

State Owned Companies and Risks of Human Rights Violations.

Risks of Human Rights Violations in Financing in Russia, China and Brazil.

Nordea AB



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Summary

The Swedish State has ratified a number of international conventions on human rights. The State is therefore under legal obligation not to violate human rights. The Swedish State owns a number of companies, and it is the obligation of the State to actively ensure that it is not involved in human rights violations through the core business of its companies. This requires a systematic risk-analysis and follow up of these companies.

Nordea is partly owned by the Swedish State (just under 20 percent). Nordea is based in the Nordic countries but has interests all over the world through investments and clients. Through their core business, credits, project-financing and as a fund manager Nordea risks being involved, or complicit, in human rights violations in different sectors. Sectors with a high risk exposure regarding human rights violations include the extractive industries (mining, forestry, paper mills, and energy), industry (all types of heavy industry), and Telecom.

Nordea risks being regarded as complicit in violations committed by partner companies and or states where these companies have activities. Despite this Nordea has chosen not to systematically perform proactive human rights risk analysis as a regular part of the credit rating process, nor there is it done systematically in project-financing. This should be compared to other companies in the financial sector in Sweden where according to Amnesty Business Rating, 70 percent of major companies in the financial sector in Sweden perform such an analysis today (www.amnestybusinessrating.se).

Nordeas largest owner, the Swedish State, does not request Nordea to systematically monitor, nor to report back on whether it risks violating human rights.

The Swedish State should immediately ensure that Nordea, and thereby the Swedish Government, does not violate human rights through Nordeas financial services.

Part 1 Nordea and the Swedish Government

The Swedish Government as an Owner to Nordea

The Swedish State has ratified a number of international conventions on human rights. The State is therefore under legal obligation not to violate human rights.

It is the responsibility of the government to assure and control that no human rights violations or risks of human rights violations exist in the State owned companies' business activities. Nordea is one of the companies that are partly owned by the Swedish government.

In "Verksamhetsberättelse för de Statliga bolagen 2004" the Government recommends that the boards of the State owned companies actively follow and report on the company's activities in this area. They also recommend the board to adopt a policy on ethics as well as programme for putting the ethics policy into place. It recommends that the State owned companies should actively work on ethics issues. The Swedish Government also encouraged all Swedish companies to adhere to international human rights and to join its own initiative "Globalt Ansvar", that has as an objective "to uphold human rights and the principles of sustainable development".ⁱ

Globalt Ansvar does not follow up the behaviour of the State owned companies, nor are the companies required to report on human rights violations to Globalt Ansvar.

Despite this the Government does not systematically follow up the individual companies human rights record. During 2005 the Government has on an ad hoc basis raised the issue with companies more often than before, but there is no follow up system. According to Näringsdepartementet, "Enheten för statligt ägande", there is no follow up on human rights with Nordea.ⁱⁱ The board and chairperson are responsible for reporting to its owner, the Swedish Government on human rights violations. So far the Government has never received a report on human rights violations from its companies.

The Government does not provide assistance to individual companies when they are entering markets where human rights violations are systematic. The Government does not explicitly ensure that board-members have competence in the area of human rights, when selecting board-members.ⁱⁱⁱ

The Government states that it cannot control individual companies as they are joint-stock companies, and the board is responsible for these issues. In the case of Nordea, which is a publicly owned company, the Swedish Government owns approximately 20% of shares and is the single largest owner. Considering the Swedish Governments international legal obligations this creates a situation where the Government does not know and cannot control or prevent human rights violations they may participate in through Nordea.

Nordeas Risks of violating Human Rights

Nordeas actions and sphere of influence can affect people in a wide range of countries around the world even though the core of Nordea is retail banking in the Nordic countries. Through Nordeas core business, the company risks being involved in human rights violations, through giving credits to companies that violate human rights, through financing projects in third world countries where human rights violations may occur, or by being a fund manager that holds funds in companies where violations of human rights occur.

Nordea is one of the leading financial services group in the Nordic and Baltic Sea region and operates through three business areas: Retail Banking, Corporate and Institutional Banking and Asset Management & Life.^{iv}

Nordea provides financial services for companies within different industries, all with different risks of violating human rights. According to Nordea's annual rapport (2004) the company provides loans for projects in the Russian Federation, Latin America and Asia. The risk of human rights violations is particularly high project financing in for example Russia, Latin America and Asia. Because of this high risk a number of large global banks has agreed on the so called Equator Principles to reduce the risk of funding human rights violations, or violators.^v Today approx 40 institutions including Bank of America and JPMorgan Chase have adopted the principles.

According to Nordeas webpage, Nordea also have interests in various countries in these regions through investment funds. For example, Nordeas Rysslandsfond has companies such as Taftnet (a Russian oil company that has been accused by some NGOs of being involved in an oil for arms exchange with the Sudanese Government^{vi}).

Without a systematic and explicit risk-analysis in all areas of their core-business, Nordea reduces its capacity control the risk of being involved in human rights violations.

Nordeas Ambitions

Nordea has developed a code of conduct adopted by the board of directors. In code of conduct Nordea states that's Nordea's values are based on the Nordic heritage of freedom, equal opportunities, care for the environment and good citizenship including ethics, honesty and sincerity. The Code does not address human rights per se.^{vii}

Nordea has adopted the OECD Guidelines for Multinational Enterprises and joined the UN Global Compact. Nordea is also supporting the ILO core conventions, according to their Corporate Citizen Principles.^{viii}

Nordeas Performance^{ix}

Nordea states that in all risk-assessment, in all areas of activities such as giving credits, project financing, fund management and other financial services, they see CSR as a whole, and does not separate out human rights issues. Human rights are not mentioned in Nordeas Code of Conduct.

