Identifying Human Rights Risks

Case Study: Challenges and learnings from a transnational mining company’s efforts to implement the U.N. Guiding Principles on Business and Human Rights in rural Peru
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### About Us
Wespath Investment Management provides investment solutions for the endowment and pension (defined contribution and defined benefit) portfolios of institutional investors, including foundations, higher education institutions, health care organizations, and churches through a broadly diversified family of daily-priced funds. Wespath’s investment process proactively incorporates environmental, social, and governance (ESG) factors through active ownership practices (engagement and proxy voting) and investments in market-rate community development loans. As of June 30, 2016, total assets under management were in excess of $20 billion.

Cover photo: Cajamarca—a city in northern Peru, located in the mountains at an altitude of 2,700 meters above sea level. The city is the capital of the region of Cajamarca in Peru.
Executive Summary

Wespath Investment Management (Wespath) expects the companies in which we invest to adopt the United Nations (U.N.) Guiding Principles on Business and Human Rights (Guiding Principles) as a means of promoting and protecting human rights and creating sustainable businesses.

In 2015, Wespath staff visited two Peruvian gold mines majority owned by Newmont Mining Corporation (Newmont) to learn first-hand how one of the world’s largest gold producers implements the Guiding Principles. Newmont’s integration of human rights concerns has generally been successful in other countries, but a combination of societal and political contexts unique to Peru have resulted in a contentious relationship with the local population.

Newmont faces several challenges in Peru:

- Avoiding the perennial “resource curse”—abundant resources can be a curse more than a blessing when wealth created from resource-related activities is seen to promote wealth inequality in poor communities.
- Overcoming legacy and mistrust—there is a general view in Peru that the mining industry has not been transparent and has been ineffective in managing relations with local populations, despite recent efforts to combat this perception.
- Managing security issues—mining companies often struggle to ensure that the security forces tasked with safeguarding their operations receive proper human rights training.
- Blurring legality and legitimacy—a company can follow the letter of the law, but its actions might still be seen as violating social contracts. Newmont is at the center of a controversy regarding property rights, in which an indigenous family and the company both claim to have rights to the same land, with the family relying on a social agreement, and Newmont pointing to a written contract.
- Shifting political dynamics—local politicians have used anti-mining rhetoric to gain popularity in communities that are not benefiting—or recognize they are benefiting—from mining-related activities.

Newmont has discovered ways to address some of these challenges, though with varying levels of success. This paper illustrates the complexity of the challenges companies face when operating in countries where human rights are not a priority or where human rights violations occur. Wespath’s experience in Peru demonstrates how these issues can escalate, negatively affecting a company’s ability to deliver long-term value. Highlighted in this paper are lessons from the field that inform our engagement with companies, and can be applied to global companies in all sectors. We firmly believe implementing the Guiding Principles is critical to creating sustainable business and investment practices.

Wespath’s Shareholder Engagement—Focus on the Mining Industry

Wespath Investment Management is a sustainable investor. We believe the integration of environmental, social and governance (ESG) factors into investments across asset classes, and our selection of external asset managers, helps to create long-term value for our participants and clients, while having a positive impact on the environment and the world around us.

As active owners, we engage companies and policymakers, urging them to create more sustainable business practices and policies. Within the mining sector, our engagement efforts have focused on both environmental impacts and human rights. We recognize that unsustainable mining practices can have negative effects on the environment, as well as present a risk to our investment portfolio—we engage companies in the sector in an effort to mitigate those effects.

This report, however, focuses on a specific case study and our efforts to gain clarity on the risks within the mining industry associated with human rights. Improving our understanding of the challenges and successes companies experience when implementing human rights policies and practices will better enable us to use our voice as active owners to improve business operations and create sustainable companies.
Shareholder Engagement—Identifying Human Rights Risks

Case Study: Challenges and learnings from a transnational mining company’s efforts to implement the U.N. Guiding Principles on Business and Human Rights in rural Peru

Introduction

“We affirm all persons as equally valuable in the sight of God... Our respect for the inherent dignity of all persons leads us to call for the recognition, protection, and implementation of the principles of The Universal Declaration of Human Rights so that communities and individuals may claim and enjoy their universal, indivisible, and inalienable rights.”

