for the UNGC principles and provides a clear breakdown explaining how its policies abide by the principles.<sup>180</sup> Another initiative that highlights its commitment to the NVGs is a program

174 “Sustainability Review 2013-2014.” Mahindra Rise. Accessed April 13, 2016. [http://www.mahindra.com/resources/pdf/sustainability/Sustainability Report 2013-14.pdf](http://www.mahindra.com/resources/pdf/sustainability/Sustainability%20Report%202013-14.pdf). Pg. 42.

175 Mahindra and Mahindra Ltd. “The Resilience to Rise. Annual Report 2015.” News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg. 116-125. Note- it provides additional information by highlighting mechanisms designed to uphold each principle. An example is provided further in the case study.

176 Mahindra and Mahindra Ltd. “The Resilience to Rise. Annual Report 2015.” News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg.117.

177 Mahindra and Mahindra Ltd. “The Resilience to Rise. Annual Report 2015.” News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg. 119.

178 Mahindra and Mahindra Ltd. “The Resilience to Rise. Annual Report 2015.” News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg. 116-125.

179 Mahindra and Mahindra Ltd. “The Resilience to Rise. Annual Report 2015.” News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg. 116-125.

180 “Sustainability Review 2013-2014.” Mahindra Rise. Accessed April 13, 2016. <http://www.mahindra.com/>

that provides human rights training hours to employees which is illustrated in the appendix as Figure 4. Furthermore, M&M created a Diversity Council, comprising of senior level executives that meet at regular intervals to devise ways to ensure the company is constantly maintaining a diverse workforce that encompasses a mix of gender, physical ability and race.<sup>181</sup> This is one example of an initiative aimed at promoting employee wellbeing (NVG Principle Three) and non-discrimination at the workplace.

Another way M&M has demonstrated its commitment to responsible business practice outside the workplace is through its Corporate Social Responsibility initiatives, which it describes as an integral part of its vision and the cornerstone of its core value of Good Corporate Citizenship.<sup>182</sup> The Economic Times conducted a study to determine the best companies for CSR in India and M&M came in first place after jumping two ranks from 2013 to 2014.<sup>183</sup> Today, M&M remains dedicated to spending a minimum of 2 per cent of its profits on social responsibility activities. One of its most iconic programs is the creation of Employee Social Options Programs (ESOPs), which enables M&M employees to involve themselves in socially responsible activities of their choice.

**Corporate Practice: Respect for Employees’ Interests Lags Behind Corporate Policies**

Though Mahindra & Mahindra’s policy compliance with the NVGs is in the upper quartile across almost all of the IRBI’s categories, the company’s treatment of its employees has lagged behind considerably. Regular strikes and protests indicate shortcomings of Mahindra’s employee consultation mechanisms, inequalities in its hiring practices, and regular clashes with workers’ unions highlight this disparity between policy and practice. These irresponsible practices largely relate to Principle Three of the NVGs, which asserts that businesses should promote the wellbeing of their employees, essential principles of the UN Global Compact, and the company’s own policies of respecting workers and promoting diversity. Though Mahindra’s business practices are by no means perfect, the company has implemented initiatives and sought resolutions to labor disputes that indicate considerable progress towards compliance with the NVGs.

**Table 6.2: Mahindra & Mahindra’s Non-Compliant Corporate Practices, since 2008**

Date of Violation (month, year)	Basic detail of Compliant	Source + Link
2008	In 2008, an Auto Sector dealer filed a petition before MRTP Commission, alleging unfair trade practice following termination of dealership and seeking compensation. These proceedings have now been transferred to the COMPAT and are pending before it.	Mahindra- <a href="http://www.mahindra.com/resources/pdf/homepage/M&amp;M%20Annual%20Report%202014-15.pdf">http://www.mahindra.com/resources/pdf/homepage/M&amp;M%20Annual%20Report%202014-15.pdf</a>

resources/pdf/sustainability/Sustainability Report 2013-14.pdf. Pg. 42.

181 “Sustainability Review 2013-2014.” Mahindra Rise. Accessed April 13, 2016. <http://www.mahindra.com/resources/pdf/sustainability/Sustainability Report 2013-14.pdf>. Pg. 42.

182 Singh, Nikita. 2009. “Corporate Social Responsibility: The Mahindra Way”. *Indian Journal of Industrial Relations* 44 (3). Shri Ram Centre for Industrial Relations and Human Resources: 410–17. <http://www.jstor.org/stable/27768214>.

183 Majmudar, Utkarsh, Namrata Rana, and Neeti Sanan. “Mahindra & Mahindra Tops CSR List in India Even as Companies Scale up Operations.” *The Economic Times*. October 13, 2015. Accessed April 12, 2016. <http://economictimes.indiatimes.com/news/company/corporate-trends/mahindra-mahindra-tops-csr-list-in-india-even-as-companies-scale-up-operations/articleshow/49330470.cms>.

<p>May, 2009</p>	<p>Workers at the Satpur plant of M&amp;M went to protest the suspension of union leader Madhavrao Dhattrak on disciplinary grounds. The strike lasted almost a fortnight and hampered production work in the plant. Finally, the Nashik industrial court intervened, calling the strike illegal and ordering it to be called off within 48 hours.</p>	<p>Business Standard- <a href="http://www.business-standard.com/article/companies/major-labour-strikes-that-shook-the-automobile-industry-113041500150_1.html">http://www.business-standard.com/article/companies/major-labour-strikes-that-shook-the-automobile-industry-113041500150_1.html</a></p>
<p>2011</p>	<p>Mahindra &amp; Mahindra faces a fine of Rs. 292.25 crore for violating trade norms in the spare parts and after services market. The decision, spelt out in a 215-page order, says that auto companies indulged in anti-competitive practices as they did not make genuine spare parts freely available in the open market, upholding the contentions of a petition filed by a complainant in 2011.</p>	<p>Economic Times- <a href="http://economictimes.indiatimes.com/industry/auto/automobiles/cci-imposes-rs-2545-crore-penalty-on-14-car-makers-including-marutisuzuki-tatamotors/articleshow/40871116.cms">http://economictimes.indiatimes.com/industry/auto/automobiles/cci-imposes-rs-2545-crore-penalty-on-14-car-makers-including-marutisuzuki-tatamotors/articleshow/40871116.cms</a></p>
<p>January, 2012.</p>	<p>In January 2012, approximately 200 workers of Mahindra Gujarat Tractor Limited (MGTL), a subsidiary of Mahindra &amp; Mahindra (Mahindra), staged a protest against Mahindra's proposal to acquire the remaining MGTL stake owned by India's Gujarat state government. In 1999, Mahindra acquired 60 percent of MGTL from the government. The 2012 protesters demanded that the government take back control of the company, alleging that Mahindra discriminated against them and paid them lower salaries compared to newly-hired employees. The protesters further alleged that, if the full merger pushed through, Mahindra would sell the facility "to cash in on the high prices of this prime land." This would reportedly lead to job losses.</p>	<p>Times of India- <a href="http://timesofindia.indiatimes.com/city/vadodara/Mahindra-Gujarat-Tractor-workers-protest-merger/articleshow/11342169.cms">http://timesofindia.indiatimes.com/city/vadodara/Mahindra-Gujarat-Tractor-workers-protest-merger/articleshow/11342169.cms</a></p>
<p>March, 2013.</p>	<p>A single product recall in 2013 was of around 25,000 units of its XUV500 SUV due to defects in three different parts - the fluid hose, the front power window units, and the left wiper blade cover. This was followed by a recall of an unspecified number of XUV500 SUV's in 2015.</p>	<p>Times of India- <a href="http://timesofindia.indiatimes.com/business/india-business/MM-recalls-25000-XUV500s/articleshow/18960382.cms">http://timesofindia.indiatimes.com/business/india-business/MM-recalls-25000-XUV500s/articleshow/18960382.cms</a></p>



March, 2013.	India's largest maker of sport utility vehicles, said Wednesday it has lost production of 500 vehicles due to a strike at one of its plants in the western state of Maharashtra. The strike started Tuesday at its Nashik plant and is still on, the company said in a statement. It didn't provide any reasons for the strike. According to a report in the Business Standard newspaper, employees at the plant stopped work after the company suspended a union leader who was on strike demanding renewal of a wage agreement.	Wall Street Journal- <a href="http://www.wsj.com/articles/SB10001424127887323628804578344230082973160">http://www.wsj.com/articles/SB10001424127887323628804578344230082973160</a>
April, 2013.	In April 2013, about 1,600 Mahindra & Mahindra workers at the company's Igatpuri, India factory went on strike demanding the reinstatement of their union leader. The union leader was suspended over a fight between two workers that happened earlier in the month. At the time of writing, the strike, which caused the complete shutdown of the plant, had lasted for eight days.	The Economic Times- <a href="http://articles.economictimes.indiatimes.com/2013-04-10/news/38434261_1_nashik-plant-igatpuri-labour-unrest">http://articles.economictimes.indiatimes.com/2013-04-10/news/38434261_1_nashik-plant-igatpuri-labour-unrest</a>
April, 2014.	Transport equipments Capital market regulator Sebi today imposed fines on two employees of Mahindra & Mahindra for trading in the automaker's shares during restricted periods. The Securities and Exchange Board of India (Sebi) has imposed a penalty of Rs 2 lakh on Gopalan Murali and Rs 4 lakh on Pavan Kumar Sodani -- both designated employees of Mahindra & Mahindra	Business Standard- <a href="http://www.businessstandard.com/article/ptistories/sebi-imposes-fineson-two-m-m-employees-forinsider-trading-114080701122_1.html">http://www.businessstandard.com/article/ptistories/sebi-imposes-fineson-two-m-m-employees-forinsider-trading-114080701122_1.html</a>
February, 2015.	Recall of XUV500 vehicles over airbag issues due to defective software. No injuries were reported	The Economic Times- <a href="http://economictimes.indiatimes.com/industry/auto/news/passenger-vehicle/uvs/mahindra-mahindra-recalls-xuv500-to-upgrade-airbag-software/articleshow/46277322.cms">http://economictimes.indiatimes.com/industry/auto/news/passenger-vehicle/uvs/mahindra-mahindra-recalls-xuv500-to-upgrade-airbag-software/articleshow/46277322.cms</a>

**Protest Violations**

A series of Mahindra & Mahindra employee strikes over the last few years suggest that, in practice, the company has sometimes fallen short of its policy commitment to support the wellbeing and respect the interests of employees. These shortcomings largely relate to Principles One and Three of the National Voluntary Guidelines, as well as Mahindra's corporate policies highlighting the need to promote employees interests and respect their right to collective bargaining.

In May 2009, workers at the Satpur plant protested the suspension of a union leader on disciplinary groups. The Nashik industrial court eventually had to intervene, calling the strike illegal and ordering it to be called off within 48 hours.<sup>184</sup> Though the workers' claims are difficult to substantiate, the 2009 strike

184 Ghosh, Agamoni. "Major Labour Strikes That Shook the Automobile Industry." Business Standard. April 15, 2013. Accessed April 18, 2016. [http://www.business-standard.com/article/companies/major-labour-strikes-that-shook-the-automobile-industry-113041500150\\_1.html](http://www.business-standard.com/article/companies/major-labour-strikes-that-shook-the-automobile-industry-113041500150_1.html).

is merely the first example in a series of incidents indicating the considerable tension between Mahindra management and employees. While it is difficult to determine whether Mahindra & Mahindra committed any violations of its employees' labor rights, the strike and ensuing legal action indicate that the company's internal employee consultation mechanisms were not up to the task of finding a harmonious resolution to the dispute.

The next strike occurred about three years after the previous one. In January 2012, approximately 200 workers of Mahindra Gujarat Tractor Limited (MGTL), a subsidiary of M&M, staged a protest against Mahindra's proposal to acquire the remaining MGTL stake owned by India's Gujarat state government.<sup>185</sup> In 1999, Mahindra acquired 60% of MGTL from the government. The protesters demanded that the government take back control of the company as they accused Mahindra of discriminating against them and paying them lower salaries compared to newly hired employees. Neither the government nor the company responded to the allegations by the protesters. However, the scale of the protest and the gravity of the accusations suggest that employees' wellbeing suffered as a result of Mahindra's acquisition. The discrimination allegation in particular contradicts Mahindra's objective to "provide equal and ample opportunities to all our employees."<sup>186</sup>

In April 2013, about 1,600 workers at the Igatpuri factory went on strike demanding the reinstatement of their union leader. The union leader was suspended over a fight between two workers that happened earlier in the month.<sup>187</sup> The company responded that it was in constant dialogue with the union to find an early solution of the issue.<sup>188</sup> The strike eventually ended after M&M revoked the suspension of the workers who tendered a written apology.

