

# Human Rights Working Group Minutes – Meeting #2

Meeting #2-22 –1 June, 12.00pm to 1.30pm AEST / 2.00pm to 3.30pm NZST

**Meeting: by Zoom**

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## Attendees (52)

	First Name	Last Name	Company
1	Thomas	Abbott	Platypus Asset Management
2	Suzanne	Ballard	KPMG Banarra
3	Graeme	Barry	Australian Retirement Trust
4	Clare	Bartram	ISS ESG Australia
5	Mans	Carlsson	Ausbil Investment Management
6	Jess	Collier	Australian Retirement Trust
7	Alan	Dayeh	Point Advisory
8	Johannah	Dods	Accident Compensation Corporation
9	Lisa	Domagala	Solaris Investment Management Limited
10	Briony	Doyle Galovic	RIAA
11	Alison	Ewings	Regnan - Governance Research & Engagement
12	Matthew	Goldsack	Trust Management
13	Georgia	Hall	Maple-Brown Abbott
14	Max	Hamra	BT Financial Group
15	Sarah	Hill	HESTA
16	Tori	Huggins	RIAA
17	Madeleine	Huynh	Perennial
18	Binu	Kapoor	Morningstar Sustainalytics
19	Vanessa	Kokkinakis	Melior Investment Management
20	Jonathan	Kolieb	RMIT University
21	Lisa	Krynen	QIC - Queensland Investment Corporation
22	Fauve	Kurnadi	Red Cross
23	Robyn	Leeson	GRI - GSSB
24	Desiree	Lucchese	U Ethical

25	Mark	Lyster	Lyster & Associates
26	Navi	Mangalvedhekar	Future Super
27	Mitch	Mcnae	ANZ New Zealand Investments Limited
28	Simon	O'Connor	Carbon Growth Partners
29	Bianca	Olguin Malavisi	RIAA
30	Charlotte	O'meara	Challenger Group
31	Tejaswi	Pagadala	Dimensional Fund Advisors
32	Caroline	Paterson	Colonial First State
33	Nga	Pham	Monash Centre for Financial Studies, Monash University
34	Olivia	Pitt	H.R.L. Morrison & Co Limited
35	Emma	Pringle	Maple-Brown Abbott
36	Susan	Quinn	RIAA
37	Jillian	Reid	Mercer
38	Michael	Ryland	Centre for Social Finance Law
39	Bri	Simula	QBE Insurance Group   Group Investments
40	Rodger	Spiller	Money Matters (NZ) Ltd
41	Timothy	Stamp	Mercer
42	Shanti	Stratton	Sustainalytics
43	Els	Termaat	Loftus Peak Pty Limited
44	Kana	Thorpe	Duxton Capital Australia
45	Mark	Tindale	Ord Minnett
46	Chelsea	Traver	Evergreen Advice Limited
47	Kate	Turner	First Sentier Investors
48	Min Wah	Voon	RIAA
49	Jorge	Waayman	Harbour Asset Management, Nz
50	Oiivia	Webster	Australianethical
51	Danielle	Welsh-Rose	abrdn
52	Jane	Wu	

## Minutes

Item	Action	Delegation
<b>Welcome - Måns Carlsson (Chair, Ausbil)</b> <ul style="list-style-type: none"> <li>Acknowledgement of Country</li> <li>Motion to adopt the Minutes:(Måns Carlsson, Chair) Motion is moved: Kate Turner (First Sentier) Second: Tim Stamp (Mercer)</li> <li>Working group principles of participation and purpose (please see attachment 1)</li> </ul>		
<b>Special interest topic + Q&amp;A</b> Dr. Jonathan Kolieb (RMIT University) and Fauve Kurnadi (Australian Red Cross): <a href="#">Indicators of best practice in International Humanitarian Law as a guide for the corporate sector</a> . Recording available <a href="#">here</a> . Slides in attachment 4. <ul style="list-style-type: none"> <li>Operating in a conflict affected region increases legal, operational, financial, and reputational risks.</li> <li>Many current frameworks have excluded International Humanitarian Law (IHL). In some cases, IHL has been replaced by Human Rights Law despite there being differences between the two.</li> </ul>		

<ul style="list-style-type: none"> <li>• One distinction: In conflict zones, IHL protects businesses and their assets, including company personnel and operations.</li> <li>• Some sectors that are most vulnerable to IHL risks: mining (due to location of operations), financial services (financial links with IHL abuses), and defence sector (links to weapons that violate IHL standards).</li> <li>• Some notable examples of material risks: <ul style="list-style-type: none"> <li>◦ Lundin Oil, a Swedish oil company is being prosecuted for war crimes for violations of IHL, not human rights abuses, due to their connections with the Bashir regime in Sudan.</li> <li>◦ BNP Paribas is being investigated by French authorities for complicity in war crimes in Sudan. BNP Paribas was the foreign bank used by the Bashir regime and this financial link alone has attracted the investigation and sanctions.</li> </ul> </li> </ul> <p>Resources:</p> <ol style="list-style-type: none"> <li>1. Training: <a href="#">A one hour course to learn how to incorporate IHL from a CEO perspective</a></li> <li>2. Read: <a href="#">Seven indicators of corporate best practice in International Humanitarian Law</a></li> <li>3. Read: <a href="#">Doing responsible business in armed conflict</a></li> </ol> <p>Two questions to start considering IHL in human rights due diligence: 1) Is that business operating in a conflict zone? 2) If yes, is there IHL training that company?</p>	<p>Members are encouraged to contact <a href="#">Jonathan Kolieb</a> and <a href="#">Fauve Kurnadi</a></p>	
<p><b>Report back from sub-group</b></p> <p><b>StockWatch (Clare Bartram, ISS ESG) – see attachment 5</b></p> <ul style="list-style-type: none"> <li>• There has been an increase in human rights challenges in the countries surrounding Ukraine including: 1) restrictions to freedom of speech and free press, 2) restrictions on freedom of assembly, 3) discrimination, 4) restrictions on freedom of movement and 5) increased risk in trafficking and exploitation</li> <li>• Traffickers are also targeting refugees and unaccompanied minors. From a modern slavery perspective, refugees are particularly vulnerable. Non-Ukrainian refugees face additional challenges due to not having access to the EU's visa-free travel scheme.</li> </ul> <p><b>Modern Slavery policy and advocacy subgroup (Måns Carlsson, Ausbil)</b></p> <p>Our Modern Slavery Policy and Advocacy group has met 3 times already. The purpose of the subgroup is to help people collaborate on submissions for the Modern Slavery Act review. If members would like to join, they can email Bianca (RIAA).</p> <p>The consultation paper is expected to be published in July. Prof. John McMillan, who is running the review, is supportive of joint submissions. The government will appreciate if all suggestions could include detailed feedback, not just the 'why' but also the 'how'.</p> <p>While the government has changed, the review is likely to continue as planned.</p> <p><b>Aotearoa NZ Modern Slavery Legislation (Mitch McNae, ANZ)</b></p> <p>Aotearoa NZ is also in the process of consulting the public on modern slavery as they set out to design their own legislation. The legislation will also cover worker exploitation within the country. Aotearoa NZ members interested in collaborating on a submission or connecting with other members are encouraged to reach out to Min Wah (RIAA).</p>	<p>For more information, please contact <a href="#">Clare Bartram (ISS ESG)</a></p> <p>Email <a href="#">Bianca (RIAA)</a> to join subgroup</p> <p>Members interested in discussing, please get in</p>	