(¶162, Social Principles, The Book of Discipline of The United Methodist Church)

Wespath Investment Management (Wespath), the investment division of Wespath Benefits and Investments, a general agency of The United Methodist Church (UMC), seeks to influence change to improve the lives of those affected by human rights abuses while helping our participants and clients meet their investment goals. The United Nations (U.N.) Guiding Principles on Business and Human Rights (Guiding Principles) provide the foundation for our activities.

The Guiding Principles have gained widespread support from policymakers, companies, investors and civil society as a global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. They increasingly provide a reference for companies developing and implementing human rights policies and practices that support operational stability and societal well-being.

Wespath engages companies on human rights issues recognizing that businesses face many risks when operating in regions torn by violence, conflict and the abuse of human rights. These risks include:

- Difficulty in providing effective security to workers, local inhabitants and facilities
- Operational disruptions as a result of violence and local actions
- Legal challenges including charges of complicity and breaches of international law
- Loss of reputation and brand value
- Geo-political controversies

The U.N. Guiding Principles on Business and Human Rights

Professor John Ruggie developed the Guiding Principles framework during his tenure as the U.N. Special Representative on Business and Human Rights. The 31 Guiding Principles are built on the concepts of “protect, respect and remedy”:

- The state has a duty to protect citizens from human rights abuses including those involving corporations and business enterprises.
- Corporations have a duty to respect human rights.
- Everyone should have access to remedies (both judicial and non-judicial).

“The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate... It exists over and above compliance with national laws and regulations protecting human rights.” —U.N. Guiding Principles on Business and Human Rights

Certain sectors have a higher exposure to human rights-related risks because of the nature of their activities and the areas in which they operate. The extractives sector (oil, mining and gas industries) manages significant health and safety challenges to its workers and local communities, while also operating in resource-rich areas where the rule of law is often weak. As a result, some of the most detailed and comprehensive human rights policies and practices reflecting the Guiding Principles exist in the mining sector.

Field Visit to Peru

In 2015, Wespath staff traveled to Peru to visit two gold mines majority owned by Newmont Mining Corporation (Newmont)—Yanacocha and Conga—to learn first-hand how one of the world’s largest gold producers is implementing the Guiding Principles.

The trip provided three key learning opportunities:

1. Witness how companies are managing human rights-related issues on the ground;
2. Understand how the Guiding Principles—particularly Principles 17-21; Operational Principles, Human Rights Due Diligence—are influencing corporate activities; and
3. Gain specific insights into how to engage companies effectively in the mining sector and in other industries where human rights challenges exist.

Newmont’s experience in Peru—where the mining sector has been accused of contributing to wealth inequality and human rights abuses—demonstrates that a company can face real conflict despite its best efforts to faithfully implement the Guiding Principles.

Mining in Peru

Peru is among the top ten richest mineral countries in the world. Mining is critical to the national economy and the country’s tax revenues. The sector accounts for almost half of all private investment and half its export revenues. Therefore, many of the world’s largest mining companies have significant operations in Peru.

Mining companies face a number of challenges when operating in Peru. Community discontent linked to inequalities in wealth distribution from mining royalties, taxes (often referred to as the “resource curse”), and accusations of human rights abuses, have led to political and social protests. According to El Comercio, a leading newspaper in Peru, the country has $70 billion in mining investments paralyzed because of social conflict. To provide a sense of the scale of this disruption, the country receives between $15-20 billion annually from mining exports.
Newmont’s Operations in Peru

Newmont is one of the world’s largest gold producers. This Colorado, USA-based company has approximately 28,000 employees and contractors, with the majority located in Australia, Ghana, Indonesia, New Zealand, Peru, and the United States.

Peru accounts for approximately 20% of Newmont’s global assets; 14% of its global revenue comes from its Peruvian subsidiary, Minera Yanacocha. Based in Northern Peru’s Cajamarca province, Minera Yanacocha manages the operations of the Yanacocha mine, the fourth largest gold mine in the world.

The Yanacocha mine began operating in 1993 and was Newmont’s first in Peru. It experienced rapid growth with production nearly doubling each year before reaching its peak in 2005.