Another major protest that occurred the same year took place in March 2013 when around 3,000 workers protested the suspension of two union workers who were on strike demanding the renewal of a wage agreement. The company had been negotiating a wage proposal with the union leaders but the workers had not been satisfied with the results and demanded a higher output. Eventually, the strike was called off after the company management agreed to reinstate the two suspended union workers and signed a new wage agreement.<sup>189</sup> Furthermore, as a result of this, the company decided to set up a special committee to decide the pay scale of workers under grade N-1. This committee was designed to have three representatives each from the company management and the workers union to ensure they remain in a constant dialogue about their conditions.<sup>190</sup>

M&M employees' relatively regular protests and strikes do not reflect well on the company's compliance with Principle Three of the NVGs. The series of union disputes in particular suggests that the company has not made good on its policy to "uphold the freedom of association and the effective recognition of the right to collective bargaining" – a central principle to the United Nations Global Compact.<sup>191</sup>

185 "Mahindra Gujarat Tractor Workers Protest Merger - Times of India." The Times of India. January 2, 2012. Accessed April 23, 2016. <http://timesofindia.indiatimes.com/city/vadodara/Mahindra-Gujarat-Tractor-workers-protest-merger/articleshow/11342169.cms>.

186 "Sustainability Review 2013-2014." Mahindra Rise. Accessed April 13, 2016. [http://www.mahindra.com/resources/pdf/sustainability/Sustainability Report 2013-14.pdf](http://www.mahindra.com/resources/pdf/sustainability/Sustainability%20Report%202013-14.pdf). Pg. 42.

187 "Strike at Mahindra's Igatpuri Plant, Production Affected." The Economic Times. April 10, 2013. Accessed April 25, 2016. [http://articles.economictimes.indiatimes.com/2013-04-10/news/38434261\\_1\\_nashik-plant-igatpuri-labour-unrest](http://articles.economictimes.indiatimes.com/2013-04-10/news/38434261_1_nashik-plant-igatpuri-labour-unrest).

188 "Mahindra Nashik Plant Reopens, Strike Ends." Wheels Unplugged. April 22, 2013. Accessed April 12, 2016. <http://www.wheelsunplugged.com/news/mahindra-nashik-plant-reopens-strike-ends/1456>.

189 "After a Year, Mahindra, Nashik Union Reach Wage Settlement." The Economic Times. September 1, 2013. Accessed April 18, 2016. [http://articles.economictimes.indiatimes.com/2013-09-01/news/41663282\\_1\\_wage-settlement-wage-revision-issue-plant-union](http://articles.economictimes.indiatimes.com/2013-09-01/news/41663282_1_wage-settlement-wage-revision-issue-plant-union).

190 Pawar, Tushar. "Workers of Mahindra & Mahindra Call off Strike - Times of India." The Times of India. March 8, 2013. Accessed April 14, 2016. <http://timesofindia.indiatimes.com/city/nashik/Workers-of-Mahindra-Mahindra-call-off-strike/articleshow/18856440.cms>.

191 "Sustainability Review 2013-2014." Mahindra Rise. Accessed April 13, 2016. [http://www.mahindra.com/resources/pdf/sustainability/Sustainability Report 2013-14.pdf](http://www.mahindra.com/resources/pdf/sustainability/Sustainability%20Report%202013-14.pdf). Pg. 42.

Allegations of hiring and wage discrimination are particularly disconcerting stains on Mahindra's record of respecting the interests and promoting the wellbeing of employees. However, the company mostly seems to have found amicable resolutions to these strikes – particularly for the March 2013 strike, after which M&M created a committee including workers and management in order to decide wage agreements. Though there are still reforms to be made, these steps – coupled with the many employee engagement initiatives outlined in M&M's Sustainability Report – indicate that Mahindra is committed to establishing a more equitable work environment in which employees' rights and interests are respected.

## Recalls

My research has also uncovered two instances of recalls, both of which are relatively minor.<sup>192</sup> Though a recall does not necessarily indicate a violation of the NVGs, Principles Two and Nine require companies to “provide good and services that are safe” and “provide value to their customers and consumers in a responsible manner.” However, M&M's recalls do not indicate that the company has defaulted on either of those obligations.

M&M has not faced any large recalls compared to its peers. In March 2013, there was a single product recall of around 25,000 of its XUV500 SUV due to defects in three parts.<sup>193</sup> This was followed by a recall in February 2015 of XUV500 vehicles over airbag issues due to defective software. It was characterized as a minor issue and no injuries were reported.<sup>194</sup>

It is important to note India's policy on recalls. According to the ESG reports, “while there is no set authority in India that administers recalls, in 2012, the large players in the Indian automobile market, including M&M, established a voluntary recall policy that would require companies to follow standard procedures on the detection of manufacturing defects in their products.”<sup>195</sup> However, since this initiative has been adopted, M&M has been one of the few automobile manufacturers to recall vehicles in India.<sup>196</sup> M&M has been one of the few companies to implement the voluntary recall policy and provides further evidence that M&M's practice is aligned with its policy. Furthermore, M&M has established strong internal quality management systems and has experienced fewer recalls from January 2014 to May 2015 as compared to many of its peers.<sup>197</sup>

Additionally, the company has led other efforts and initiatives to reduce the amount of recalls. M&M provides evidence of adherence to external quality standards such as ISO 9001 for its automotive business and has developed an internal product quality standard and expects adherence to it by all its facilities.<sup>198</sup> It also discloses an entire report that outlines a rigorous selection procedure for its suppliers and initiative efforts to track its suppliers' performance and certification, besides auditing its facilities to ensure adherence to minimum acceptable quality standards. By adopting such initiatives, M&M has put itself in a strong position to reduce the amount of recalls. This strategy has proven to be effective considering the company experienced fewer recalls between 2014 and 2015 compared to its peers. Mahindra and Mahindra's voluntary recalls, oversight mechanisms, and various initiatives highlight the company's commitment to providing customers with safe and responsible products, demonstrating its compliance with NVG Principles Two and Nine.

192 *Impact Monitor. MAHINDRA AND MAHINDRA LIMITED*. Report. MSCI ESG Research. Accessed April 10, 2016. MSCI.

193 “Mahindra & Mahindra Recalls XUV500 to Upgrade Airbag Software.” *The Economic Times*. February 17, 2015. Accessed May 03, 2016. <http://economictimes.indiatimes.com/industry/auto/news/passenger-vehicle/uvs/mahindra-mahindra-recalls-xuv500-to-upgrade-airbag-software/articleshow/46277322.cms>.

194 Chowdhury, Anirban. “Labor Strike at Mahindra Plant.” *The Wall Street Journal*. March 6, 2013. Accessed April 25, 2016. <http://www.wsj.com/articles/SB10001424127887323628804578344230082973160>.

195 *ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

196 *ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

197 *ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

198 *ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

## Trade Violations

Mahindra's three other violations involve a variety of alleged trade abuses. In 2008, an Auto Sector dealer filed a petition alleging unfair trade practices following the termination of a dealership.<sup>199</sup> These proceedings were then transferred to the Competition Appellate Tribunal but no outcome was recorded. The next trade violation occurred about three years later. In 2011, the Competition Commission of India imposed a combined penalty on 14 carmakers for indulging in unfair practices in the spare parts market.<sup>200</sup> M&M responded to the accusation by saying it would challenge the trade penalty. However, it is unclear what occurred as a result of challenging this penalty. Additionally, considering 14 companies were found guilty of committing this violation, M&M was not the only company at fault. Lastly, in April 2014, two employees of M&M were fined for trading the company's shares during the restricted period.<sup>201</sup> The investigation by capital market regulatory Sebi was initiated after Mahindra and Mahindra itself came forward with information on the violation.<sup>202</sup> These trade violations, while relatively minor, constitute violations of Principle One of the NVGs, which requires that businesses conduct themselves with ethics, transparency, and accountability. However, the 2014 violation indicates a partial commitment to transparency, as Mahindra came forward with evidence of the crime by its own volition.

## A Strong Performer, in Policy and Practice

Mahindra & Mahindra performs well on the India Responsible Business Index relative to its peers, indicating the strength of the company's policy commitment to the NVG Principles. Various policy documents – including sustainability reviews and business responsibility reports – outline the specific policies, initiatives, and ethical standards intended to integrate responsible business practices into the company's regular operations. These policies and initiatives take the form of employee consultations, sustainability goals, commitments to international business standards, and more. In practice, M&M has sometimes fallen short on its commitments to promoting the wellbeing of employees. Repeated strikes and protests indicate that M&M has work to do in ensuring that its hiring practices, wage policies, and treatment of unions reflect the principles of responsibility and respect that underpin its corporate policies. However, Mahindra has largely found amicable resolutions to these internal disputes, and there is some evidence that the company's compliance with NVG Principle Three is improving. Mahindra's recalls and trade violations are relatively minor, and the company has taken steps to stay true to its ethical policies even in the wake of those missteps. Overall, Mahindra's relatively strong policy performance corroborates with its responsible business practices, and there is evidence that the company's performance on both counts is steadily improving.

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*ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

199 Mahindra and Mahindra Ltd. "The Resilience to Rise. Annual Report 2015." News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg. 125.

200 *ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

201 *ESG MAHINDRA AND MAHINDRA LIMITED (M&M)*. Report. MSCI ESG Research, 2015.

202 "Sebi imposes fines on two M&M employees for insider trading." *Business Standard*. August 7, 2014. [http://www.business-standard.com/article/pti-stories/sebi-imposes-fines-on-two-m-m-employees-for-insider-trading-114080701122\\_1.html](http://www.business-standard.com/article/pti-stories/sebi-imposes-fines-on-two-m-m-employees-for-insider-trading-114080701122_1.html)

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## Appendix

 Figure 6.1- Principle-wise (as per NVGs) Business Responsibility Policies<sup>203</sup>

Sr. No.	Questions	P1: Ethics and Transparency	P2: Product Responsibility	P3: Wellbeing of employees	P4: Responsiveness to Stakeholders	P5: Respect Human Rights	P6: Environmental Responsibility	P7: Public policy advocacy	P8: Support inclusive growth	P9: Engagement with Customers
1.	Do you have a policy/policies for....	Y	Y Note 1	Y	Y	Y	Y	Y	Y	Y
2.	Has the policy being formulated in consultation with the relevant stakeholders?	Y	Y	Y	Y	Y	Y	Y	N Note 2	Y
3.	Does the policy conform to any national/international standards? If yes, specify? (50 words)	Y	Y	Y	Y	Y	Y	NA Note 3	Y	Y
4.	Has the policy being approved by the Board? If yes, has it been signed by MD/owner/CEO/appropriate Board Director?	Y	Y	Y	Y	Y	Y	Y	Y	Y
5.	Does the Company have a specified committee of the Board/Director/Official to oversee the implementation of the policy?	Y	Y	Y	Y	Y	Y	Y	Y	Y
6.	Indicate the link for the policy to be viewed online?	Y Note 4	Y Note 4	Y Note 4	Y Note 4	Y Note 4	Y Note 4	Y Note 4	Y Note 4	Y Note 4
7.	Has the policy been formally communicated to all relevant internal and external stakeholders?	Y	Y	Y	Y	Y	Y	Y	Y	Y
8.	Does the Company have in-house structure to implement the policy/policies.	Y	Y	Y	Y	Y	Y	Y	Y	Y
9.	Does the Company have a grievance redressal mechanism related to the policy/policies to address stakeholders' grievances related to the policy/policies?	Y	Y	Y	Y	Y Note 5	Y	NA Note 3	Y	Y
10.	Has the Company carried out independent audit/evaluation of the working of this policy by an internal or external agency?	Y	Y	Y	Y	Y	Y	Y	Y	Y

203 Mahindra and Mahindra Ltd. "The Resilience to Rise. Annual Report 2015." News release, 2015. Mahindra Rise. Accessed April 10, 2016. [http://www.mahindra.com/resources/pdf/homepage/M&M Annual Report 2014-15.pdf](http://www.mahindra.com/resources/pdf/homepage/M&M%20Annual%20Report%202014-15.pdf). Pg.117.



Figure 6.2- Human Rights Training Hours<sup>204</sup>

**HUMAN RIGHTS TRAINING (MAN-HOURS)**

Sector	Junior Mgmt.		Middle Mgmt.		Senior Mgmt.		Workmen	
	No. of Hrs. of Training on Human Rights	% of Employees Trained	No. of Hrs. of Training on Human Rights	% of Employees Trained	No. of Hrs. of Training on Human Rights	% of Employees Trained	No. of Hrs. of Training on Human Rights	% of Employees Trained
MWC	1	1	1	1	1	1	0	0
MHRIL	65	12.5	27	42.1	17	57.2	216	43
Systech	1.5	0	13.5	4.5	21.5	25	1.5	0
FD	0	0	0	0	0	0	22.5	4.8
MIL	0	0	0	0	0	0	0	0
<b>Total</b>	<b>67.5</b>	<b>13.5</b>	<b>41.5</b>	<b>47.6</b>	<b>39.5</b>	<b>83.2</b>	<b>240</b>	<b>47.8</b>

Sector	Fixed Term Contract		Third Party Contract		Others	
	No. of Hrs. of Training on Human Rights	% of Employees Trained	No. of Hrs. of Training on Human Rights	% of Employees Trained	No. of Hrs. of Training on Human Rights	% of Employees Trained
MWC	0	0	0	0	0	0
MHRIL	103	0	108	17.2	44	0
Systech	1.5	0	21.5	20.5	1.5	0
FD	16.5	1.1	123	2.6	0	0
MIL	0	0	54.7	11.5	0	0
<b>Total</b>	<b>121</b>	<b>1.1</b>	<b>307.2</b>	<b>51.8</b>	<b>45.5</b>	<b>0</b>

204 “Sustainability Review 2013-2014.” Mahindra Rise. Accessed April 13, 2016. [http://www.mahindra.com/resources/pdf/sustainability/Sustainability Report 2013-14.pdf](http://www.mahindra.com/resources/pdf/sustainability/Sustainability%20Report%202013-14.pdf). Pg. 54.