<b>Update from First Nations Peoples' Rights Working Group (Alan Dayeh, Point Advisory)</b> <ul style="list-style-type: none"> <li>The Dhawura Ngilan Business and Investor Initiative sponsors will be announced in late June or July.</li> <li>Research on the state of play for indigenous investments and how to active the market – sponsors are still needed. Organisations interested in supporting this work (potentially as part of their RAP) can contact Will Leak, BT Financial Group.</li> <li>RIAA prepared a submission for the co-design process taking place in WA regarding the Aboriginal Cultural Heritage Protection Act</li> </ul> <b>Submission to Senate Inquiry on the Application of the UN Declaration on the Rights of Indigenous Peoples (Min Wah, RIAA)</b> RIAA prepared a submission.	touch with <a href="#">Min Wah (RIAA)</a>	
<b>FY22 Review and FY23 Workplan – Min Wah (RIAA)</b> <ul style="list-style-type: none"> <li>Please see attachment 2 for updated and approved workplan FY23.</li> <li>If you have suggestions or feedback, please feel free to get in touch with Min Wah (RIAA)</li> </ul>	Get in touch with <a href="#">Min Wah (RIAA)</a>	
<b>Activities and occurrences</b> <ul style="list-style-type: none"> <li>Mandatory human rights due diligence by companies – e.g. see this <a href="#">report</a></li> <li>Research - <a href="#">Human Rights and Climate Change: A Guide for Institutional Investors – KPMG + RIAA</a></li> <li>Members interested in sharing research or other updates in futures meetings please get in touch with Min Wah (RIAA)</li> </ul>	Get in touch with <a href="#">Min Wah (RIAA)</a>	
<b>Breakout groups to collect member feedback on workplan</b>		
<b>Closing remarks - Måns Carlsson (Chair, Ausbil)</b>  Our next HRWG meeting will be on 1 September – <a href="#">register here</a> .	Register for next meeting	

## Action register FY22/23

Ref	Item	Action	Delegation	Status
19/22	Next meeting	<a href="#">register here</a> For the next meeting	All	Pending
18/22	Research and Updates	Get in touch with <a href="#">Min Wah (RIAA)</a>	All	Pending
17/22	FY23 Workplan	Get in touch with <a href="#">Min Wah (RIAA)</a>	All	Pending
16/22	Aotearoa NZ Modern Slavery Legislation	Members interested in discussing, please get in touch with <a href="#">Min Wah (RIAA)</a>	All	Pending
15/22	Modern Slavery Policy and Advocacy Subgroup	Email <a href="#">Bianca (RIAA)</a> to join subgroup	All	Pending
14/22	StockWatch	For more information, please contact <a href="#">Clare Bartram (ISS ESG)</a>	All	Pending
13/22	Special Presentation	Members are encouraged to contact <a href="#">Jonathan Kolieb</a> and <a href="#">Fauve Kurnadi</a>	All	Pending
Previous				
12/22	Next Meeting	Register for our next meeting <a href="#">here</a> .	All	Pending

11/22	Breakout Session Feedback	Additional feedback is welcomed. Please contact <a href="#">Min Wah Voon</a> (RIAA).	All	Pending
10/22	Draft Workplan FY23	Members can provide feedback to <a href="#">Min Wah Voon</a> (RIAA).	All	Pending
9/22	Member Portal	Feedback is welcomed	All	Pending
8/22	FNPRWG	Members interested in financially supporting outputs of the FNPRWG can contact <a href="#">Min Wah Voon</a> (RIAA).	All	Pending
7/22	FNPRWG	Contact <a href="#">Bianca Olguin Malavisi</a> (RIAA) for a recording of the FNPRWG	All	Pending
6/22	StockWatch report	For further details please contact <a href="#">Kate Lawrence</a> (ISS ESG)	All	Pending
5/22	MSA Subgroup	To participate in the subgroup please get in touch with <a href="#">Bianca Olguin Malavisi</a> (RIAA).	All	Pending
4/22	Presentation: HRLC	Questions can be directed to <a href="#">Freya Dinshaw</a>	All	Pending
3/22	Presentation: Disability:IN	Members encouraged to think of engagement opportunities / creating a sub group on this topic within RIAA HRWG	All	Pending
2/22	Presentation: Disability:IN	Members with additional questions are encouraged to contact <a href="#">Jill Houghton</a> and <a href="#">Brian Horn</a>	All	Pending
1/22	Presentation: Disability:IN	Members interested in signing the investor letter can find more information <a href="#">here</a> .	All	Pending
Previous				
62/21	Fair Supply Presentation	If you have any further comments or questions, please get in touch with <a href="#">Kim Randle</a>	ALL	Ongoing
61/21	TIA Presentation	If you have any further comments or questions, please get in touch with <a href="#">Lisa Caripis</a>	ALL	Ongoing
60/21	Stock Watch Report	Contact <a href="#">Clare</a> if interested in the report.	ALL	Ongoing
59/21	FNPR WG Update	If you would like to discuss further, please contact <a href="#">Alan Dayeh</a>	ALL	Ongoing
58/21	FNPR WG Sponsorship	Sponsorship opportunities exist to support First Nations people's rights work - contact <a href="#">Alan Dayeh</a> or <a href="#">Min Wah Voon</a>	ALL	Ongoing
57/21	Cultural Heritage Protection Toolkit	Toolkit will be available soon. If you have feedback once toolkit is published, please contact <a href="#">Michelle</a> , <a href="#">Claire</a> and <a href="#">Min Wah</a>	ALL	Ongoing
56/21	Forced Labour Toolkit	Please contact <a href="#">Måns Carlsson</a> with any further questions	ALL	completed
55/21	Monash Research	Any additional questions or feedback please get in touch with <a href="#">Nga Pham</a>	ALL	Ongoing
54/21	Lock the Gate	For further information please get in touch with <a href="#">Mark Lyster</a> .	ALL	Ongoing
53/21	Policy and Advocacy Subgroup	If you would like to join the Policy and Advocacy subgroup please get in touch with <a href="#">Måns Carlsson</a> or <a href="#">Min Wah</a>	ALL	Ongoing
52/21	Workplan Feedback	For general feedback on the workplan, please get in touch with <a href="#">Min Wah</a> .	ALL	Ongoing