Newmont and the local community have always had a complex relationship. The Yanacocha mine has helped bring revenues and jobs to Cajamarca, but in the early 2000’s, a mercury spill by a transport contractor and planned expansion of the mine strained relations. The company cleaned up the spill and provided remediation to those affected, while also shelving expansion plans.

The Yanacocha mine is still in operation today.

The Impasse

In 2010, Newmont began development on Conga, a $5 billion mine. From the start, several local communities voiced concerns about the quantity of water required for the project, and the potential for water pollution in a fragile watershed area. These concerns escalated into violent protests and clashes with police, resulting in the deaths of five people, and which led the central government to declare a state of emergency.

Newmont halted development in November 2011. The Conga project remains paralyzed, even after the conflict between the company and anti-mining activists abated in 2014. The company does not intend to develop the Conga project in the next three to five years.

Newmont’s experiences with the Conga project underline the challenges companies face in understanding the motivations behind social protests and disruptions. While on the surface it appears that Conga’s problems stem from environmental concerns, our discussions with Newmont and other stakeholders uncovered a situation where a legacy of mistrust and activities by agitators with specific political agendas have maintained a sense of discord.

Newmont has established human rights policies incorporating the Guiding Principles and other business-focused standards, like the Voluntary Principles on Security and Human Rights (Voluntary Principles). Minera Yanacocha has implemented these policies, and Newmont has developed an engagement process with Peruvian stakeholders that seeks to maintain an informed and engaged community.

“This Newmont’s experiences with the Conga project underline the challenges companies face in understanding the motivations behind social protests and disruptions.”
While the company reports success with similar community engagement approaches and human rights policies in Ghana, the same practices have not been as effective in Peru. This highlights the challenges global companies face when trying to manage human rights-related risks across different countries.

The following pages outline some of the challenges Newmont encountered in Peru, as well as the resulting learnings. We also offer a series of engagement questions we believe will help investors better understand how global companies in multiple sectors are addressing human rights-related issues.

While this case study does not provide a comprehensive analysis of Newmont’s management of human rights, it highlights lessons from the field that can inform our ongoing engagement with all global companies.

4 http://www.voluntaryprinciples.org/
Voluntary Principles on Security and Human Rights (VPSHR): this global initiative seeks to protect human rights through leading safety and security practices. Signatories include the governments of the United States, the United Kingdom, Norway and the Netherlands, and other industry and non-governmental organization participants. Newmont reports on its efforts to implement and promote the principles on a regional basis every year.
From Principles to Practice—Lessons Learned

CHALLENGE 1

The “Resource Curse”

Resource-rich nations with weak governance have experienced the “resource curse” for decades. Corruption and wealth inequality resulting from resource distribution have created deep social conflicts in many parts of the world that are difficult to overcome. Resource companies, including those in the mining sector, are often intrinsically linked to conflict because of the wealth they create—and the inequality that often exists—near their operations. Companies and investors have been extensively engaged in initiatives, such as the Extractive Industries Transparency Initiative (EITI), to promote the open and accountable management of natural resources—but as the situation in Cajamarca illustrates, ongoing challenges remain in addressing this issue. Before the start-up of the Yanacocha mine, the Peruvian central government had minimal interaction with Cajamarca’s local government, which was dealing with numerous poverty issues, including the highest malnutrition rates in Peru. When Peru implemented its fiscal decentralization policy in the early 2000’s, the local government began receiving its share of the tax revenue generated by the mine. Fifty percent of the income taxes collected from mining operations by the central government are redistributed to local governments under Peru’s economic policy.

The influx of cash created an opportunity for increased corruption among officials in Cajamarca—an area vulnerable to exploitation because of weak governance structures. It also awakened the political interests of those who saw opportunities to influence communities surrounding the mines that had limited government representation.

Almost overnight, skilled workers began flocking to Cajamarca to work in the mining industry, earning disproportionately higher pay than the average local worker.

This situation created wealth and power inequalities, pitting groups associated with mining operations within the local community against those that were not. According to a member of civil society, the sense of fear and mistrust among the most disadvantaged grew—Newmont and Minera Yanacocha were seen as “a huge omnipotent enterprise,” disrupting their reality by taking resources the local community felt belonged to them.