## 7: Hindustan Unilever Limited: Mistreatment of Employees Suggest Divergence from Responsible Policies Treatment of Employees

Hindustan Unilever Limited (HUL) performs decently on the India Responsible Business Index, indicating that the companies' policies have to some extent integrated the norms and principles of the National Voluntary Guidelines. HUL's consideration of the NVGs reads clearly in its business responsibility reports and other policy documents. However, the company has not upheld these principles across its operations. HUL had fallen particularly short of its policy commitments related to NVG Principle Three (businesses should promote the wellbeing of all employees). HUL's responses to these violations have been long delayed, and in some cases, more symbolic than substantial. Though instances of the company's irresponsible business practices vary in scale, taken together, they provide evidence that HUL has not adequately applied its own policies under the NVGs in practice.

### Company Overview

Hindustan Unilever is India's largest Fast Moving Consumer Goods Company that operates as a subsidiary of Unilever. Unilever is one of the world's leading suppliers of fast moving consumer products and has a 67.25% shareholding in HUL.<sup>205</sup> In 1931, Unilever set up its first Indian subsidiary, Hindustan Vanaspati Manufacturing Company, followed by Lever Brothers India Limited in 1933 and United Traders Limited in 1935. These three companies merged to form HUL in November 1956.<sup>206</sup> HUL operates in the following seven business segments: soaps and detergents, personal products, beverages, foods, ice creams, chemicals and its water business. Today, HUL has over 35 brands spanning 20 categories.<sup>207</sup>

### IBRI Performance

Table 1 provides a chart of HUL's performance in CRW's inclusiveness index that includes its ranking and scores in each category. HUL is ranked 3rd in community development, 4th in inclusiveness in supply chain, 12th in employee wellbeing, 19th in community as business stakeholder and 68th in non-discrimination at workplace.<sup>208</sup> According to the CRW report, HUL was one of seven companies out of India's largest 100 to spend, in compliance with the 2013 Companies Act, at least 2 percent of its profits on social responsibility activities in the first fiscal year 2014-15.<sup>209</sup>

205 "Introduction to HUL." Hindustan Unilever Limited Website. Accessed April 25, 2016. <https://www.hul.co.in/about/who-we-are/introduction-to-hindustan-unilever/>.

206 "Introduction to HUL." Hindustan Unilever Limited Website. Accessed April 25, 2016. <https://www.hul.co.in/about/who-we-are/introduction-to-hindustan-unilever/>.

207 "Introduction to HUL." Hindustan Unilever Limited Website. Accessed April 25, 2016. <https://www.hul.co.in/about/who-we-are/introduction-to-hindustan-unilever/>.

208 "Making Growth Inclusive. Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies." October 2015. Accessed April 25, 2016. [http://responsiblebiz.org/r\\_bizimg/IRBF.pdf](http://responsiblebiz.org/r_bizimg/IRBF.pdf).

209 "Making Growth Inclusive. Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies." October 2015. Accessed April 12, 2016. [http://responsiblebiz.org/r\\_bizimg/IRBF.pdf](http://responsiblebiz.org/r_bizimg/IRBF.pdf).

Table 7.1: Hindustan Unilever’s Performance on the IRBI<sup>210</sup>

	Non-Discrimination at Workplace	Employee Wellbeing	Community Development	Inclusiveness in Supply Chain	Community as Business Stakeholder
RANKING	68	12	3	4	19
SCORE	0.38	0.61	0.91	0.58	0.13

**Policy Analysis: A Robust and Evolving Ethical Policy Infrastructure**

Based on the company’s website and published reports, HUL demonstrates very strong policy commitments as it provides clear explanations of how it upholds the principles of the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs). In the company’s annually released Business Responsibility Reports, HUL describes its activities related to each of the nine principles as per the NVGs. 211 Figure 3 in the appendix is a table from HUL’s 2014-2015 Business Responsibility Policy Report indicating that according to its own evaluations, the company abides by each of the nine principles. 212

Furthermore, HUL describes its principle-wise performance for each individual category by providing additional information on its compliance. Under each principle, the company describes various initiatives and efforts aimed at promoting the implementation of the principles. For example, under Principle Three, HUL lists 13 different mechanisms it has implemented in order to promote the wellbeing of all employees.<sup>213</sup> One example includes a dedicated e-mail address (and perhaps a 24-hour hotline, which could not be located) to which all complaints can be sent. With regards to this platform, HUL asserts that systems and mechanisms are in place to ensure non-retaliation and non-victimization of the complaint.<sup>214</sup> This indicates that on a policy level, HUL has made significant efforts to uphold its commitment under NVG Principle One to remaining accountable to stakeholders and employees. Throughout its Business Responsibility Report, HUL provides links to other policy documents that elaborate on its practices related to specific issues, such as its Sourcing Initiatives Report.<sup>215</sup>

Furthermore, in its Businesses Responsibility Report, HUL highlights its governance structure related to business responsibility issues. HUL has a Management Committee that meets on a monthly basis to review complaints, issues and concerns received under its Code of Business Principles, which is its official platform for filing complaints.<sup>216</sup> HUL states that it is fully committed to the UNGC principles and that the Company’s CoBP mechanism upholds these principles in all aspects of its business operations.<sup>217</sup> Another group in charge of addressing complaints is the Audit Committee of the Company, which reviews

210 “Making Growth Inclusive. Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies.” October 2015. Accessed April 25, 2016. [http://responsiblebiz.org/r\\_bizimg/IRBF.pdf](http://responsiblebiz.org/r_bizimg/IRBF.pdf).

211 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015.

212 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg.5.

213 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg.9.

214 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg.10.

215 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg.7.

216 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg.5.

217 *MAKING SUSTAINABLE LIVING COMMONPLACE ANNUAL REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg. 76-77.

the implementation of the CoBP on a quarterly basis.<sup>218</sup> Additionally, in 2014, the Company rolled out its Responsible Sourcing Policy (RSP) as part of its commitment to business integrity, openness, respect for universal human rights and core labor principles. Hindustan’s myriad initiatives, committees, and evaluations demonstrate a firm policy commitment to the NVG principles and an effort to enhance its transparency and accountability.

Another relevant report is HUL’s 2015 Human Rights Report, which outlines the company’s work on human rights. It includes descriptions of initiatives undertaken every year starting in 2010.<sup>219</sup> HUL has sought to establish human rights as a core value and a subject of growing consideration in its business. Rather than remaining stagnant with its policy, HUL has continually developed new initiatives and mechanisms to improve its human rights policy and practice. Figure 4 in the appendix illustrates its key milestones with regards to human rights from 2010 to 2014. In this report, HUL also identifies several areas of concern including discrimination, freedom of association and fair wages.<sup>220</sup> It goes on to outline ways by which it aims to alleviate these concerns and promote positive practices such as company-wide workshops on diversity and fair practices.<sup>221</sup> These various groups and initiatives highlight HUL’s continuous commitment to upholding strong human rights policy and practice. Overall, Hindustan Unilever’s efforts to integrate ethical considerations into its corporate policies indicate a very strong policy commitment to the NVGs.

**Corporate Practice: Regular Violations of Employee Rights**

Most of the violations committed by HUL relate to the quality of its products, its respect for employees’ labor rights, and the environmental impacts of its operations. The most severe violation occurred in 2001 when there were allegations of mercury poisoning at one of its factories that resulted in the deaths and illnesses of many former workers. Though Hindustan has provided some compensation to former employees and their families, the 15-year delay in the company’s provision of remedies, as well as persistent allegations of the now-closed factory’s enduring harm, indicate the failings of its ethical policies to be realized in its business conduct. In addition, dangerous working conditions at HUL’s India tea plantations expose inconsistencies with the company’s policies regarding respect for employees. These shortcomings are particularly evident in areas related to Principle Three of the NVGs, which states that businesses should promote the wellbeing of all employees. In order to gauge the inconsistencies between HUL’s practice and policy, it is necessary to look at its past violations and responses. Table Two lists the violations committed by HUL.

**Table 7.2: Hindustan Unilever’s Non-Compliant Corporate Practices, since 2008**

Date of Violation (month, year)	Basic detail of Complaint	Source + Link
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218 MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15. Report. Hindustan Unilever Limited, 2015. Pg.5.

219 ENHANCING LIVELIHOODS, ADVANCING HUMAN RIGHTS. HUMAN RIGHTS REPORT 2015. Report. Unilever, 2015. Pg. 2-3.

220 ENHANCING LIVELIHOODS, ADVANCING HUMAN RIGHTS. HUMAN RIGHTS REPORT 2015. Report. Unilever, 2015. Pg. 28-34.

221 ENHANCING LIVELIHOODS, ADVANCING HUMAN RIGHTS. HUMAN RIGHTS REPORT 2015. Report. Unilever, 2015. Pg. 28.

<p>2001- ongoing.</p>	<p>Hindustan Unilever faces claims that mercury contamination from its former Kodaikanal factory in India resulted in numerous worker deaths and other health issues. The factory was closed in 2001 after activists from Greenpeace and the Palni Hills Conservation Council (PHCC) pointed to a local scrapyard that contained broken thermometers and other mercury-laden wastes, which allegedly came from the factory. Greenpeace and PHCC also claimed that wastes were dumped behind a factory wall where slopes lead to Pambar Shola, an ecologically-sensitive area. Since that time, approximately 45 former workers allegedly died and 550 became ill due to mercury exposure after working at the factory.</p>	<p>The New Indian Express- <a href="http://www.newindianexpress.com/states/tamil_nadu/15-Years-on-Unilever-Pays-Workers-Affected-by-Mercury-Poisoning-in-Kodaikanal/2016/03/09/article3318269.ece">http://www.newindianexpress.com/states/tamil_nadu/15-Years-on-Unilever-Pays-Workers-Affected-by-Mercury-Poisoning-in-Kodaikanal/2016/03/09/article3318269.ece</a></p>
<p>August, 2007.</p>	<p>In 2007, management at the Unilever factory in the Doom Dooma Industrial Estate in the north eastern state of Assam, India, was trying to smash the Hindustan Lever Workers Union by locking out its 700 members and creating a fake union. Management's condition for ending the lockout is that the legitimate union must be disbanded and that all workers transfer their membership to the new union created by management. The dispute began when management withheld payment of an allowance that was to be paid to all union members. It was soon clear that management had no intention of negotiating, but was simply using the allowance dispute to smash the union. In response to this attempt, a mass sit-in protest by 700 union members was held for three days starting 3 August. Over 100 union members held a protest at Assembly Hall, the local parliament. Support has come from student, youth and social organisations, who are putting pressure on Unilever management to end the lock-out.</p>	<p>IUF- <a href="http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&amp;uid=default&amp;ID=4496&amp;view_records=1&amp;ww=1&amp;en">http://www.iuf.org/cgi-bin/dbman/db.cgi?db=default&amp;uid=default&amp;ID=4496&amp;view_records=1&amp;ww=1&amp;en</a></p>
<p>November, 2007.</p>	<p>In November 2007 the IUF logged a complaint with the OECD on behalf of the Hindustan Lever Workers Union (PPF) at our Doom Dooma factory in Assam, India. The complaint alleged that Hindustan Unilever had conspired to force workers to join a new trade union as a pre-condition</p>	<p>Unilever- <a href="http://www.indianet.nl/pdf/unilever_summary.pdf">http://www.indianet.nl/pdf/unilever_summary.pdf</a></p>



<p>2008</p>	<p>The Centre for Research on Multinational Corporations (SOMO) is a non-profit Dutch research and advisory organisation that investigates multinational companies' policies. In 2008, SOMO produced a report on "Sustainability issues in the tea sector." They argued that tea estates in India and Kenya producing for Unilever deny workers their legal rights. The report expended on the critical issues the sector is facing: "working conditions for pickers are often poor, with low wages, low job and income security, discrimination along ethnic and gender lines, lack of protective gear and inadequate basic facilities such as housing and sometimes even drinking water and food."</p>	<p>SOMO- <a href="http://kodaimercury.org/backdoor/wp-content/uploads/2014/09/Unilever-Overview-of-controversial-business-practices-2008.pdf">http://kodaimercury.org/backdoor/wp-content/uploads/2014/09/Unilever-Overview-of-controversial-business-practices-2008.pdf</a></p>
<p>April, 2013.</p>	<p>Hindustan Unilever promoters fined Rs 50 lakh by Sebi for violating norms. The regulator in its show cause notice to the promoters of HUL alleged that they had failed to file disclosures before the due date, which is on or before April 21 every year.</p>	<p>Economic Times- <a href="http://articles.economictimes.indiatimes.com/2014-02-01/news/46897890_1_yearly-disclosures-shareholding-capital-market-regulator-sebi">http://articles.economictimes.indiatimes.com/2014-02-01/news/46897890_1_yearly-disclosures-shareholding-capital-market-regulator-sebi</a></p>
<p>June, 2013.</p>	<p>Hundreds of workers of Hindustan Unilever Ltd's (HUL) marine exports unit in Chorwad have gone on a strike following the company's decision to sell off the unit to a Ratnagiri-based firm Gadre Marine. "The sale is being done in a manner as to ensure that the employment service conditions of all employees including workmen are protected. The terms of arrangement with the purchaser include continuity of service with protection of current service conditions for employees being taken over by the purchaser along with the business," the spokesman said.</p>	<p>Times of India- <a href="http://timesofindia.indiatimes.com/city/rajkot/HUL-Chorwad-workers-strike/articleshow/20595526.cms">http://timesofindia.indiatimes.com/city/rajkot/HUL-Chorwad-workers-strike/articleshow/20595526.cms</a></p>
<p>October, 2014.</p>	<p>450 workers from HUL's Silvassa factory staged a demonstration with their families outside the company's Mumbai headquarters. The workers claim that the company, doesn't believe in "collective bargaining" and refuses to engage with unions that represent the interest of most of its workforce across manufacturing sites all over India. Workers protested inadequate wages, wrongful termination of workers, and a crackdown on unions.</p>	<p>Financial Express- <a href="http://archive.financialexpress.com/news/workers-anger-strikes-hindustan-unilever/1303427">http://archive.financialexpress.com/news/workers-anger-strikes-hindustan-unilever/1303427</a></p>