51/21	Next Meeting	Please ensure you are registered for our next meeting <a href="#">here</a> .	ALL	Ongoing
Previous				
50/21	Further initiatives	Raise any further initiatives or items for discussion that arise out of break out room discussions with <a href="#">Mans</a> or <a href="#">Min Wah</a> .	ALL	On Going
49/21	Feedback on draft Investor Toolkit	Provide feedback on draft <a href="#">Investor Toolkit - Human rights focus on Indigenous peoples' rights and cultural heritage protection</a> . by Friday 7 July with <a href="#">Michelle</a> and <a href="#">Min Wah</a> .	ALL	In Progress
48/21	Sponsorship opportunities for First Nations peoples' rights work	Sponsorship opportunities for RIAA members exist to support the work to: (1) convert <a href="#">Dhawura Ngilan</a> cultural and heritage best practice principles into private and investor sector principles, in partnership with RIAA, First Nations Heritage Protection Alliance and UN Global Compact Network Australia, and (2) research into the state of play of First Nations Peoples' investment markets. Contact <a href="#">Alan</a> .	ALL	On Going
47/21	Engagement experiences on Xinjiang	If wish to share engagement experience with any Australian or Chinese companies on Xinjiang contact <a href="#">Clare</a> and Min Wah.	ALL	On Going
46/21	Sector Impact Mapping	Contact <a href="#">Clare</a> if interested in details of mapping of sectors against DFAT data.	ALL	On Going
45/21	Equator Principles	For further questions contact <a href="#">Rosemary</a> and <a href="#">Alan</a>	ALL	On Going
44/21	Support WA Cultural Heritage Bill	For details on how members may respond to the WA heritage bill, contact <a href="#">Min Wah (RIAA) ASAP</a> .	ALL	In Progress
43/21	Supply Chain Insights	Contact <a href="#">Dr Kevin Franklin</a> for further questions on SUPPLY CHAIN INSIGHTS Human rights, traceability and due diligence expectation	ALL	On Going
42/21	Juukan Gorge Senate Inquiry interim report	Contact <a href="#">Alan</a> or <a href="#">Min Wah</a> if interested to discuss the Juukan Gorge Senate Inquiry interim report <a href="#">recommendations</a> .	All	Ongoing
43/21	Investors Against Slavery and Trafficking	Contact <a href="#">Kate</a> if would like to know more about Investors Against Slavery and Trafficking (IAST) or <a href="#">Mans</a> regarding modern slavery and Xinjiang generally.	All	Ongoing
44/21	Climate risk and human rights	If interested to know more about the collaboration between RIAA, KPMG and Australian Human Rights Commission contact <a href="#">Suzanne</a> or <a href="#">Mark</a> .	All	Ongoing
45/21	First Nations peoples' rights working group	Contact <a href="#">Alan</a> or <a href="#">Min Wah</a> if interested in to learn more about the First Nations peoples' rights working group.	All	Ongoing
46/21	FMG	Contact <a href="#">Desiree</a> if interested with engagement with FMG and relevant First Nations stakeholders.	All	Ongoing
47/21	Corporate engagement	Contact <a href="#">Michelle</a> if interested in corporate engagement	All	Ongoing
48/21	LinkedIn group	RIAA to set up LinkedIn group. Invites will be sent to HRWG members who are encouraged to participate.	Min Wah	Completed

49/21	Human Rights Tool Kit	<a href="#">Tim</a> and <a href="#">Måns</a> to review and update Human Rights Tool Kit.	Tim & Måns	In Progress
50/21	Uluru Statement	Members who support the Uluru Statement from the Heart are encouraged to make a submission by 30 April 2021. Contact <a href="#">Dean</a> for more information.	All	Completed
51/21	2021 priorities, challenges & opportunities	Send summary of break out room discussions to <a href="#">Min Wah</a> .	All	Completed
PREVIOUS				
38/20	Acknowledge This!	<a href="#">Register</a> for workshop	All	Completed
39/20	FMG	Contact <a href="#">Desiree Lucchese</a> , U Ethical, if you hold FMG and would like to discuss.	All	Ongoing
40/20	Climate change & HR	Contact <a href="#">Mark Lyster</a> or <a href="#">Nicolette</a> if you're interested to participate in a research interview on the nexus between climate change, human rights and investors.	All	Completed
41/20	HRWG biennial review	Complete 10-minute online <a href="#">member survey</a> for HRWG biennial review and future directions.	All	Completed
28/20	Sustainable Digitalisation Project	Complete survey <a href="#">SDP survey</a> . Contact <a href="#">Ruben Langbroek</a> or Nicolette for more info	Relevant members	Completed
30/20	FNP sub-stream	Members interested to learn more and participate in the First Nations peoples' rights sub-group to contact <a href="#">Alan Dayeh</a> and also to provide feedback on issues to prioritise as part of the workstream. Members that have colleagues who self-identify as First Nations are encouraged to reach out to them and see if they are interested to join, as appropriate.	All	Completed
31/20	FPIC and Equator Principles IV	Organise presentation on Equator Principles IV and Free, Prior and Informed Consent (FPIC)	Rosemary B; Alan D	Completed
32/20	Reconciliation Action Plans (RAPs)	FNP rights sub-group to start with education and strengthening RAP process and outcomes	Alan D	Ongoing
33/20	FNP sub-stream	Share work/plans on First Nations peoples' rights between HRWG and ACSI	Liza M; Alan D; Min Wah	Completed
34/20	First Nations peoples' rights and civil society-NGO	Complete <a href="#">this 4-question survey</a> on what you'd like to learn from the First Nations peoples' rights sub-stream work with civil society and NGOs.	All	Completed
36/20	Shareholder resolutions at AGMs	ACCR investor briefings on shareholder resolutions - register here <a href="#">AGL</a> / <a href="#">BHP</a> / <a href="#">Origin</a>	Relevant members	Completed
37/20	Modern slavery	Update the group with more information at the next meeting. Liza to update with launch and formal webinar for investors.	Kate, Liza and Måns	Completed
8/20	Modern Slavery – banking-investor initiative	Invite expressions of interest for the banking-investors MSA initiative	Rosemary	Pause
18/20	Anti-Slavery Australia	Discuss co-production of videos for the finance sector with ASA.	Rosemary; Måns; Mark	Pause
24/20	Modern Slavery	Send out note on benefits of modern slavery – banks and investor conversation.	Rosemary; Mark	Pause
1/20	Rob Jolly's slide deck	Distribute to attendees	Nicolette	Completed