Newmont and Minera Yanacocha have attempted to address many of these inequalities, in part by supporting the local community through its foundation, Asociacion Los Andes de Cajamarca (ALAC). The foundation has three main objectives: improving quality of education, building business capacity and providing support for water infrastructure. Newmont is also involved in initiatives with other mining companies, and set-up a fund that aims to help social and economic development in mining towns. Despite these initiatives and their success, they have not been able to fully alleviate tensions and prevent social conflicts.

Learning

Companies benefit from leveraging partnerships to alleviate an individual company’s burden of responsibility

Newmont’s attempts to address the “resource curse” and wealth inequality, while well intentioned, have led to several
unintended consequences that are common when corporations take on roles and/or responsibilities that a well-governed state should fulfill, including:

• **Disappointment**—falling short of communities’ expectations and driving discontent, as a company cannot be a substitute for local government. In this case, while the foundation’s efforts reached the communities closely surrounding mining operations, those living beyond this narrow radius believed they too had the right to request from the company what the state failed to provide.

• **Heightened expectations**—over-promising what a company can deliver to communities to ease tensions and gain community approval. Minera Yanacocha admits that it has struggled to manage the expectations of communities, which has resulted in greater mistrust.

• **Resentment**—providing community development that creates resentment because it is seen to marginalize, rather than bring together, different sections of local society.

Responding to these unintended consequences is far from simple, but we can draw some conclusions from discussions with Newmont and other stakeholders:

• Community development works best when it is fully integrated and in partnership with local government.

• Strict communications protocols can create a consistent message for the local community about the realistic benefits they will receive from a mining project.

• A holistic approach to “community relations” enables a company to seek ways to include communities across its supply chain, procurement and human resources departments. For example, Minera Yanacocha has redoubled its focus on supporting community members in their efforts to create contracting companies that provide services to industries beyond mining to limit dependency on one sector. In addition, Minera Yanacocha has replaced a large transnational catering company with a local catering company that provides employee meals.

• Companies need to find ways of redistributing responsibilities rather than filling all the roles and responsibilities that are necessary in an environment where weak governance exists. The company is likely to be more effective by focusing its efforts on strengthening local capabilities and forming healthy partnerships, rather than trying to do everything on its own.

• Additional partnership opportunities may exist with other companies in the industry experiencing similar challenges. Partnerships bring three key benefits by:
  – distributing the responsibility for community development across multiple institutions, releasing a single company from costs that go beyond its responsibility and from expectations that it can never meet;
  – creating a sense of inclusiveness with a company’s operations, potentially reducing protests from those who feel marginalized;
  – making it harder for political agitators to organize protests as the duty of care has been more widely distributed across various organizations.

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**Engagement themes—suggested questions**

How does the company manage the governance gap relating to social and economic development for local communities?

How does the company promote the role that the local community can play in its workforce and supply chain?

Describe how the company collaborates with local governments to provide social and economic development integrated with local government objectives and plans.

Does the company have a protocol for engaging with local communities across all stages of the project?
Legacy and Mistrust

Multiple stakeholders in Peru described a general view that the mining industry has not been transparent or responsible in its treatment of local communities affected by mining operations. This perception largely reflects past grievances linked to environmental and social mismanagement, which in some cases occurred several decades ago, before any remediation mechanisms existed to address concerns.

Negative perceptions of Newmont and Minera Yanacocha date back more than twenty years to the start of the Yanacocha mine. Early on, the company adopted a more closed and isolated approach focused on the rural communities in close proximity to the mining area, with limited community engagement in the urban center of Cajamarca. Despite the company’s most recent efforts, certain groups within local communities remain skeptical, in part because of strong legacy sentiments.

Free, Prior, Informed Consent—Framework for Community Engagement

“Free, Prior, Informed Consent” (FPIC) does not have a universally applicable definition, but governments, companies, communities, civil society and investors broadly reference it as a framework for community engagement. While a detailed analysis of FPIC is beyond the scope of this paper, we recognize ongoing work by multiple parties to clarify its definition and application, in particular in distinguishing between the concepts of “consultation” and “consent.”