June, 2015.	Fifteen individuals consisting of former workers and their families protested outside Hindustan Unilever's office to call shareholders' attention to the issue and to seek compensation from the company for the mercury pollution. Protesters stated that at least 45 workers and more than a dozen children have died due to diseases related to mercury poisoning.	The Indian Express- <a href="http://indianexpress.com/article/cities/mumbai/mercury-pollution-former-workers-from-tn-unit-protest-outside-hul-head-office/">http://indianexpress.com/article/cities/mumbai/mercury-pollution-former-workers-from-tn-unit-protest-outside-hul-head-office/</a>
June, 2015.	Hindustan Unilever Limited (HUL) has decided to recall its Chinese range of 'Knorr' instant noodles from the market pending product approval from the central food safety regulator FSSAI. HUL's decision to withdraw the product comes a day after reports that Hindustan Unilever's Chinese range of 'Knorr' instant noodles may come under the scanner of Food Safety and Standards Authority of India (FSSAI) as the product was not in its approved list.	Times of India- <a href="http://timesofindia.indiatimes.com/india/Pending-approval-from-FSSAI-HUL-withdraws-Knorr-noodles/articleshow/47620884.cms">http://timesofindia.indiatimes.com/india/Pending-approval-from-FSSAI-HUL-withdraws-Knorr-noodles/articleshow/47620884.cms</a>
August, 2015.	Bihar government on Saturday banned sale, storage, distribution and production of eleven brands of noodles, produced by seven companies, for a month. Officials said the noodles were banned for the presence of mono sodium glutamate (MSG). According to the Food Safety Standards Act, MSG is not permitted in such products. According to the lab reports, the samples of Hindustan Unilever Limited's Knorr Soupy Noodles Mast Masala had 262.09mg/kg MSG.	Times of India- <a href="http://timesofindia.indiatimes.com/city/patna/Bihar-imposes-month-long-ban-on-11-instant-noodle-brands/articleshow/48313272.cms">http://timesofindia.indiatimes.com/city/patna/Bihar-imposes-month-long-ban-on-11-instant-noodle-brands/articleshow/48313272.cms</a>

### Mercury Poisoning

The most severe violation committed by HUL occurred in 2001 after there were allegations that HUL's thermometer factory had contaminated the area with mercury and caused harm to workers' health. In 2001, Greenpeace and Palni Hills Conservation Council reported that HUL dumped 7.4 tonnes of glass waste contaminated with mercury behind the factory.<sup>222</sup> These allegations led to an organized march by over 400 residents and Greenpeace India, which marked the beginning of an ongoing battle against HUL. In 2001, HUL closed down the factory after intense campaigning by NGOs.<sup>223</sup> However, HUL denied all allegations and released a statement saying, "HUL did not dump glass waste contaminated with mercury on land behind its factory. There were no adverse impacts on the health of employees or the environment. This has been confirmed by many independent studies. There was limited impact on the soil at some spots within the factory premises which required remediation."<sup>224</sup> In 2008, protests in India and other countries urged the company to take full responsibility for this damage. Eventually, HUL sent 300kg of earth contaminated with mercury to the United States for treatment. Since the closure of the factory, reports of

222 *Erratum Annual Report and Accounts. Adding Insecurity to Life.* Report. FNV Mondiaal, 2008. Pg. 8.

223 *Erratum Annual Report and Accounts. Adding Insecurity to Life.* Report. FNV Mondiaal, 2008. Pg. 8.

224 "Kodaikanal, India. The Facts." Unilever Global Company Website. 2013. Accessed April 25, 2016. <https://www.unilever.com/sustainable-living/what-matters-to-you/kodaikanal-india.html>.

deaths of approximately 45 former workers and illnesses of 550 due to mercury exposure have been reported.<sup>225</sup>

In March 2016, the company entered into a settlement to provide the 591 former factory workers and their families an “undisclosed ex-gratia amount to the victims” as part of the deal.<sup>226</sup> The HUL executive director legal and corporate affairs, Dev Bajpai, released a statement saying, “We [HUL] have worked hard over many years to address this and find the right solution for our former workers. We, alongside all involved, are glad to see an outcome to this long-standing case.”<sup>227</sup> As a result of this undisclosed compensation agreement, the workers group agreed to withdraw its petition from the Madras High court. Hindustan’s steps to compensate its workers and rehabilitate the polluted soil indicate a responsiveness in keeping with the company’s grievance mechanisms and ethical policies. However, HUL’s belated response to the violations indicates a resistance to the principles of responsible business practice central to its policies.

Hindustan’s failure to protect its workers from mercury poisoning demonstrates a negligence that clearly violates the company’s obligations under the NVGs and its own corporate policies. In its 2015 human rights report, Hindustan describes health and safety as “non-negotiable” priorities, and asserts that the company is “relentless in our focus on improving safety through visible leadership, positive behaviour, safe systems and procedures as well as the design of our plants, facilities and products.”<sup>228</sup> Though HUL’s policy language is laudable, the company badly failed workers by failing to institute proper health and safety procedures. On the environmental front, the improper disposal of waste at HUL’s thermometer factory appears to contradict the company’s commitment to reducing its environmental footprint and reducing waste. HUL’s negligent and actively harmful operations at the thermometer plant have fallen well short of the progressive ethical standards imposed by its policy documents – and most dramatically so in areas related to employee wellbeing and the environment.

Hindustan’s Business Responsibility Report makes specific mention of the ongoing controversy surrounding its former thermometer factory at Kodaikana, but disputes allegations of its culpability and dodges criticisms of its belated response. The company reports that “several expert studies have been conducted since the factory’s closure and all have concluded that our ex-employees were not harmed by working in the former thermometer factory at Kodaikana.”<sup>229</sup> However, this claim contradicts recent independent studies that have found record-high levels of mercury in local streambeds.<sup>230</sup> To HUL’s credit, the company has self-reported the incident in its report, and has taken steps to begin the soil remediation

225 “Mercury Pollution’: Former Workers from TN Unit Protest outside HUL Head Office.” The Indian Express. June 30, 2015. Accessed April 25, 2016. <http://indianexpress.com/article/cities/mumbai/mercury-pollution-former-workers-from-tn-unit-protest-outside-hul-head-office/>. The ESG report recently downgraded HUL from ‘A’ to ‘BBB’ as news of mercury poisoning allegations resurfaced in June 2015 when fifteen former workers and their families protested outside the company’s office to seek compensation. ‘Mercury Pollution’: Former Workers from TN Unit Protest outside HUL Head Office.” The Indian Express. June 30, 2015. Accessed April 25, 2016. <http://indianexpress.com/article/cities/mumbai/mercury-pollution-former-workers-from-tn-unit-protest-outside-hul-head-office/>. *ESG HINDUSTAN UNILEVER LIMITED (HUL)*. Report. MSCI ESG Research, 2015. Pg. 1. The ESG report explains that this shows inadequate risk management systems to address such employee safety concerns. *ESG HINDUSTAN UNILEVER LIMITED (HUL)*. Report. MSCI ESG Research, 2015. Pg. 1.

226 “15 Years On, Unilever Pays Workers Affected by Mercury Poisoning in Kodaikanal.” The New Indian Express. March 9, 2016. Accessed May 03, 2016. [http://www.newindianexpress.com/states/tamil\\_nadu/15-Years-on-Unilever-Pays-Workers-Affected-by-Mercury-Poisoning-in-Kodaikanal/2016/03/09/article3318269.ece](http://www.newindianexpress.com/states/tamil_nadu/15-Years-on-Unilever-Pays-Workers-Affected-by-Mercury-Poisoning-in-Kodaikanal/2016/03/09/article3318269.ece).

227 “15 Years On, Unilever Pays Workers Affected by Mercury Poisoning in Kodaikanal.” The New Indian Express. March 9, 2016. Accessed May 03, 2016. [http://www.newindianexpress.com/states/tamil\\_nadu/15-Years-on-Unilever-Pays-Workers-Affected-by-Mercury-Poisoning-in-Kodaikanal/2016/03/09/article3318269.ece](http://www.newindianexpress.com/states/tamil_nadu/15-Years-on-Unilever-Pays-Workers-Affected-by-Mercury-Poisoning-in-Kodaikanal/2016/03/09/article3318269.ece).

228 *ENHANCING LIVELIHOODS, ADVANCING HUMAN RIGHTS. HUMAN RIGHTS REPORT 2015*. Report. Unilever, 2015. Pg. 39.

229 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15*. Report. Hindustan Unilever Limited, 2015. Pg. 14.

230 “PRESS RELEASE – Study Finds Record High Levels Mercury in Kodai Forest Sediments.” 16 June 2016. <http://kodaimercury.org/press-release-study-finds-record-high-levels-mercury-in-kodai-forest-sediment/>

process.<sup>231</sup> But it seems that these actions, as well as HUL's ultimate settlement with the former employees and their families, was likely prompted by pressure from activists rather than internal grievance mechanisms. A 2015 parody music video demanding the company resolve the environmental and public health issues stemming from the plant received over three million views,<sup>232</sup> garnering substantial popular interest and creating unwanted attention for Unilever. Though Unilever has demonstrated some transparency and accountability in its handling of the fallout from the former thermometer factory, the company's missteps have cost significant environmental damage and caused the deaths and illnesses of many former workers.

### Poor Working and Living Conditions at HUL Tea Plantations

In 2008, the Centre for Research on Multinational Corporations (SOMO) released a report claiming that tea estates in India and Kenya producing for Unilever have denied workers their legal rights and harmed the environment. In December 2008, Lipton, which is a HUL brand, announced that eight tea estates in South India had gained Rainforest Alliance certification. However, an inspection in April 2009 found that many of these claims were false. This report claims that "while the eight Indian plantations have made good progress on environmental aspects...the workers are not receiving the minimum wage to which they are entitled."<sup>233</sup> There has been little evidence of improvement in the working conditions on Hindustan's tea plantations. A 2011 report found that extensive violations persisted regarding payment of minimum wage, workers' rights to organize, substandard living conditions, and the unprotected application of pesticides.<sup>234</sup> A 2015 BBC investigation again identified "dangerous and degrading living and working conditions" at the tea plantations involving poor sanitation, low wages, child labor, and the unprotected application of chemicals.<sup>235</sup> Reports over the last many years indicate that working conditions at HUL's tea plantations fall dramatically short of the company's policy aims to prevent work-related illnesses, meet fair labor standards, and generally respect the rights and wellbeing of its employees.

HUL has made some progress in combatting injustices at its tea plantations by introducing an action plan to address sexual harassment<sup>236</sup> and partnering with various NGOs in order to improve the pay and benefits of workers.<sup>237</sup> Like many of its industry peers, HUL has repeatedly pledged to reform the working and living conditions of its employees. However, independent reports over the last several years have repeatedly found little to no improvement in the companies' respect for workers. In addition, the reforms HUL has undertaken appear to have been prompted by mounting pressure from consumer and NGO stakeholders, rather than internal grievance and redress mechanisms. Almost as troubling, the company's business responsibility report makes no mention of the injustices perpetrated at its India tea plantations or any employee grievances, even though it highlights the Rainforest Alliance certifications that have since been exposed as shams.<sup>238</sup> HUL's tea plantations have been the site of human rights and employee abuses for several years, indicating the inadequacy of HUL's response in enforcing the norms central to its policy documents and Principle Three of the NVGs.

231 "Update on Former Kodaikanal Factory." Hindustan Unilever Limited Website. March 9, 2016. Accessed April 25, 2016. <https://www.hul.co.in/about/our-position-on/kodaikanal-mercury-factory/update-on-former-kodaikanal-factory/>.

232 "Kodaikanal Won't." *jhatkaa*. <https://www.youtube.com/watch?v=nSal-ms0vcI>

233 *Erratum Annual Report and Accounts. Adding Insecurity to Life*. Report. FNV Mondiaal, 2008. Pg. 8.