2/20	AO-AM MS DD	Contact Jessie Pettigrew for a copy of the MS DDQ and provide feedback by mid-May	All	Completed
3/20	Stock Watch	Distribute report to attendees	All	Completed
5/20	WDI	Maintain WDI as an agenda item to ensure we have regular process updates from any participants	Min Wah	Completed
6/20	WDI	Remove WDI from work plan	Nicolette	Completed
9/20	HRWG Work plan 2020	Circulate revised workplan and request approval for adoption	Min Wah	Completed
10/20	Succession planning HRWG Chair	Provide overview of Deputy Chair tasks and invite nominations.	Nicolette	Completed
11/20	MSA	Notify HRWG members if a change to timing requirements for reporting	Nicolette	Completed
12/20	AHRC Technology and human rights	Identify internal stakeholders that may benefit from participating in AHRC consultation	Nicolette	Completed
14/20	Special interest speakers	Invite Anti-Slavery Australia to present at June meeting	Nicolette	Completed
15/20	ASA presentation	Distribute slide deck to attendees	Min Wah	Completed
29/20	Stock Watch	Distribute Report to attendees	Min Wah	Completed
25/20	Sustainable Digitalisation Project	Send out background briefing paper and link to five question survey	Nicolette	Completed
4/20	HR corporate engagement	Contact Michelle Cameron, Refinitiv, for human rights-related corporate engagement	All	Completed
13/20	Knowledge Hub	Send any HR research to <a href="mailto:research@altiore.com">research@altiore.com</a> to build the library on this topic.	All	Completed
16/20	Anti-Slavery Australia	contact Yvette directly ( <a href="mailto:Yvette.Selim@uts.edu.au">Yvette.Selim@uts.edu.au</a> ) if you'd like to trial ASA resources.	All	Completed
19/20	Black Lives Matter	Alan Dayeh to lead a separate follow-up dialogue for members (broader than the HRWG).	Min Wah to facilitate	Completed
21/20	Investor-NGO	Express interest to work on Investor-NGO collaboration. Myrna Machuca-Sierra, Givvable, will fill the gap during Amanda's absence.	All	Completed
22/20	MS DD Questionnaire	Express interest if you'd like to be part of future discussions to review implementation of MS DD Questionnaire.	All	Completed
23/20	WDI	Members encouraged to maintain their association with WDI and subscribe to newsletter.	All	Completed
26/20	Special Interest	Participants to send Min Wah any ideas on guest speakers for meetings.	All	Completed
17/20	Anti-Slavery Australia	ASA to update HRWG on capability to integrate ASA online training into internal corporate training systems.	ASA	Completed
27/20	SDP	Share slide deck with HRWG	Min Wah	Completed
35/20	Modern slavery	Share link to register for event for financial sector on labour exploitation and human trafficking as part of the Bali process.	Min Wah	Completed
40/19	Decision making framework in high impact countries	Circulate draft paper to interested parties before EOY	Mark	On hold





## Principles of Participation

Sensitivity - Chatham House Rule

Humility - no self-promotion

Reciprocity - equal effort / equal reward

Ethical-ity - conflicts of Interest

# RIAA member Human Rights Working Group Meeting #2

Wednesday 1 June



Responsible Investment  
Association Australasia



# Human Rights Working Group Meeting #2



**Måns Carlsson**, Head of ESG at Ausbil Investment Management Limited, RIAA Board Member and Chair of RIAA's HRWG

# Purpose

The HRWG is a forum for members to:

- exchange information and resources
- update on members' activity
- collaborate on policy and research, implementation and advocacy opportunities on matters relating to human rights relevant to investors, researchers and advisers.

All this is aimed at building members' understanding and capabilities for assessing and respecting human rights, mitigating risks in investment and strengthening the companies in which funds are invested.

# RIAA Working Group – Principles

- Confidentiality
- No self-promotion
- Declaration of conflicts of interest
- Representation
- Collaboration between members
- Positive change in practice / policy
- Not engage in or discuss competitively sensitive information
- Apolitical

# The role of investors in conflict-prone areas



**Dr. Jonathan Kolieb**, Senior Lecturer, RMIT Business and Human Rights Centre



**Fauve Kurnadi**, Legal Adviser, Red Cross

# Investors, armed conflict & the laws of war

An introduction to corporate risk and responsibility under international humanitarian law

**Ms Fauve Kurnadi**, Australian Red Cross

**Dr Jonathan Kolieb**, RMIT University





**We pay our respects to the Aboriginal and Torres Strait Islander custodians of the country where we work and live, and acknowledge First Nations Elders, past, present and emerging.**

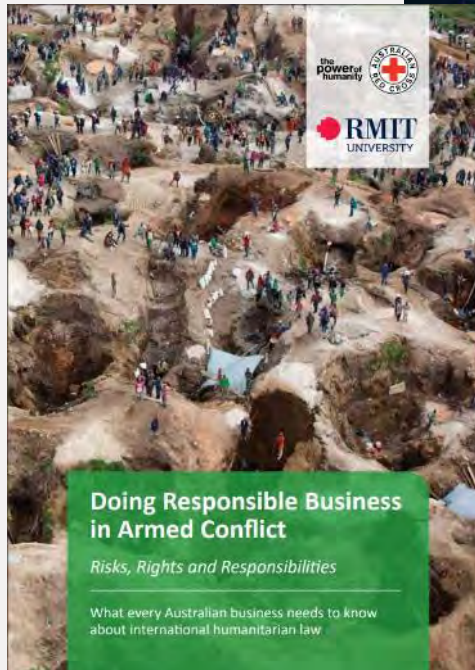
# What is international humanitarian law (IHL)?