Newmont has been working to combat negative perceptions of the mining industry, which date back many decades. Below, a water treatment facility ensures the water reaching local communities, including a nearby trout farm (right), is clean.
Learning

Companies benefit from identifying barriers that prevent their communications from reaching diverse groups of stakeholders

Mining companies, including Newmont, are using heightened transparency as a strategy to develop trust and change the negative image of the sector in the communities in which they operate. An example of this is continuous community engagement and consultation regarding the company’s operations. However, information does not always reach the intended audiences, and in some cases, is misunderstood.

The nature of Newmont’s agreement with Peruvian police, for example, was a source of contention among local stakeholders. Until 2015, the company maintained an agreement for security arrangements with the police to secure its operations, particularly in times of social unrest. These arrangements are detailed in a “memorandum of understanding” (MOU), which is considered best practice according to the Voluntary Principles. The MOU is publicly disclosed on Newmont’s website, and was communicated in an independent third-party report in 2009.

Despite these transparency measures, some members of civil society and local communities with whom we spoke understood the agreement as a “privatization of the police forces,” where the police no longer serves the community, but protects private interests. This perception is one of the reasons why certain groups of civil society and local communities resist the Conga mining project.

From our discussions with members of civil society, we were able to identify two aspects of Newmont’s communications strategy that might have undermined its efforts at transparency:

- The MOU and other supporting documents are published on Newmont’s website. However, some members of the local community have minimal access to computers and the Internet and might not be aware of their existence or where to find them.
- The MOU and other documents the company created to explain and defend itself against accusations of human rights abuses linked to security practices are in English, or when in Spanish, use legal terminology. As a result, some groups of the company’s intended audience are unable to fully understand them.

Disclosure and transparency are excellent strategies to tackle mistrust, but the channels through which information is disclosed need to be strategic. The Guiding Principles due diligence process advises companies to ensure all communications “…be of a form and frequency that reflect an enterprise’s human rights impacts and that are accessible to its intended audiences.”

Engagement themes—suggested questions

Does the company disclose its legal agreements with police and/or local governments in formats that are accessible and relevant to key stakeholders/audiences?

Has the company sought feedback (e.g. from civil society) on the best ways to communicate with local communities, both in terms of form and content?

6 http://s1.q4cdn.com/259923520/files/doc_downloads/south_america/yanecocha/Convenio-de-Prestación-de-Servicios-entre-la-Policía-Nacional-del-Perú-y-Minera-Yanacocha-S-R-L.pdf
From Principles to Practice—Lessons Learned

CHALLENGE 3
Managing Security Issues

The Voluntary Principles recommend companies include a clause in their MOU requesting that public security forces receive training in human rights and humanitarian law. Newmont includes this request in the agreement it has with local police forces. The company’s Security Director for the Americas is responsible for ensuring local police conduct security and human rights training.

While Minera Yanacocha has taken care to implement the Voluntary Principles, the management of security issues is complex and challenging. Minera Yanacocha relies on a division of the local police to provide security during protests that specializes in managing crowds and restoring public order. This division has been trained on human rights best practices.

Newmont’s MOU with the local police force allows the local police chief to call on other security divisions if they require additional help. During the protests in Cajamarca, the Defensoría del Pueblo (Ombudsman—the government’s official for processing grievance and complaints) explained that at the highest point of tension, the Special Operations Division (DINOES) of the police was sent to help restore public order.

In his view, this division is not accustomed to dealing with social protests and did not have adequate social conflict training, which led them to use excessive force: “Protesters were treated like terrorists and criminals, because this division of the police is used to dealing with terrorists and criminals.”

Learning

Assessing the effectiveness of security training programs can help companies mitigate risk

Newmont’s position highlights how companies can face situations (usually in times of emergency) when they have little or no control over decisions made by the police forces they rely on to provide security. Only by trying to anticipate different scenarios, can companies have advance discussions with police forces about possible, appropriate responses. These scenarios can then be incorporated in the MOU to prepare for unexpected situations.

In addition, companies benefit from understanding exactly who needs to receive human rights and security training. This is particularly important for projects in remote areas where public security forces may need outside support.

Another learning stems from the need to evaluate the effectiveness of security and human rights training that companies provide to local security forces. Research carried out by the U.N. Principles for Responsible Investment (PRI), which is currently coordinating an investor engagement with companies in the extractives sector on human rights, revealed that measuring the effectiveness of security training and performance has been a challenge for the entire mining industry.