234 "Precarious work in certified tea production for Unilever." SOMO. October 31, 2011. <https://www.somo.nl/precarius-work-in-certified-tea-production-for-unilever/>

235

236 "Unilever steps up efforts to address sexual harassment at its Kenyan tea plantations." SOMO. February 6, 2014. <https://www.somo.nl/unilever-steps-up-efforts-to-address-sexual-harassment-at-its-kenyan-tea-plantations/>

237 *ENHANCING LIVELIHOODS, ADVANCING HUMAN RIGHTS. HUMAN RIGHTS REPORT 2015*. Report. Unilever, 2015. Pg. 31.

238 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15*. Report. Hindustan Unilever Limited, 2015. Pg.9.

## Protests and Complaints

HUL has also been embroiled in other controversies regarding its handling of worker's unions and strikes. In 2007, management at the Unilever factory in Assam, India tried to break up the HUL Workers Union by locking out its 700 members. Management's condition for ending the lockout was that the legitimate union must be disbanded and that all workers should transfer their membership to the union created by management.<sup>239</sup> However, the dispute began when management withheld payment of an allowance that was to be paid to all union members, which led to a mass sit-in protest by 700 union members for three days. In November 2007, the Uniting Food, Farm and Hotel Workers Worldwide Union (IUF) filed a complaint with the Organization for Economic Co-Operation and Development (OECD) alleging that HUL had conspired to force workers to join a new trade union as a pre-condition for their continued employment at the factory. By doing so, the company directly breached its own code of Business Principles. According to its policy, HUL indicates that it "follows the principle of freedom of association and right to negotiate."<sup>240</sup> However, HUL denies that it breached its policy as it argues that the establishment of a new trade union was undertaken by the majority of the workers themselves and was also subject to the review and approval of the State Government. According to HUL, the new union signed a wage settlement with management and the workers fully embraced productivity norms and accepted the terms of the settlement.<sup>241</sup> Incongruities between the company and workers' versions of the situation make it difficult to identify corporate policy violations with much confidence. However, it seems unlikely these controversies would have arisen without HUL suppressing workers' rights to organize to some degree – suggesting violations of NVG Principles One and Four regarding ethical conduct and responsiveness to stakeholders.

In June 2013, hundreds of workers of HUL's marine exports unit in Chorwad, India went on a strike following the company's decision to sell of the unit to a Ratnagri-based firm Gare Marine.<sup>242</sup> HUL termed the strike as illegal and claimed that many workers had returned to work shortly after. Later, HUL released a statement saying that, "the sale is being done in a manner as to ensure that the employment service conditions of all employees including workmen are protected."<sup>243</sup> Furthermore, the company said that it was engaging with the employees and the local authorities to amicably resolve the issue and return to normalcy. The company's response to the protest indicates that it was committed to engaging in an open dialogue with the union in order to find a viable solution.

The next protest occurred in October 2014, when over 200 workers protested outside the headquarters of the firm over low wages. The workers also wanted roughly 15 of their colleagues who had been given termination orders to be reinstated.<sup>244</sup> An HUL spokesperson said that the company respected the employee's right to join or not join a legally recognized trade union or any other body representing their collective interest.<sup>245</sup> It also stated that it was working on finding a solution to resolve the situation. In this case, its practice is reflective of its policy as it actively recognized the ability for workers to join unions. It also took action by recognizing the issue and engaging in negotiations with the workers and union. Though HUL has taken steps to address workers' concerns in the wake of union and wage disputes, the

239 *Erratum Annual Report and Accounts. Adding Insecurity to Life.* Report. FNV Mondiaal, 2008. Pg. 13.

240 *MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15.* Report. Hindustan Unilever Limited, 2015. Pg.10.

241 *Labour Rights and Working Practices. A Summary of Stakeholder Concerns and Our Response.* Report. Unilever, 2009. Pg. 18.

242 "HUL Chorwad Workers Strike - Times of India." The Times of India. June 14, 2013. Accessed April 25, 2016. <http://timesofindia.indiatimes.com/city/rajkot/HUL-Chorwad-workers-strike/articleshow/20595526.cms>.

243 "HUL Chorwad Workers Strike - Times of India." The Times of India. June 14, 2013. Accessed April 25, 2016. <http://timesofindia.indiatimes.com/city/rajkot/HUL-Chorwad-workers-strike/articleshow/20595526.cms>.

244 "Workers of HUL Protest over Wages outside Head Office." Business Standard. October 31, 2014. Accessed May 03, 2016. [http://www.business-standard.com/article/companies/workers-of-hul-protest-over-wages-outside-head-office-114110100004\\_1.html](http://www.business-standard.com/article/companies/workers-of-hul-protest-over-wages-outside-head-office-114110100004_1.html).

245 "Workers of HUL Protest over Wages outside Head Office." Business Standard. October 31, 2014. Accessed May 03, 2016. [http://www.business-standard.com/article/companies/workers-of-hul-protest-over-wages-outside-head-office-114110100004\\_1.html](http://www.business-standard.com/article/companies/workers-of-hul-protest-over-wages-outside-head-office-114110100004_1.html).



fact that these conflicts have arisen regularly indicates that the company is out of step with its commitment to building a harmonious environment wherein employees' interests are respected. Though these potential violations of NVG Principle Three pale in comparison to some of HUL's other transgressions, HUL's progress in respecting worker's rights seems to lag behind the company's ambitious policy commitments.

### **Limited Evidence of Progress on Implementing Responsible Business Practices**

Though Hindustan Unilever performs relatively well on policy metrics regarding its compliance with the NVGs, in practice, the company has consistently violated laws and norms regarding respect for workers. HUL's operations have had serious public health consequences for its employees, and though the company has taken some steps to remedy these violations and compensate employees for its wrongdoings, the scale of its violations and the delays in achieving amicable solutions indicate that its business practice is not nearly as responsible as its policies might suggest. Though Hindustan Unilever has taken some steps to remedy its abuses, these measures have largely been prompted by mounting pressure from external stakeholders, and therefore do not reflect the strength of the company's grievance and oversight mechanisms. Overall, HUL's practice falls decidedly short of its policy commitments under the NVGs.

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Appendix

Figure 7.1- Principle-wise (as per NVGs) Business Responsibility Policies<sup>246</sup>

Sr. No.	Questions	P1	P2	P3	P4	P5	P6	P7	P8	P9
1	Do you have policy/policies for...	Y	Y	Y	Y	Y	Y	Y	Y	Y
2	Has the policy been formulated in consultation with the relevant stakeholders?	Y	Y	Y	Y	Y	Y	Y	Y	Y
3	Does the policy conform to any national / international standards? If yes, specify?	Y	Y	Y	Y	Y	Y	Y	Y	Y
		<p>The Code of Business Principles (CoBP) of the Company confirms to the United Nations Global Compact (UNGC) guidelines and International Labour Organisation (ILO) principles.</p> <p>The Unilever Sustainable Living Plan Progress Report conforms to Global Reporting Initiative (GRI) indicators.</p>								
4	Has the policy been approved by the Board. If yes, has it been signed by MD/owner/CEO/ appropriate Board Director?	Y	Y	Y	Y	Y	Y	Y	Y	Y
		<p>The Code of Business Principles and USLP are frameworks adopted by Unilever globally and have been adopted by the Company.</p>								
5	Does the company have a specified committee of the Board/ Director/Official to oversee the implementation of the policy?	Y	Y	Y	Y	Y	Y	Y	Y	Y
		<p>The CoBP is administered under the overall supervision of the Management Committee of the Company, headed by the Chief Executive Officer and Managing Director. The Audit Committee of the Board reviews the implementation of CoBP. The CSR Committee of the Board reviews the implementation of the USLP besides the scope that has been laid out for this Committee under the Companies Act 2013.</p>								
6	Indicate the link for the policy to be viewed online?	<p>USLP: <a href="http://www.hul.co.in/sustainable-living-2015/">www.hul.co.in/sustainable-living-2015/</a>                      CoBP: <a href="http://www.hul.co.in/aboutus/purposeandprinciples/ourprinciples/">www.hul.co.in/aboutus/purposeandprinciples/ourprinciples/</a>                      Supplier Code: <a href="http://www.hul.co.in/aboutus/purposeandprinciples/business_partner_code/">www.hul.co.in/aboutus/purposeandprinciples/business_partner_code/</a></p>								
7	Has the policy been formally communicated to all relevant internal and external stakeholders?	Y	Y	Y	Y	Y	Y	Y	Y	Y
8	Does the company have in-house structure to implement the policy/policies	Y	Y	Y	Y	Y	Y	Y	Y	Y
9	Does the Company have a grievance redressal mechanism related to the policy/policies to address stakeholders' grievances related to the policy/policies?	Y	-	Y	Y	Y	Y	-	-	Y
10	Has the company carried out independent audit/ evaluation of the working of this policy by an internal or external agency?	Y	Y	Y	Y	Y	Y	Y	Y	Y

246 MAKING SUSTAINABLE LIVING COMMONPLACE. BUSINESS RESPONSIBILITY REPORT 2014-15. Report. Hindustan Unilever Limited, 2015.

Figure 7.2- Key Milestone of HUL with Regards to Human Rights<sup>247</sup>



247 ENHANCING LIVELIHOODS, ADVANCING HUMAN RIGHTS. HUMAN RIGHTS REPORT 2015. Report. Unilever, 2015. Pg. 2-3.

**2014**

**2015**

**MOVING TOWARDS AN INCENTIVE-BASED SYSTEM FOR OUR SUPPLIERS**

**STRENGTHENING AND DEVELOPING**

Oxfam published a report on labour standards in our Vietnam operations. We agreed to this research to help us understand how to implement the UNGPs.

Endorsed Women's Empowerment Principles.

Joined the Global Social Compliance Programme.

Joined Shift's Business Learning Programme.

Devised a five-year strategy on human rights.

Strengthened the Enhancing Livelihoods ambition of the USLP by adding three new pillars, including one specifically on Human Rights (Fairness in the Workplace) and Opportunities for Women.

Launched the Responsible Sourcing Policy.

Created the Unilever Human Rights Policy Statement.

Deployed an integrated process and new system for supplier qualification, designed to encompass all the aspects developed and refined from 2012 and 2013.

Established the Procurement Code Committee.

Our Global Vice President for Social Impact becomes Vice Chair of the World Economic Forum Global Advisory Council on Human Rights.

Launched our Understanding Responsible Sourcing Audit (URSA).

Piloting the Responsible Business Partner Policy.

Published our inaugural report on Human Rights aligned with the UNGP Reporting Framework.

Will launch our Global Land Rights Policy.

Continual training and capacity building on respecting rights/ social impact.

Moving towards an incentive-based system for our suppliers.

Ongoing work through multi-stakeholder initiatives to tackle the root causes of negative human rights impacts.

Will carry out human rights impact assessments.

Continued implementation of our Safety for Women and Girls Programme.



## 8: Intentionally Misleading and Evidently Harmful: GlaxoSmithKline's Misconduct in Clinical Medical Trials

Though GlaxoSmithKline's policies demonstrate some awareness of the company's danger to the rights and interests of vulnerable populations, and assert a broad commitment to responsible business practice in the abstract, these policies are largely unrealized in GSK's corporate practice. The primary area in which GlaxoSmithKline ("GSK") violates its company policies is in its conduct of clinical medical trials in India. GSK is one of a number of large pharmaceutical companies that are increasingly conducting their testing on human subjects in India. With a few exceptions, GSK's violations in its clinical trials fall into three categories: a lack of accountability, a lack of informed consent and the explicit targeting of vulnerable populations. These violations predominantly occurred after 2005, following the relaxation of the regulatory framework for the conduct of clinical medical trials in India. GSK's violations tend to be large scale and seemingly intentional, as opposed to smaller violations stemming from negligence. Ultimately, GSK's corporate practice supports the notion that there is a need for stronger and more readily enforced regulatory framework on the conduct of medical trials in India in order to protect their most vulnerable populations from becoming human "guinea pigs."<sup>248</sup>

### Company Overview

GSK was established in India in 1924, however, the current form of GSK began its operations on 1 January, 2001 following a merger between GlaxoWellcome plc and SmithKline Beecham plc. GSK is headquartered in Brentford, UK, but boasts a presence in more than 150 markets. GSK has a wide international reach, holding research collaborations with more than 300 external organizations worldwide.<sup>249</sup> In its 2015 annual report, GSK reported a total operating profit of £10.3bn, and £2.0bn in new product sales.<sup>250</sup> In the access to medicine index, GSK ranked 1st,<sup>251</sup> and the company boasts a wide range of corporate social responsibility initiatives. In India, GSK works in pharmaceuticals and vaccines, and conducts a large amount of its research and development for new drugs in India. Currently, GSK Vaccines is the largest of its industry competitors in India, and its turnover in India at present is 2640 crores.<sup>252</sup> After the relaxation of the regulatory framework surrounding drug trials in 2005, many firms outsourced their clinical trial research to India. GSK is no exception; GSK is committed to making India a global hub for their clinical research activities.<sup>253</sup> As such, the carrying out of clinical trials for the research and development of new drugs forms the largest segment of GSK's human rights violations.