IHL is the *specialist* legal framework applicable in wartime. These laws regulate actions and behaviour in situations of armed conflict by protecting persons who are not or who are no longer participating in hostilities, and by limiting the methods and means of warfare.



# Australian Red Cross and RMIT University:

## A joint partnership



# The relevance of IHL to businesses and investors

## Risks, rights and responsibilities

### Risks

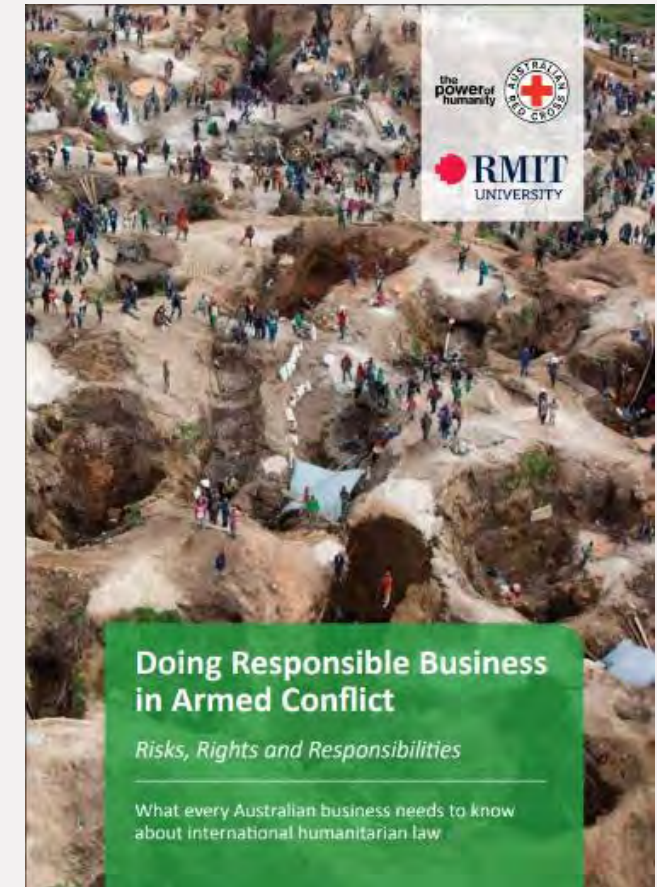
- Legal, operational, financial and reputational risks.
- Increased risk to local civilian populations.

### Rights / Protections

- Civilians, including business personnel.
- Civilian property, including business assets.
- Prohibits targeting / confiscation of private property, including business premises and investments.

### Responsibilities

- IHL is binding on any individual whose activities are *closely linked to an armed conflict*.



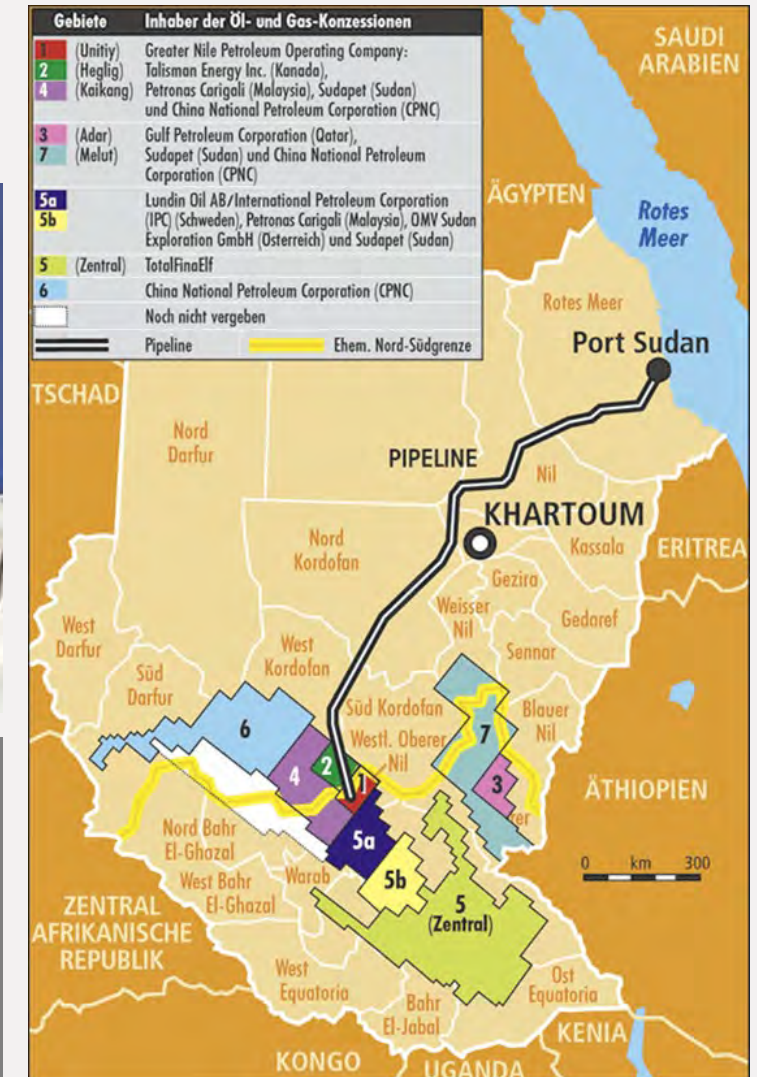


# War crimes in the business world



*‘What constitutes complicity in a criminal sense is that they made these demands [for Sudanese forces to secure their exploration zone] despite understanding or, in any case being indifferent to’ the military and the militia carrying out grave violations of international humanitarian law.’*

Chief Public Prosecutor Krister Petersson, Swedish Prosecution Authority  
Investigation into Lundin Oil for complicity in grave war crimes in Sudan



# Existing references to IHL



*“...in situations of armed conflict enterprises should respect the standards of international humanitarian law.”*



*“Understanding that governments have the primary responsibility to promote and protect human rights and that all parties to a conflict are obliged to observe applicable **international humanitarian law**, we recognize that we share the common goal of promoting respect for human rights ... and **international humanitarian law**.”*



# ‘Heightened human rights due diligence’

Having business operations or relationships in conflict-affected areas may increase the risk of being complicit in gross human rights or IHL violations. The UNGPs imply that extra care should be taken in these contexts, in the form of “enhanced” or “heightened” human rights due diligence.