In its 2015 report, Beyond the Mine, Newmont detailed a three-year plan to incorporate security risk assessments pertaining to human rights in order to track the effectiveness of its security training efforts.

Engagement theme—suggested questions

Does the company have an MOU with local police forces to provide security? If so, does it reflect the Voluntary Principles on Security and Human rights?

Does the company offer training programs relating to human rights and humanitarian law to its security forces? How is the success of this training measured?

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7 Wespath is a participant in this collaborative engagement project.
8 http://sustainabilityreport.newmont.com/2015/
In addition to the operational challenges described above, Newmont is also at the center of a controversy regarding property rights—referred to as the “Chaupe Family” or “Maxima Acuña” case—in which an indigenous family and the company both claim to have rights to the same land. While the situation is complex, Newmont has documents providing evidence that the project has been entitled to land in “Tragadero Grande” since 1997. A member of the Chaupe family and a member of the local community had signed these documents. However, other members of the Chaupe family claim to have documents that prove their possession rights to the land.

The situation highlights how Peru’s informal indigenous institutional systems often provide greater social legitimacy than certain legal institutions, even if they lack authority and may not reflect the equitable principles of formal law. Peruvian economist Hernando De Soto, recognized for his work on property rights, explains that only five percent of indigenous people have titles to land that, by definition in the Peruvian constitution, is theirs. On the other hand, he says, companies have enforceable property rights given by governmental institutions for natural resource extraction.

This is the case for Newmont, where evidence suggests that it has followed due legal process and has the rights to mine that territory. However, since its rights are not considered fully legitimate in the eyes of some community members, there is an ongoing perception that Newmont is violating rights, further fueling mistrust.

Companies that ‘engage’ rather than ‘transact’ can gain legitimacy in the eyes of local stakeholders

Newmont conducted a “listening study” with a targeted group of local stakeholders to gain important insights about the perceptions of the company and to learn from its past mistakes. Newmont concluded that it would have benefited from being less “transaction-focused” and more focused on consultation and engagement with local communities, not least in the process of gaining land ownership rights. Different cultures place different values on formal legal frameworks versus informal institutions and processes. Legal documents do not always confer legitimacy in the eyes of those affected by company operations.

Engagement themes—suggested questions

What steps does the company take to understand the different legal frameworks that exist in countries of operation? Are informal frameworks also considered?

Has the company engaged local communities on informal institutional systems on land and property rights?

“Indigenous institutional systems” are understood as conventions and social norms of behavior which are usually very flexible in their operation. They are usually based on kinship and lineage ties, and spiritual and cultural values and belief systems. (Indigenous and institutional profile: Limpopo River Basin by Anton Earle, Jaqui Goldin, Rose Machiridza, Daniel Malzbender, Emmanuel Manzungu, Tiego Mpho)

http://www.worldpolicy.org/journal/summer2011/this-land-is-your-land

From Principles to Practice—Lessons Learned

Complex, Shifting Political Dynamics

Peru’s political and economic system is decentralized, resulting in significant fragmentation of the main political parties and the proliferation of smaller political parties. As a result, it often proves difficult to establish consensus on decisions required by the central, regional and local governments. At the same time, the central government distributes 50% of the tax revenue collected from mining operations to regional and local governments. Political fragmentation coupled with financial inflows creates attractive incentives for local politicians hoping to gain power in mining regions.

In Cajamarca, local political leaders have used “anti-mining” rhetoric to gain popularity among communities that have failed to receive, or recognize they are receiving, any resource-related benefits. A legacy of support for extreme left-wing political groups associated with the prominent insurgent guerrilla organization, “Sendero Luminoso” (Shining Path), has further enabled the popularity of these political leaders. One particular group, “Movimiento Tierra y Libertad,” (Land and Freedom Movement) led by a former priest turned politician, successfully gained power in Cajamarca and was responsible for mobilizing some of the most remote communities that failed to benefit directly from Minera Yanacocha’s activities. The same group instigated violent social protests that ultimately brought the Conga project to a halt.