### IRBI Performance and Policy Analysis

Overall, GlaxoSmithKline ranks either poorly or average on CRW's inclusiveness rankings.<sup>254</sup> In this report, both GlaxoSmithKline Consumer Healthcare and GlaxosmithKline Pharmaceuticals are listed,

248 Buncome, Andrew and Lakhani, Nina, "Without Consent: how drug companies exploit Indian Guinea Pigs" *The Independent*. November 2011. Last Accessed April 16, 2016. <http://www.independent.co.uk/news/world/asia/without-consent-how-drugs-companies-exploit-indian-guinea-pigs-6261919.html>

249 GSK India, "Pharmaceuticals" Last accessed 29 April, 2016. <http://india-pharma.gsk.com/en-in/about-us/what-we-do/pharmaceuticals/>

250 GSK "Annual Report 2015" <http://annualreport.gsk.com/>

251 Access to Medicine Index, "Ranking" 2014, Last accessed April 29, 2016. <http://www.accesstomedicineindex.org/ranking>

252 GSK, "About us", last accessed April 30, 2016, <http://india-pharma.gsk.com/en-in/about-us/>

253 Maiti, Rituparna, and M. Raghavendra, "Clinical trials in India" *Pharmacological Research*. Vol. 56, Issue 1. July 2007. Pgs 1 – 10

254 "Making Growth Inclusive: Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies" October 2015. Corporate Responsibility Watch.

with GSK Pharmaceuticals scoring, on average, slightly better than GSK consumer healthcare. GSK Consumer Healthcare ranked poorly in non-discrimination (86), community development (85) and inclusive supply chain (90). In employee wellbeing (60) and community as business stakeholders (62), GSK consumer healthcare ranked average. GSK pharmaceuticals ranked poorly in non-discrimination (94) and employee wellbeing (78) and average in community as business stakeholders (62) and community development (39). The only category in which GSK ranked particularly well was GSK Pharmaceuticals in the inclusive supply chain category (22).

**Table 8.1: GlaxoSmithKline Pharmaceutical Limited’s Performance on the IRBI**

	<b>Non-discrimination in the workplace</b>	<b>Employee wellbeing</b>	<b>Community development</b>	<b>Inclusive supply chain</b>	<b>Community as business stakeholder</b>
<b>RANKING</b>	94	78	39	22	46
<b>SCORE</b>	0.25	0.29	0.67	0.47	0.09

**Table 8.2: GlaxoSmithKline Healthcare Limited’s Performance on the IRBI**

	<b>Non-discrimination in the workplace</b>	<b>Employee wellbeing</b>	<b>Community development</b>	<b>Inclusive supply chain</b>	<b>Community as business stakeholder</b>
<b>RANKING</b>	86	60	85	90	62
<b>SCORE</b>	0.30	0.39	0.46	0.07	0.08

**Policy Analysis: A Tentative Commitment to the NVGs**

In both Pharmaceuticals and Consumer Healthcare, GSK’s policies acknowledge the National Voluntary Guidelines, and the company purports to have policies that address each principle or policy that align with the NVGs generally. However, for each business, only one mention of the NVGs is made where they state their compliance, and specific policies addressing each of the principles have not been found. In GSK Pharmaceutical’s 2014 annual report, the company asserts, “our Business Responsibility Report follows the Securities and Exchange Board of India’s (SEBI) proposal and is in accordance with the key principles articulated in the ‘National Voluntary Guidelines on Social Environmental and Economic Responsibilities of Business.’”<sup>255</sup> In the body of the annual report (or any of the company’s policy documents), the NVGs are not mentioned. However, the document does include explanations of company policy in areas such as human rights, the environment, employee wellbeing, and stakeholder engagement.

Similarly, for GSK Consumer Healthcare, in the GSK 2014 Consumer Healthcare annual report,<sup>256</sup> the NVG principles are briefly mentioned. As seen in Table 3 below, GSK’s annual report claims that the

255 GSK India, “Annual Report for the 15 months period ended 31<sup>st</sup> March 2015” <http://india-pharma.gsk.com/media/711793/annual-report-2014.pdf> Pg. 35

256 GlaxoSmithKline Consumer Healthcare Limited “Annual Report” 2014, [http://www.gsk-ch.in/downloads/GSK\\_Annual\\_Report\\_2013.pdf](http://www.gsk-ch.in/downloads/GSK_Annual_Report_2013.pdf), pg. 11

company has policies for each principle of the NVGs that conform to international and national standards, have been adopted by the board and have an in-house structure for implementation and a grievance mechanism.

**Table 8.3: Principle-wise (as per NVGs) BR Policy/Policies<sup>257</sup>**

S. No.	Questions	P 1	P 2	P 3	P 4	P 5	P 6	P 7	P 8	P 9
1.	Do you have a policy/policies for....	Y	Y	Y	Y	Y	Y	Y	Y	Y
2.	Has the policy being formulated in consultation with the relevant stakeholders?	Y	Y	Y	Y	Y	Y	Y	Y	Y
3.	Does the policy conform to any national/international standards? If yes, specify? (50 words)*	Y	Y	Y	Y	Y	Y	Y	Y	Y
4.	Has the policy being approved by the Board? If yes, has it been signed by MD/owner/CEO/appropriate Board Director?	Y	Y	Y	Y	Y	Y	Y	Y	Y
5.	Does the company have a specified Committee of the Board/Director/ Official to oversee the implementation of the policy?	Y	Y	Y	Y	Y	Y	Y	Y	Y
6.	Indicate the link for the policy to be viewed online?	Y	Y	Y	Y	Y	Y	Y	Y	Y
7.	Has the policy been formally communicated to all relevant internal and external stakeholders?	Y	Y	Y	Y	Y	Y	Y	Y	Y
8.	Does the company have in-house structure to implement the policy/policies.	Y	Y	Y	Y	Y	Y	Y	Y	Y
9.	Does the Company have a grievance redressal mechanism related to the policy/policies to address stakeholders' grievances related to the policy/policies?	Y	Y	Y	Y	Y	Y	Y	Y	Y
10.	Has the company carried out independent audit/evaluation of the working of this policy by an internal or external agency?	Y	Y	Y	Y	Y	Y	Y	Y	Y

Finally, the annual report claims that the company has carried out an independent audit/evaluation of the working of this policy by an internal or external agency. Although the report also claims that these policies may be viewed online, I could not find specific policies that referenced the NVGs, or any other reference to the NVGs. The report mentions the company’s commitment to responsible business practice, but does not provide details or specify concrete oversight or grievance mechanisms. GSK’s characterization of its responsible business policies stands in considerable tension with CRW’s independent analysis.

In its policy, GSK mentions various international human rights documents. GSK states that it supports the UN Guiding Principles on Business and Human Rights.<sup>258</sup> In line with this, GSK has identified its clinical trials policy as one of seven priority areas to further examine, as part of its support for the Guiding Principles.<sup>259</sup> This indicates GSK’s acknowledgement of the UN GPs as relevant to its corporate practice in India (among other countries). The pharmaceutical company of GSK India also references the UN Guiding Principles on its website under the “promoting human rights” section, where a stated goal is to, “address the UN Guiding Principles on Human Right and Business across our own operations and our supplier relationships.”<sup>260</sup> The site states that GSK’s progress toward this goal is on track.

In its Human Rights Statement, GSK articulates a commitment to the Universal Declaration of Human Rights and the core labour standards set out by the International Labour organization. GSK is also a signatory to the UN Global Compact. GSK has published a document outlining its progress on its commitments under the UN Global Compact, which states each of the 21 criterion under the Compact, and the corresponding policy document (and page) with further information on how this criterion has been ad-

257 GSK Consumer Healthcare “Annual Report for the 15 months period ended March 31, 2014” last accessed 4 May, 20126 [http://www.gsk-ch.in/downloads/GSK\\_Annual\\_Report\\_2013.pdf](http://www.gsk-ch.in/downloads/GSK_Annual_Report_2013.pdf) pg. 11

258 GSK, “GSK Public Policy Positions: Human Rights Statement” January 2014. Pg. 1.

259 Business and Human Rights Resource Centre, Action Platforms, “GlaxoSmithKline” last accessed 30 April, 2016. <http://business-humanrights.org/en/glaxosmithkline-0>

260 GSK, “Our commitments” Last accessed 30 April, 2016. <http://india-pharma.gsk.com/en-in/responsibility/our-behaviour/our-commitments/>

dressed.<sup>261</sup> Though GSK’s policy focus on the NVGs leaves much to be desired, the company’s reference to prominent human rights documents does indicate a tentative commitment to the NVGs’ core principles.

### Corporate Practice: Consistent Failures to Implement Policies on Responsible Clinical Trials

GSK’s corporate practice violations almost uniformly consist of misconduct in clinical trials. Despite publishing a comprehensive policy regarding their conduct of clinical trials in the developing world,<sup>262</sup> GSK’s corporate practice includes many ethical and policy violations in its clinical trials practice in India. These violations involve intentionally targeting and/or misinforming subjects of clinical studies about the risks of participation. They appear to follow a pattern, indicating that the misconduct of clinical trials is a systemic issue resulting from either intentional business decisions or persistent negligence. External factors – such as widespread poverty and a lack of affordable medicine – render GSK’s violations even more detrimental to study subjects.

In one sense, it is not surprising to see many more violations regarding clinical trials, since new drug testing by trials is one of GSK’s primary activities in India. In the past two decades clinical trials for new drugs have increasingly moved from developed to developing countries. Against this backdrop, GSK has looked to India to be a global hub for its clinical research activities.<sup>263</sup> Insufficient government regulation, corresponding with the rise of neo-liberalism in India, as well as GSK’s failures to adequately scrutinize the procedures of outsourced clinical trials, largely account for the sharp divide between GSK’s policy and practice.

**Table 8.4: GlaxoSmithKline’s Non-Compliant Business Practices, since 2008<sup>264</sup>**

Date	Location	Basic Detail of complaint
2005 – 2012	Bhopal Memorial Hospital, Madhya Pradesh	Lack of consent and awareness of subjects from India’s lowest caste that were involved in clinical trials. Many subjects chosen were victims of a previous gas leak, so the full effects of the drug were even less known. GSK bought the rights to the drug while the trial was being conducted by another company. Allegation of misinformation about the drugs trials persist. <sup>A</sup>

A Lloyd-Roberts, Sue, “Have India’s poor become human guinea pigs?” *BBC News*. 1 November, 2012. <http://www.bbc.com/news/magazine-20136654>.

261 GSK, “United National Global Compact Communication on Progress 2014” Last accessed 30 April, 2016. <http://www.gsk.com/media/683048/ungc-communication-on-progress-2014.pdf>

262 GSK, “GSK Public policy positions: Clinical Trials in the Developing world” January 2014.

263 Maiti, Rituparna, and M. Raghavendra, “Clinical trials in India” *Pharmacological Research*. Vol. 56, Issue 1. July 2007. Pgs 1 – 10

264 Though this case study focuses on irresponsible business practices since 2008, GSK committed several notable violations outside of the specified time period. In 2005 during the company’s test trials of the breast cancer drug Lapatinib, GSK was accused of taking advantage of its test subjects’ economic vulnerability by only calling for participants who had not previously received any treatment. Furthermore, the company failed to provide patients in the study’s control group with a widely available breast cancer drug already on the market – a violation of international laws governing clinical trials. In 2007, an investigation of GSK’s trial for an HPV vaccine that led to the deaths of seven young girls found that the study suffered from a “questionable lack of ethical standards.” Srinivasan, Sanhya, “Ethical concerns in clinical trials in India: an investigation” *Centre for Studies in Ethics and Rights*, February 2009.; Tandon, Aditi, “‘Serious lapses’ in HPV vaccine trial” *The Tribune*. May 9 Last accessed April 29, 2016 <http://ahrp.org/report-blasts-unethical-hpv-vaccine-trial-in-india/>

2007 - 2009	Andhra Pradesh	Lack of informed consent in medical trials on tribal girls. Andhra Pradesh government brought out an official order (dated 2 June , 2009) asking the deputy medical and health officer in Bhadrachalam block to issue orders to all the hostel wardens and Ashram schools to sign the consent forms on behalf of the parents. In the cases of 2,763 girls, consent documents were signed en bloc by teachers, hostel wardens and head masters. In another 1,948 cases, illiterate parents were asked to put thumb impressions on documents, which they could not understand. <sup>B</sup>
May 10, 2014	India	GSK, Pfizer other global pharma companies to come under USFDA net. The fraud settlement of \$3 billion happened when GSK pleaded guilty to charges of unlawful promotion of certain prescription drugs, failure to report certain safety data and alleged false price reporting. <sup>C</sup>
June 6, 2015	India	The Competition Commission of India has slapped a Rs64-crore penalty on drug makers GlaxoSmithKline Pharmaceuticals and Sanofi for collusive bidding in the government tender for supply of meningitis vaccine for Haj pilgrims. <sup>D</sup>
2013-2015	India	Two rotavirus vaccines have been available for the past decade: RotaTeq, marketed by Merck & Co., and Rotarix, marketed by GlaxoSmithKline. Large clinical trials of both vaccines demonstrated that they were highly effective in preventing rotavirus-induced gastroenteritis — including the most severe cases — and reduced the need for hospitalization. Despite the availability of these vaccines, more than 2,000 children in the India trial received placebo injections of salt water rather than one of the available effective vaccines. <sup>E</sup>

B Tandon, Aditi, “Serious lapses’ in HPV vaccine trial” *The Tribune*. May 9 Last accessed April 29, 2016 <http://ahrp.org/report-blasts-unethical-hpv-vaccine-trial-in-india/>

C CRW violations table, no. 64

D CRW violations table, no. 62; MSCI ESG Research Inc, “Impact Monitor: GlaxoSmithKline Pharmaceuticals Limited” February 11, 2016. Pg. 3.