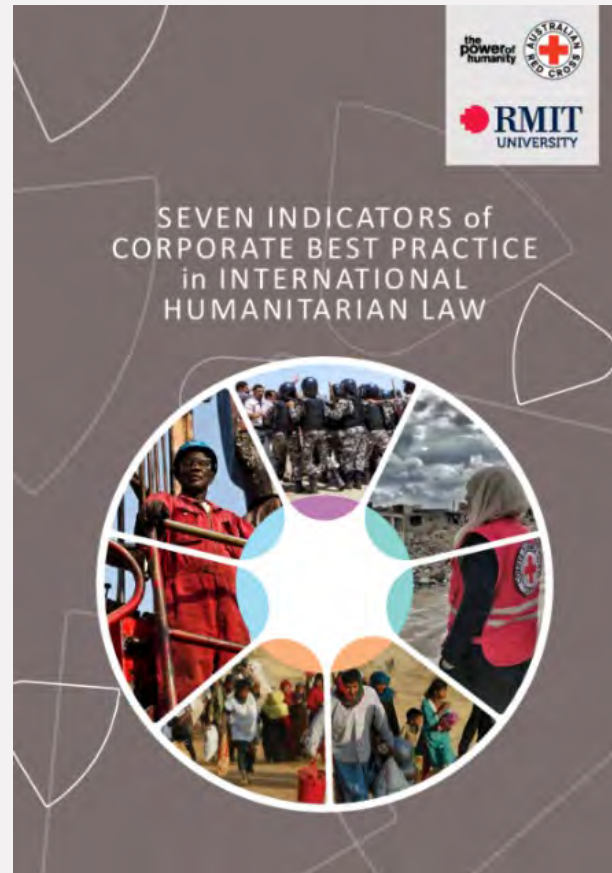
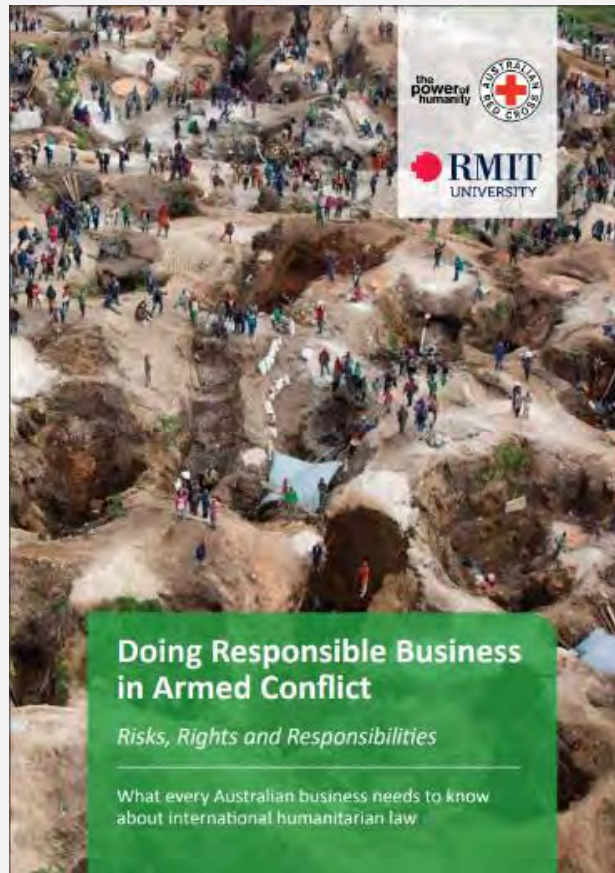
## Through an IHL lens, this means:

- Taking a conflict-sensitive approach
- Including meaningful references to IHL in relevant statements and company policies
- Providing / undertaking IHL training
- Being aware of how operations can be closely linked to an armed conflict
- Establishing processes for reporting and investigating violations of IHL





# Our resources can help



# Forthcoming research

## Context

- Events such as the conflict in Ukraine have led to heightened awareness of human rights and ESG considerations in commercial activities.
- Businesses have a limited understanding of IHL and don't include IHL considerations in their investments and operations.
- Financial institutions have considerable exposure overseas and need to be aware of how IHL applies to investment decision-making.

## Outcomes

- Understand the extent to which investors and financial institutions in Australia incorporate IHL-related matters into investment decision making.
- Develop guidance on embedding IHL in heightened human rights due diligence.
- Develop guidance on IHL implementation vis-à-vis responsible investment practices, and disclosures and reporting.

# Thank you.

## Contact details



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<https://www.redcross.org.au/ihl/business-and-ihl/>

<https://www.rmit.edu.au/research/centres-collaborations/business-and-human-rights-centre>



## Modern Slavery Policy and Advocacy Matrix - Work in progress, pros and cons not listed

Scope
<ul style="list-style-type: none"> <li>• Lower threshold for mandatory reporting</li> <li>• Alter the definition of 'modern slavery' to include other similar human rights issues</li> </ul>
Compliance
<ul style="list-style-type: none"> <li>• Penalties for non-compliance</li> <li>• Incentives for compliance, e.g. tax incentives</li> <li>• Increased powers for government to publicly name and shame companies that fail to comply (e.g. after one or two initial warnings)</li> <li>• Expand reporting to the entire value chain (not just suppliers but also customers)</li> </ul>
Governance
<ul style="list-style-type: none"> <li>• Anti-slavery commissioner, independent from government or any other government body like the Australian Human Rights Commission</li> <li>• Mandatory reviews every three years from now</li> </ul>
Implementation and effectiveness
<ul style="list-style-type: none"> <li>• Dedicated national hotline on modern slavery</li> <li>• Publication of a list of companies that should report</li> <li>• Increased public awareness through education</li> </ul>

### **Fundamental changes to the MSA**

- Encompass mandatory human rights due diligence - (This approach goes beyond the requirements of the current MSA and requires companies to assess actual and potential human rights impacts, integrate and act on findings, track responses and communicate how these impacts have been addressed)

### **Definitions / clarifications / enhanced guidance**

- Review and updated guidance
- Clearer definition of what it means to be 'addressing' modern slavery.
- Clearer definition of what the Act means about 'effectiveness'.