Learning

Companies can better understand risks when they continuously monitor community sentiment

Newmont has always been aware of specific political interest groups trying to engage some of the most remote communities from the Conga project. While the company understood that the interest groups were motivated to create resentment towards Newmont and Minera Yanacocha, one of the leaders at Minera Yanacocha admitted that they had underestimated the growing strength of the anti-mining movement. He indicated that if the company had been more attuned to local community sentiment, the Conga project may have been halted earlier, potentially preventing the worst social protests from occurring.

It is obviously very difficult for companies to predict events like these, particularly in unstable and complex environments. However, they highlight the benefits of a continuous due diligence process to scan and understand constantly changing operating environments and local sentiment. This continuous due diligence, if done correctly, becomes easier over time as relationships with local communities strengthen and companies gain clearer insights about how their organization is perceived.

Engagement themes—suggested questions

How often do you carry out human rights due diligence activities, as understood by the Guiding Principles?

How is the company’s human rights due diligence process, as understood by the Guiding Principles, integrated into its risk analysis strategy?

How is human rights due diligence integrated into company strategy?
Conclusion

This paper reflects the complexity of the challenges companies face when operating in countries that do not prioritize respect for human rights, or where human rights violations occur. Above all, our experience in Peru illustrates how these issues can escalate, negatively affecting a company’s ability to deliver long-term value.

These insights have helped shape Wespath’s engagement with companies on human rights issues, specifically, what engagement questions we ask and how we evaluate responses in ongoing discussions with other large mining companies. Understanding the challenges on the ground is usually the first step to asking the right questions and evaluating how companies can improve their ability to manage human rights risks.

While this paper is based on a specific mining sector example, we believe that these learnings can be applied to all companies with a global footprint. They help us successfully contribute to an important priority for the wider UMC. At the 2012 General Conference (the UMC’s quadrennial meeting of its top legislative body), the Church urged members of its investment community to encourage companies to adopt and successfully implement the Guiding Principles as a means of promoting human rights.

We intend to share these insights with other investors in order to demonstrate the importance of conducting effective engagement with companies to help mitigate human rights-related risks. We believe that engagements with companies are more powerful when investors work together to encourage dialogue about these issues.

Since 2011, the Guiding Principles have provided companies and their investors with a roadmap for managing human rights risks and generating positive impacts for local communities. While the course is rarely easy, we firmly believe it is critical to creating sustainable business practices and investments.

Daniela Jaramillo
Sustainable Investment Specialist

Daniela Jaramillo joined Wespath in December 2014. As a Sustainable Investment Specialist, she leads Wespath’s corporate governance engagement activities. Previously, Daniela worked as an ESG Analyst for London-based Legal and General Investment Management. She also worked for three years as a consultant and analyst in the energy and cleantech investment industry. Prior to that, she spent two years working in social development projects within the not-for-profit sector in Latin America. Daniela received a B.A. degree in Journalism and Communications from Universidad San Francisco de Quito, Ecuador and an MSc from the London School of Economics in Environment and Development.

Kirsty Jenkinson
Managing Director, Sustainable Investment Strategies

Kirsty Jenkinson joined Wespath in May 2014. Kirsty leads Wespath’s sustainable investment strategy team, ensuring that environmental, social and governance (ESG) issues are integrated into Wespath’s investment selection and monitoring processes. Previously, Kirsty was director of the Markets and Enterprise Program at the World Resources Institute, a Washington, D.C.-based global research organization. She also spent eight years as a Director of Governance and Sustainable Investment at F&C Asset Management and six years in the Fixed Income division of Goldman Sachs International, London. Kirsty currently sits on the board of the Business and Human Rights Resource Centre. She received an M.A. degree in International History from the University of Edinburgh, Scotland.
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The Newmont and Yanacocha teams for hosting the visit and for their openness to requests and questions, with special thanks to Nick Cotts; the organizers of the faith-based stakeholder field visit to Peru, especially Tricia Wilhelm and her team from Anglo American; the Business and Human Rights Resource Centre for its extensive online resources; Francisco Soberon from APRODEH for sharing his perspective; the Principles for Responsible Investment (PRI) for providing research and a platform for investors to discuss key human rights issues, and Anita Green from Wespath Investment Management for sharing her knowledge and experience in engaging companies in the extractives sector.