E Carome, Michael, “Unethical Clinical Trials Still Being Conducted in Developing Countries,” *The Huffington Post*. December 2014. Last accessed April 29, 2016. [http://www.huffingtonpost.com/michael-carome-md/unethical-clinical-trials\\_b\\_5927660.html](http://www.huffingtonpost.com/michael-carome-md/unethical-clinical-trials_b_5927660.html)

An analysis of GSK’s corporate policy violations yields three common threads: a lack of accountability, a lack of informed consent and the targeting of vulnerable communities.

### Lack of Accountability

In the context of India’s weakening regulatory framework, GSK’s outsourcing of clinical trials to India makes strategic sense, especially when companies can reduce their research costs by an estimated



60% by outsourcing the work.<sup>265</sup> However, with these economic benefits of outsourcing has come a lack of accountability, largely stemming from the lack of control the companies have over the clinical trials. So, whilst GSK can own a particular drug, they would hire a research company known as a Clinical Researching Outsourcing Organisation, to actually conduct the trials. Outsourcing makes it difficult and costly to monitor the sponsor's activities, even if the client wishes to do so. This may increase the chances of ethical violations; indeed, agency theory suggests, "that shirking increases when principals have trouble monitoring the quality of an agent's performance."<sup>266</sup> GSK's failures to effectively monitor and hold accountable outsourced clinical trials may explain why the company's corporate policies intended to protect study participants have largely gone unrealized.

### Lack of Informed Consent

A lack of informed consent pervades GSK's policy violations. The severity and scale of these violations is exemplified in the clinical trials for an HPV vaccine, beginning in 2007 and continuing until at least 2009 in the state of Andhra Pradesh. This violation was widespread, with over 2,763 forms out of 14,253 being illegally signed by wardens or principles on behalf of children, instead of a legal guardian.<sup>267</sup> Further, in another 1,948 cases, illiterate parents were asked to put thumb impressions on documents that they could not understand.<sup>268</sup> This practice is in direct violation of GSK's corporate policy on clinical trials, which states, "GSK recognises the absolute necessity of informed consent and will only ever proceed with a trial once informed consent, in a legally and ethically acceptable form, has been obtained from research participants."<sup>269</sup> However, the scale and way in which this violation was carried out suggests a common practice of intentional manipulation. Further, the fact that the government issued the order permitting the school's headmasters to sign on behalf of its students points to some level of collusion between the Andhra Pradesh state government and GSK. The prevalence of government corruption, therefore, compounds already grave issues with the procedures of GSK's outsourced clinical trials.

### Targeting of Vulnerable Populations

In many of these violations, the subjects of these drug trials are overwhelmingly people from marginalized communities in India. In itself, this does not constitute a policy violation, however, it may mean that such trials, "[exploit] the fact that most Indians do not have access to good quality and affordable care and therefore may accept offers that might provide better quality and free treatment."<sup>270</sup> As such, we see many of these trials exploiting the position of the economically vulnerable, who take part in the trial in order to get access to medicines and treatment that are otherwise unaffordable. Further, if companies do not make the medicines available post trial at affordable prices, they will continue to perpetuate this cycle of economic vulnerability and ill health of vulnerable populations.

In the GSK Lapatinib trials, conducted on subjects with advanced HER2 positive breast cancer we see the policy violations that accompany the targeting of vulnerable populations. The Lapatinib trial called for seriously ill patients who had not received treatment for their condition,<sup>271</sup> a category that immedi-

265 Buncome, Andrew and Lakhani, Nina, "Without Consent: how drug companies exploit Indian Guinea Pigs" *The Independent*. November 2011. Last Accessed April 16, 2016. <http://www.independent.co.uk/news/world/asia/without-consent-how-drugs-companies-exploit-indian-guinea-pigs-6261919.html>

266 Adobor, Henry, "Ethical Issues in Outsourcing: the case of Contract Medical Research and the Global Pharmaceutical Industry" *Journal of Business Ethics*. January 2012.

267 Tandon, Aditi, "'Serious lapses' in HPV vaccine trial" *The Tribune*. May 9 Last accessed April 29, 2016 <http://ahrp.org/report-blasts-unethical-hpv-vaccine-trial-in-india/>

268 "Report Blasts Unethical HPV Vaccine Trial in India" Last accessed 29 April, 2016 <http://ahrp.org/report-blasts-unethical-hpv-vaccine-trial-in-india/>

269 GSK, "GSK Public policy positions: Clinical Trials in the Developing world" January 2014. Last accessed 29 April, 2016. <http://www.gsk.com/media/280806/clinical-trials-in-the-developing-world-policy.pdf>

270 Srinivasan, Sanhya, "Ethical concerns in clinical trials in India: an investigation" *Centre for Studies in Ethics and Rights*. February 2009.

271 Srinivasan, Sanhya, "Ethical concerns in clinical trials in India: an investigation" *Centre for Studies in Ethics*

ately suggested economically vulnerable populations. A statement from a GSK representative suggests that patients who did not respond to Lapatinib were not guaranteed treatment after the trial.<sup>272</sup> Further, despite the approval of the drug, it was not made affordable to the vast majority of Indians that could benefit from it.<sup>273</sup> This practice violates the company's, "intention to make the medicine available following registration in the markets where the studies are conducted,"<sup>274</sup> and their "endeavor to make provisions for post-trial access to any interventions identified as beneficial in the trial."<sup>275</sup> GSK's misconduct of its clinical trials constitutes a failure to respect the interests of vulnerable and disadvantage communities – a clear violation of Principle Four of the NVGs.

### Without Corporate Accountability, Impoverished Communities Suffer

GSK's repeated violations in this arena suggest that economic incentives and a general lack of government oversight are the primary motives for the company's repeated divergence from its corporate policies. It is important to consider GSK's corporate practice in the context of the regulatory framework surrounding clinical trials in India. Neo-liberal economic, social and political norms that emerged in India during the 1990s inspired a dramatic shift towards deregulation in an effort to promote economic growth. Presumably as part of India's ambitious and optimistic attempt to attract multinational pharmaceutical companies to conduct their trials in India,<sup>276</sup> India relaxed its laws governing drug trials in 2005. Since that time, foreign drug companies "have been keen to take advantage of the country's pool of educated, English speaking doctors and the huge population from which to choose trial subjects."<sup>277</sup> This move was followed by a change in FDA policy in 2008 to no longer hold pharmaceutical companies to the standards of the World Medical Association's Helsinki Declaration while conducting human trials, representing a weakening of existing governance mechanisms in clinical study outsourcing.<sup>278</sup>

It is in this context that we find GSK's irresponsible clinical trials, which take individuals from impoverished communities as their subjects and often lack the informed consent of their participants. These issues are exacerbated by a lack of accountability, particularly in instances when GSK is outsourcing these trials. Though GSK's policies demonstrate an awareness of its frequently misleading and actively harmful clinical trial procedures, these written commitments have yet to positively impact its actual practice. This may be a reflection of the relatively recent shift in research activities to the developing world, highlighting the importance of the regulatory framework adapting to changing circumstances. In the absence of progress in government policies, or at least a stronger commitment from companies to self-regulating policies, vulnerable communities in India will likely continue to constitute the majority of those who are harmed by the unethical conduct of medical trials.

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273 Srinivasan, Sanhya, "Ethical concerns in clinical trials in India: an investigation" *Centre for Studies in Ethics and Rights*. February 2009.

274 GSK, "GSK Public policy positions: Clinical Trials in the Developing world" January 2014. Last accessed 29 April, 2016. <http://www.gsk.com/media/280806/clinical-trials-in-the-developing-world-policy.pdf>

275 GSK, "GSK Public policy positions: Clinical Trials in the Developing world" January 2014. Last accessed 29 April, 2016. <http://www.gsk.com/media/280806/clinical-trials-in-the-developing-world-policy.pdf>

276 Maiti, Rituparna, and M. Raghavendra, "Clinical trials in India" *Pharmacological Research*. Vol. 56, Issue 1. July 2007. Pgs 1 – 10

277 Lloyd-Roberts, Sue, "Have India's poor become human guinea pigs?" *BBC News*. 1 November, 2012. <http://www.bbc.com/news/magazine-20136654>

278 Adobor, Henry, "Ethical Issues in Outsourcing: the case of Contract Medical Research and the Global Pharmaceutical Industry" *Journal of Business Ethics*. January 2012.

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“Report Blasts Unethical HPV Vaccine Trial in India” Last accessed April 29, 2016 <http://ahrp.org/report-blasts-unethical-hpv-vaccine-trial-in-india/>

## 9: Sun TV: Relatively Responsible Business Practice, Despite Woefully Inadequate Policies

Sun TV is among the worst performers on CRW's India Responsible Business Index, a characterization well supported by the company's deficient policy infrastructure. Sun TV's business responsibility reports largely fail to identify specific policies or initiatives intended to strengthen its compliance with the NVGs. However, Sun TV's abysmal performance on policy metrics is not corroborated by its business practices. An analysis grounded in Sun TV's corporate practice suggests that the company occasionally violates the principles and domestic law. These incidents largely constitute violations of NVG Principle One regarding ethical conduct, transparency, and accountability. However, the relatively limited extent of these violations does not indicate that Sun TV is the regular offender that one might expect given its weak policies.

### Company Overview

Sun TV is a mass media and broadcasting company that provides regional television and radio services. The company operates television channels all over the world, but is headquartered in Tamil Nadu, India. The company also broadcasts and produces satellite television and radio software programming.<sup>279</sup> The company was founded as Sumangali Publications Private Limited in 1985 and initially ran only one broadcasting channel, but has since grown to operate many channels including Sun TV, Sun News, and Sun Music.<sup>280</sup> Overall, the company operates thirty-two television channels and forty-five FM Radio stations in several Indian languages.<sup>281</sup> Sun TV is owned by the Indian media conglomerate Sun Group, which has stakes in newspapers, magazines, film production, and sports teams across India.<sup>282</sup>

### IRBI Performance

Sun TV performs exceptionally poorly on CRW's index measuring compliance with the NVGs: the broadcasting company is ranked in the nineties across all the categories except one, including three rankings of 97th. The company's best score, in the inclusive supply chain category, only places them at 84th among the top 100 companies.<sup>283</sup> Sun TV is at the back of the pack among its peers, indicating the corporation's inadequate policy infrastructure and poor response to the NVGs.

**Table 9.1: Sun TV's Performance on the IRBI**

	Non-discrimination in the workplace	Employee wellbeing	Community development	Inclusive supply chain	Community as business stakeholder
	97	97	97	84	90
<b>SCORE</b>	0.20	0.13	0.30	0.12	0.01 <sup>17</sup>

279 "Sun TV Network Ltd.," *Reuters*, last accessed May 6, 2016. <http://in.reuters.com/finance/stocks/companyProfile?symbol=SUTV.BO>

280 "Sun TV Network Ltd.," *Economic Times*, last accessed May 6, 2016. <http://economictimes.indiatimes.com/sun-tv-network-ltd/infocompanyhistory/companyid-17994.cms>

281 "About Sun Network," *Sun TV Network Limited*, last accessed May 6, 2016. <http://www.suntv.in/company.html>

282 "Sun TV Network Ltd.," *Reuters*, last accessed May 6, 2016. <http://in.reuters.com/finance/stocks/companyProfile?symbol=SUTV.BO>

283 "Making Growth Inclusive: Analysing Inclusive Policies, Disclosures and Mechanisms of Top 100 Companies," Corporate Responsibility Watch, last accessed 5 May 2016. [http://www.corporatewatch.in/images/Making\\_Growth\\_Inclusive.pdf](http://www.corporatewatch.in/images/Making_Growth_Inclusive.pdf)



### Policy Analysis: Vague and Superficial Corporate Policies Fail to Meet NVG Principles

On its website, Sun TV has relatively few publicly available policy documents related to business responsibility and the National Voluntary Guidelines. The policies that are accessible – largely composed of a code of conduct and annual business responsibility reports – provide little to no information on how the company engages with stakeholders, respects and promotes the wellbeing of employees, provides value to customers, or many other crucial facets of responsible business conduct. Sun TV’s vague and inadequate policies indicate that the company has not made compliance with the NVGs a priority.

The company’s business responsibility report – the primary self-reporting mechanism for the NVGs – indicates that policies related to several NVG principles do not conform to international standards and/or have not received approval from the Board or CEO. Sun TV fails to elaborate on why its policies have not been formulated or approved.<sup>284</sup> When asked if its policies can be viewed online, Sun TV provides a link to the company’s general website rather than any specific code of conduct or sustainability report.<sup>285</sup> When questioned about its policies, implementation mechanisms, stakeholder consultations, and grievance mechanisms, the company affirms its compliance with NVG standards but fails to provide any specifics regarding the nature of these processes. The document also asserts that Sun TV received and resolved 27 investor complaints during FY2014-15, but provides no information regarding the nature of the complaints or their resolution.<sup>286</sup> Sun TV also fails to identify initiatives related to employee engagement (other than general professional training), environmental protection, or engagement with disadvantaged and vulnerable stakeholders.<sup>287</sup> Even relative to the frequently deficient policies of other large companies, Sun TV’s business responsibility report indicates a lack of interest in meeting the reporting requirements of the NVGs, and even more troubling, provides little evidence of a policy infrastructure that enforces principles of responsible business.