### **Adjacent legislation**

- National labour hire certification scheme
- National compensation scheme for victims of modern slavery in Australia, modelled on existing victim compensation schemes administered by the government
- Make directors liable when a company is not doing enough
- Expand reporting to cover specific high-risk products/regions, in line with proposed import restrictions

## Human Rights Working Group Work Plan FY22

	Initiative	Description	Tasks	Status	Collaborators / For information
1	Nexus of climate risk and human rights	Australian Human Rights Commission and RI HRWG	1. Deliver research report.	COMPLETED	KPMG Banarra – led by Mark Lyster
2	NGO Collaboration	FY22: focus on First Nations Peoples rights.	2. Collaboration with First Nations Heritage Protection Alliance.	IN PROGRESS	Myrna Machuca-Sierra (Individual) and Min Wah (RIAA)
3	Industry Collaboration	Coordinated participation with key initiatives e.g. PRI, ACSI, UN GCNA, others	3. On-going engagement and feedback to HRWG 4. Joint project with the GCNA – launched the Dhawura Ngilan Business and Investor Initiative.	IN PROGRESS	PRI – Simon O'Connor (RIAA) ACSI – Simon O'Connor (RIAA) GRI – Robyn Leeson (GRI GSSB) UNEPFI – Rosemary Bissett (NAB) IGCC, UNSW Human Rights – Pablo Berrutti (Altioem)
4	Corporate Engagement on Human Rights	Corporate engagement on a matter of high salience to human rights in Australian listed company or sector	5. Investor toolkit on Indigenous Peoples' Rights and Cultural Heritage Protection	COMPLETED	Michelle Cameron, Refinitiv (Chair) Myrna Machuca-Sierra (individual) Rachel Tinkler (Milford AM) Claire Heeps (HESTA) Danielle Welsh-Rose (Aberdeen SI) Sandra Silea (Australian Super) Abby Frank (Regnan) Måns Carlsson (Ausbil IM) Nina Haysler (Point Advisory) Alan Dayeh (Point Advisory) Min Wah Voon (RIAA) Nicolette Boele (RIAA)
5	Events	Host keynote speakers	6. Simon Carter and Ruben Langbroek, Sustainable Digitalisation Project – September 14 7. Kate Turner, Investors Against Slavery and Trafficking - November 26 8. James Fitzgerald, Australasian Centre Corporate Responsibility – March 25	IN PROGRESS	

			9. Kevin Franklin, ELEVATE – June 23 10. Kim Randle, Fair Supply – September 14 11. Carsten Primdal, ACAN – November 25 12. Jill Houghton, Brian Horn, Disability:IN & Freya Dinshaw, HRLW – March 3		
6	Stock Watch	Maintain a watching-brief on emerging company controversies	13. Update meeting on recent matters of interest, with a focus on Australian equities	ONGOING	Clare Bartram and Kate Lawrence (ISS ESG Australia)
7	First Nations Peoples' rights	A long-standing issue for investors. Build off #BLM movement, Juukan Gorge disaster, ASFI recommendations.	14. Launch First Nations Peoples' Rights working group with workplan.	COMPLETED	Alan Dayeh, Chair and Objective Leads: 1. Min Wah Voon (RIAA) 2. Myrna Machuca-Sierra (Individual) 3. Deborah Cotton (UTS) 4. Claire Heeps (HESTA) 5. Will Leak (BT) 6. Julia Bailey (Melior) 7. Rachel Tinkler (Milford Asset Management)
8	Sustainable Digitalization	Developing ESG indicators for investors to better manage digitalization (AI) risks and opportunities – property and infra	15. Survey members to determine materiality of issues 16. Feed into existing process, the investor lens 17. Trial ESG indicators in company valuation and engagements	IN PROGRESS	<b>Inviting expressions of interest</b> Michelle Cameron (Refinitiv)
9	Human Rights toolkit (Focus on supply chains)	Update the Human Rights tool kit including exploring available supply chain software, services and mapping tools.	18. Update human rights toolkit	COMPLETED	Tim Stamp (Mercer Australia), Måns Carlsson (Ausbil IM) and Janelle Morrison (Ausbil IM)
10	Modern Slavery policy and advocacy subgroup	First meeting to be held in March 2022, in anticipation of review of Modern Slavery Act.		TBC	
	Year's Meeting Schedule		<b>2021</b> September 14 November 25 <b>2022</b> March 3 June 1		



## Human Rights Working Group Work Plan FY23

	Initiative	Remarks	Tasks	Status	Collaborators / For information
1	Modern Slavery Policy and Advocacy Subgroup	We have created this for our members in anticipation of: Australian Modern Slavery Act review in 2022 and Aotearoa New Zealand Modern Slavery consultations. Regular meetings are held between March 2022 and September 2022.	<ol style="list-style-type: none"> <li>1. Develop a matrix which outlines all potential suggestions for a submission</li> <li>2. Group members into small groups to develop submissions</li> </ol>	In progress	<p>Måns Carlsson (co-lead) (Ausbil)</p> <p>Kate Turner (co-lead) (First Sentier Investors)</p> <p>Rosemary Bissett (NAB)</p> <p>Liza McDonald (Aware)</p> <p>Jackie Radisich (Future Super)</p> <p>Will Leak (BT Financial Group)</p> <p>Lauren Solomon (Perpetual)</p> <p>Desiree Lucchese (U-Ethical)</p> <p>Nga Pham (Monash)</p> <p>Rosalind McKay (Cbus)</p> <p>Lisa Domagala (Solaris Wealth)</p> <p>Clare Bartram (ISS-ESG)</p> <p>Annabel Hart (Point Advisory)</p> <p>Nina Haysler (Australian Retirement Trusts)</p> <p>Sarah Hill (HESTA)</p> <p>Kana Thorpe (Duxton AM)</p> <p>Susan Quinn (RIAA)</p> <p>Geoffroy Sheehan (Teachers Mutual Bank)</p> <p>Courtney Ban (EY)</p> <p>Julia Bailey (Melior)</p> <p>Frida Panayi (PwC)</p> <p>Brenna Pavey (Q Super)</p> <p>Tania Sibree (EY)</p> <p>Kelly Seo (CEFC)</p> <p>Cassandra Chan (New Forests)</p> <p>Paul Kennedy (New Forests)</p> <p>Nina Wilkinson (Melior)</p> <p>Max Hamra (BT Financial Group)</p> <p>Jessie Pettigrew (BT Financial Group)</p>