Aside from its business responsibility reports, Sun TV provides few documents related to responsible business policy. Rather than publishing comprehensive documents regarding its various policies and initiatives, Sun TV merely provides webpages entitled “Code of Conduct” or “Whistle Blower Policy” that lack the nuance and attention to detail provided by many of its peer companies’ policy documents. The “Code of Conduct” webpage – which one might expect to outline a comprehensive set of corporate policies – is abbreviated and provides no information on any concrete oversight or enforcement mechanisms. Furthermore, the code of conduct solely applies to Sun TV’s “directors and senior management.”<sup>288</sup> Though the document asserts that these individuals shall “conduct the business of the Company in accordance with applicable laws, rules, regulations, highest standards of business ethics,” it makes no references to specific domestic or international standards.<sup>289</sup> Sun TV’s website includes a smattering of other policies related to whistle blowing, related party transactions, and corporate governance.<sup>290</sup> These policies suffer from the same vagueness and abbreviation as the company’s code of conduct. Though they occasionally identify oversight committee or implementing institutions, overall, Sun TV’s policies provide very little helpful information on assessing the company’s business responsibility.

The NVG’s principles appear to have made little to no impact on Sun TV’s corporate policies. The only documents that make explicit reference to the National Voluntary Guidelines are the company’s annual financial reports. Other documents assert compliance with most policy-related obligations imposed by the NVGs, but typically neglect to describe the specific mechanisms and procedures by which these obligations are fulfilled.<sup>291</sup> They also state that Sun TV’s business responsibility initiatives do not apply to

284 “Annual Report for the Financial Year 2015,” *Sun TV Network Limited*, last accessed May 6, 2016. Pgs. 55-6.

285 “Annual Report for the Financial Year 2015,” *Sun TV Network Limited*, last accessed May 6, 2016. Pgs. 55-6.

286 “Annual Report for the Financial Year 2015,” *Sun TV Network Limited*, last accessed May 6, 2016. Pg. 57.

287 “Annual Report for the Financial Year 2015,” *Sun TV Network Limited*, last accessed May 6, 2016. Pg. 59.

288 “Code of Conduct,” *Sun TV Network Limited*, last accessed May 6, 2016. <http://www.suntv.in/codeofconduct.html>

289 “Code of Conduct,” *Sun TV Network Limited*, last accessed May 6, 2016. <http://www.suntv.in/codeofconduct.html>

290 “Whistle Blower Policy,” *Sun TV Network Limited*, last accessed May 6, 2016. <http://www.suntv.in/whistleblower.html>

291 “Annual Report for the Financial Year 2015,” *Sun TV Network Limited*, last accessed May 6, 2016. Page 55.



the company’s subsidiaries.<sup>292</sup> Overall, Sun TV’s policy documents corroborate CRW’s rankings. Sun TV has comparatively few policies related to business responsibility, and its responses to questions related to the NVGs indicate a less than robust policy infrastructure.

**Corporate Practice: Few Violations, Despite Weak Policy Infrastructure**

As a broadcasting and software company, Sun TV’s industry does not predispose the company to significant risks regarding environmental or human rights abuses. Therefore, Sun TV is unlikely to violate the standards imposed by the NVGs as egregiously as a company in the extractive or energy industry, for example. However, the company’s business conduct is by no means free of violations. One of these violations, which is still on-going, involves allegations of corruption, bribery, and anti-competitive practices in Sun TV’s purchasing of bandwidth from the government’s telecommunications ministry. The case most clearly constitutes a violation of NVG Principles One – regarding accountable, transparent, and ethical conduct – and Seven – regarding the responsible influencing of public and regulatory policy. In another prominent violation, three top executives at Sun TV were charged with sexually harassing a former female employee – a violation of the company’s obligation to promote the wellbeing of its employees and respect human rights. Though both of these violations indicate shortcomings of Sun TV’s responsible business practices, they do not indicate that Sun TV is a regular violator of the NVGs’ core principles.

**Table 9.2: Sun TV’s Non-Compliant Corporate Practices, since 2008**

Date	Violation/Controversy	Source
June 2011 - ongoing	Sun TV has been embroiled in a multi-year corruption scandal regarding the alleged rigging of the sale of bandwidth. The allegations contend that former telecommunications minister Dayanidhi Maran (the brother of Sun TV owner Kalanithi Maran) favored the Sun TV subsidiary Aircel Ltd. by granting special licenses. Sun TV’s security clearance was initially revoked by the government, but the Attorney General has since granted it while investigation continues.	Wall Street Journal: <a href="http://www.wsj.com/articles/SB10001424052702303745304576362850000702980">http://www.wsj.com/articles/SB10001424052702303745304576362850000702980</a>  The Economic Times: <a href="http://articles.economictimes.indiatimes.com/2015-06-19/news/63617190_1_security-clearance-corruption-cases-security-nod">http://articles.economictimes.indiatimes.com/2015-06-19/news/63617190_1_security-clearance-corruption-cases-security-nod</a>
December 2014	Three top executives at Sun TV were accused of sexually harassing a female former employee. Chief Operating Officer Praveen Kumar was arrested by police and charged for the crime.	The Times of India: <a href="http://timesofindia.indiatimes.com/india/Sexual-harassment-case-Sun-TV-COO-remanded-in-police-custody/articleshow/45690910.cms">http://timesofindia.indiatimes.com/india/Sexual-harassment-case-Sun-TV-COO-remanded-in-police-custody/articleshow/45690910.cms</a>

**Telecoms Corruption Case**

Sun TV has been embroiled in a corruption scandal since 2011 that has allegedly afforded the company a significant advantage over its competitors. Sun TV – owned and founded by businessman Kalanithi Maran – benefitted from a rigged sale of bandwidth operated through India’s ministry of telecommunications. Dayanidhi Maran – Kalanithi Maran’s brother – was telecommunications minister from February

[http://www.suntv.in/pdf/Finance/Annual\\_Report\\_for\\_the\\_Financial\\_Year\\_2015.pdf](http://www.suntv.in/pdf/Finance/Annual_Report_for_the_Financial_Year_2015.pdf)

292 Ibid. Page 54.

2004 until May 2007.<sup>293</sup> Dayanidhi allegedly favored the telecom company Aircel Ltd., while awarding licenses opposing investments by Aircel's parent company to Sun Direct TV.<sup>294</sup> Maran was accused of selling these telecom licenses to Sun TV at below market prices.<sup>295</sup> Sun TV was initially denied approval for security clearances for its thirty-three channels during the government's multi-year investigation, but in June of 2015, Attorney General Mukul Rohatgi ordered the corporation be granted those clearances.<sup>296</sup> Neither the investigation nor any legal actions have been finalized.

Sun TV's suspected corruption, if true, constitutes a substantial violation of the company's policies against bribery and corruption.<sup>297</sup> In its Business Responsibility Report, Sun TV asserts that despite its lack of a "formal written policy on corruption and bribery . . . controls are in place installed at every level to prevent bribery and corruption."<sup>298</sup> However, Sun TV appears to have derived substantial benefits from corruption in the sale of bandwidth, suggesting that these controls are either inadequate or superficial. The company's alleged corruption is in direct violation of Principle One of the NVGs concerning transparency, accountability and ethical conduct. In addition, the corruption charges are not mentioned in Sun TV's Business Responsibility Report, indicating a failure of the company's transparency and accountability mechanisms (also a violation of Principle One). Furthermore, Sun TV seems to have violated Principle Seven of the NVGs due to its apparent irresponsibility in lobbying for an illegal advantage over its competitors in the broadcasting sphere. As the scandal continues to unravel, more violations might very well come to light. Overall, Sun TV's telecoms scandal is a significant violation of the NVGs and – despite their limitations – the company's corporate policies.

### Sexual Harassment of Former Employee

Only one other Sun TV violation has received substantial media attention: a sexual harassment scandal involving Sun TV's Chief Operating Officer. In December of 2014, COO Praveen Kumar was arrested following a complaint submitted by a former female employee alleging sexual harassment. The female employee was formerly a programming head of Surya TV, which is Sun TV's Malayalam channel.<sup>299</sup> Surya TV channel head Saju David and vice-president of human resources P Kannan were also taken into police custody regarding the harassment charges.<sup>300</sup> After rejecting Kumar's initial bail plea, a Chennai magistrate court granted Kumar a conditional bail amounting to Rs 36 lakh.<sup>301</sup> Prosecutors opposed the bail plea, partially in consideration of three new complaints filed against Kumar in the preceding weeks.<sup>302</sup> The legal results of those three allegations, as well as the charges against David and Kannan, either remain unresolved or were not written about in online news media.

293 Romit Guha, "Sun TV Denies Role in Telecommunications Scandal," *Wall Street Journal*, June 3, 2011. <http://www.wsj.com/articles/SB10001424052702303745304576362850000702980>

294 Ibid.

295 Ibid.

296 "Sun TV surges 8% after Attorney General Mukul Rohatgi backs grant of security clearance," *Economic Times*, June 19, 2015. [http://articles.economictimes.indiatimes.com/2015-06-19/news/63617190\\_1\\_security-clearance-corruption-cases-security-nod](http://articles.economictimes.indiatimes.com/2015-06-19/news/63617190_1_security-clearance-corruption-cases-security-nod)

297 "Annual Report for the Financial Year 2015," *Sun TV Network Limited*, last accessed May 6, 2016. Page 57. [http://www.suntv.in/pdf/Finance/Annual\\_Report\\_for\\_the\\_Financial\\_Year\\_2015.pdf](http://www.suntv.in/pdf/Finance/Annual_Report_for_the_Financial_Year_2015.pdf)

298 "Annual Report for the Financial Year 2015," *Sun TV Network Limited*, last accessed May 6, 2016. Page 57. [http://www.suntv.in/pdf/Finance/Annual\\_Report\\_for\\_the\\_Financial\\_Year\\_2015.pdf](http://www.suntv.in/pdf/Finance/Annual_Report_for_the_Financial_Year_2015.pdf)

299 A. Selvaraj, "Sexual harassment case: Sun TV COO remanded in police custody," *Times of India*, Dec. 30, 2014. <http://timesofindia.indiatimes.com/india/Sexual-harassment-case-Sun-TV-COO-remanded-in-police-custody/articleshow/45690910.cms>

300 Ibid.

301 Manish Raj, "Sun TV COO gets conditional bail in sexual harassment case," *Times of India*, Jan. 13, 2015. <http://timesofindia.indiatimes.com/city/chennai/Sun-TV-COO-gets-conditional-bail-in-sexual-harassment-case/articleshow/45875337.cms>

302 Ibid.

The sexual harassment allegations constitute another significant violation of the NVGs and Sun TV's corporate policies. The alleged sexual harassment is clearly a violation of Principle Three of the NVGs, which asserts businesses' obligation to promote the wellbeing of employees. Furthermore, the charges are not mentioned in Sun TV's 2015 business responsibility disclosure, despite a question specifically asking about complaints related to sexual harassment.<sup>303</sup> Sun TV's failure to disclose the incident suggests a lack of reporting mechanisms or entrenched policies paralleling the failings of Sun TV management implicated in the case. In this instance, Sun TV again violated its obligations under Principle One of the NVGs. No policies or initiatives regarding sexual harassment in the initiative are mentioned in Sun TV's corporate policies.

Sun TV's corruption and sexual harassment scandals constitute violations of a number of various NVG Principles and the ethical and reporting obligations imposed by the NVGs. Furthermore, a disclosure in Sun TV's financial report indicates that only 216 of the company's 2005 employees are female<sup>304</sup> – a statistic that may or may not indicate a discriminatory hiring policy. Apart from these violations – but certainly not to diminish their gravity – the media record of Sun TV's conduct appears relatively unblemished. The shortcomings of Sun TV's policies, therefore, do not appear to parallel consistently unethical or illegal corporate practices.

### Industry May Explain Lack of Violations, Despite Poor Policy Infrastructure

Sun TV's policy documents and CRW rankings indicate that the company's policy infrastructure is woefully inadequate. A lack of specificity regarding the company's obligation under the NVGs is principally to blame. In addition, the company's standards of business conduct are included in the annual financial report rather than in a document singularly devoted to ethical policies. However, Sun TV's few violations suggest that in practice, the company performs better than its lack of policy commitments would suggest. A potential explanation of this divergence between policy and practice may lie in the nature of Sun TV's industry. As a broadcasting and media company, Sun TV may not have as much literacy in labour rights, human rights and environmental policies as, for example, companies in the extractive or manufacturing industries. All of these domains are indeed relevant to Sun TV's operations, but Sun TV has had to confront violations less frequently and directly than its peers in extractive or other industries. Still, if anything, the relatively few challenges to operating responsibly in the telecommunications industry bring into stark relief the minimal nature of Sun TV's policy commitments.

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