2	Investor Toolkit #1 – theme TBD	Theme TBD – options include a) Conflict and international humanitarian law, b) Disability inclusion, c) Big tech and human rights		Pending	
3	Investor Toolkit #2 – theme TBD	As above.		Pending	
4	Human rights due diligence mandatory reporting for corporations	Human Rights Law Centre and others are working in 2022-2024 to progress the introduction of this in Australia.	1. Explore role for investors and RIAA with HRLC	In progress	
5	Events	Host Keynote Speakers	<ul style="list-style-type: none"> <li>• #1 September 1</li> <li>• #2 November 9</li> <li>• #3 2023</li> <li>• #4 2023</li> </ul>	In progress	
6	Corporate engagement - TBD	<p>In FY22, our corporate engagement subgroup led our Investor toolkit on Indigenous Peoples' Rights and Cultural Heritage Protection.</p> <p>What should we focus on in FY23?</p>		TBD	
7	Civil society Collaboration - TBD	The focus for FY23 may be the progression of human rights due diligence mandatory reporting (see above).		TBD	

# Upcoming meetings

**Meeting #3** Thursday 1 September  
12pm – 1.30pm AEST / 2pm – 3.30pm NZST

**Meeting #4** Wednesday 9 November  
12pm – 1.30pm AEDT / 2pm – 3.30pm NZDT



[www.responsibleinvestment.org/ri-aotearoa-nz-2022](http://www.responsibleinvestment.org/ri-aotearoa-nz-2022)

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## Ukraine-Russia War: Increased risks of modern slavery and human trafficking

The displacement of people and disruptions to law enforcement and support services during conflict heightens the risks of trafficking and labour exploitation, particularly for refugee populations.

Since the beginning of the Russia-Ukraine war in February 2022, an estimated [6 million](#) people have fled Ukraine and [7.7 million](#) have been internally displaced. While it is too early to assess the scale of trafficking and labour exploitation risks, the [International Organization for Migration](#) and [Europol](#) have received early reports of possible traffickers targeting refugees, under the pretext of offering transport or accommodation services, in countries bordering Ukraine.

Refugees fleeing Ukraine may face particular circumstances that leave them vulnerable to exploitation:

- Unable to speak the language and lack understanding of the labour rights in their arrival country.
- Undocumented refugees or those with non-Ukrainian nationality, who may not have access to or register for the EU's visa-free scheme
- Lack of financial security and livelihood options
- Women and children, particularly unaccompanied minors, who are disproportionately impacted by modern slavery. It is estimated approximately [90%](#) of refugees fleeing Ukraine are women and children.

## Corporate involvement in Ukraine and bordering countries

Poland has received the majority of Ukrainian refugees, followed by Romania, Russia, Hungary, the Republic of Moldova, Slovakia and Belarus. An estimated [1.8 million](#) have moved from these countries to other countries in Europe.

ISS ESG's Modern Slavery Scorecard assesses Ukraine, Russia and Belarus as high risk for modern slavery, while Romania, Hungary, Moldova and Slovakia are considered medium risk. The risk assessment considers a country's vulnerability to modern slavery, based on key risk indicators, including basic labour rights and working conditions, inequality, political stability, corruption, safeguarding of civil and political rights, discrimination and gender equality.

If you would like to receive a copy of the map of ASX 300 operations in Ukraine and bordering countries presented during the Human Rights Working Group, please email [Clare.Bartram@iss-esg.com](mailto:Clare.Bartram@iss-esg.com).

Best practice for companies that have operations in, or are sourcing goods or engaging in other business arrangements, in the conflict affected region is heightened due diligence to address the following key risks.

### 1. *Risks of labour exploitation in countries bordering Ukraine*

- Previous conflict situations suggest refugees are particularly vulnerable to exploitation in labour intensive, base skill sectors, such as hospitality, agriculture, courier/transportation and services (e.g. cleaning, car washes). Where third-party recruitment agents are used workers may be made to pay a fee to secure their job, which can expose them to debt-based coercion.
- Due diligence priorities: Recruitment agent screening and monitoring, supporting employees in Ukraine/Russia (continuation of wages, safety), engagement with suppliers employing refugees.

### 2. *Use of social media platforms for the recruitment and exploitation of victims*

- Several civil society organisations have [noted](#) increased risks in social media being used for the recruitment and exploitation of victims, notably for sex trafficking, forced marriage or for labour exploitation.
- Due diligence priorities: Coordination with law enforcement to monitor content (screen job advertisements or 'help' groups, where refugees might be providing details about their location and difficult situation which may be used by traffickers to contact them under the pretext of providing assistance) and awareness-raising campaigns on trafficking risks.

### 3. *Lack of access to basic financial services, which can push refugees into debt or force them to accept exploitative conditions*

- Ukrainian government through the Ukraine Central Bank has so far kept banking system running, however, there have been [reports](#) of challenges accessing bank accounts and exchanging Ukrainian currency into local currencies in arrival countries. There have also been [reports](#) of difficulty accessing accounts in Russian banks operating in Ukraine due to EU sanctions.
- The financial sector, particularly banking services, can help refugees establish in new countries and avoid debt-based coercion through access to basic banking services and stable lines of credit.

## Resources

- [Preventing human trafficking of refugees from Ukraine](#) – The Freedom Fund and LaStrada International
- [Russia's war on Ukraine: The risk of trafficking of human beings](#) – European Parliament
- [Conflict in Ukraine: Key evidence on risks of trafficking in persons and smuggling of migrants](#) – United Nations Office on Drugs and Crime
- [The impact of the Ukraine crisis on the world of work: Initial assessments](#) – International Labour Organization
- [Five lessons about the war in Ukraine and human trafficking](#) – Modern Slavery & Human Rights Policy & Evidence Centre
- [A resource repository on business and human rights issues relating to the Russian invasion of Ukraine](#) – Pillar Two

If you have any questions, please email [Clare.Bartram@iss-esg.com](mailto:Clare.Bartram@iss-esg.com).