Nordea does not have a system of analysis of human rights risk, but a case to case management/tool of the human rights risk. In some instances, Nordea requests some information with regard to human rights.

In project-finance the entire risk-analysis is done case by case and includes human rights in some instances and in some it does not.

When it comes to portfolio management Nordea screens the SRI portfolio for companies that commit human rights violations, but does not screen the bulk of funds (the non SRI funds).

Nordea has no systematic reporting on overall human rights performance, neither from company to the board, nor to management. Nordea however reports on cases where human rights violations/or risk of human rights violations has occurred on an ad hoc basis when they receive information that prompts them to do so. Nordea also performs an analysis of the cases.

Nordea does not systematically follow up the application of the OECD guidelines, the ILO core conventions, and the Global Compact Principles in its core operations. Nordea uses the same case by case reporting also on these principle.

Managing risk on an ad-hoc basis increases Nordeas exposure to being involved in human rights violations, and decreases the possibility for Nordea both to know about risks and to manage them.

Amnesty Business Group is pleased to be informed that Nordea has plans to revise its Corporate Citizen Principles during 2006. Nordea is also planning a common Nordic policy on SRI, that is to have a common definition of what funds managed by Nordea as "Socially Responsible" actually entails, as well as common procedures for managing SRI-funds.

Amnesty Business Group hopes that these revisions will entail making human rights risk more visible in policy documents, as well as in risk-management routines.

What Should Nordea Do?

Nordea as a partly owned company of the Swedish State, should actively avoid being involved in human rights violations.

Nordeas Code of Conduct and Corporate Citizen Principles should include a commitment not to be complicit in human rights violations. Nordea should then systematize both the risk assessment procedures for credits and project-financing to include human rights risk. It should also increase human rights screening in funds managed by Nordea, also non SRI funds should be screened for human rights violations. Joining and adhering to the Equator Principles could be one way to move forward in this regard.

Nordea could improve stakeholder dialogue by systematically reporting on goals and performance regarding human rights risk-management within its operations.



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What Should the Swedish Government Do?

The Swedish Government should immediately ensure that Nordea, and thereby the Swedish Government, does not violate human rights through Nordeas core business.

The Swedish Government should proactively and systematically seek information on its companies

- 1) exposure to human rights violations
- 2) risk-management, the prevention of human rights violations

Not doing so places the Government in a position where the Government does not know and cannot control if it is involved in human rights violations through their holdings. The Swedish Government is bound by international legal obligations not to violate human rights.

Part 2 Human Rights Risks

This report outlines a summary of information from Amnesty International, other NGOs and governmental sources on Russia, China and Brazil as of October 2005. A selection of information has been made to reflect Amnesty's main criticism towards these countries.

Reported Risks in the Russian Federation

Risks in the extractive business

The drive for new resources might lead companies active within the extractive sector into association with human rights violation situations. Experience has shown that problems are most likely to arise when resources are located in zones of conflict, in territories with indigenous populations where land rights are contested or inadequately protected, or in countries with oppressive or corrupt governments.^x

The Chechnya conflict

The oil extractive sector related incomes make an important contribution to the local economy and both sides in the Chechnya conflict commit serious and numerous human rights abuses. Human rights violations reported in the conflict zone include extrajudicial executions, "disappearances" and torture, including rape. Incautious commercial involvement with any party might further facilitate such activities.^{xi}

Corruption

In Transparency International's Corruption Perception Index, released on 18th October 2005, Russia is ranked 126th (158 countries listed, number one being the least corrupted state). This index indicates that Russia is one of the most corrupted countries in the world.^{xii}

Reported Risks in China

Companies in the IT and Telecom sector in China are among others exposed to the following risks of violating human rights.

IT and Telecom companies are violating human rights

Foreign companies in the IT and Telecommunication industry has provided the Chinese authorities with technologies, which are used to suppress the free expression of opinion. These companies are indirectly contributing to human rights violations.

Cisco Systems is a company that is included in Nordeas IT-fund. Cisco Systems has received criticism for supplying the Chinese government with the tools and technology to censor the Internet and thereby limit individuals' freedom of expression.^{xiii}

Corruption

In Transparency International's Corruption Perception Index, released on 18th October 2005, China is ranked 77th out of 158 countries included (ranked 71st in 2004).^{xiv}

By accepting a bribe in China a person can be sentenced to death as with the case of Former vice-governor of Jiangxi province Hu Changqing.^{xv}

Reported Risks in Brazil

Companies in the extractive sector in Brazil are among other industries exposed to the following risks of violating human rights.

Land and indigenous rights

The Brazilian land reform involves many competing interests including businesses and prospectors, who wish to exploit the land's natural resources and landowners who, illegally or in good faith, have acquired title to indigenous land and logging companies. Such vested interests often have substantial economic and political lobbying powers which they can use to delay and interrupt resolution of land disputes. Indigenous leaders campaigning to speed up the transfer of land have suffered death threats, violent attacks and killings.

"In January settlers invaded a Catholic mission in the indigenous reserve of Raposa Serra do Sol in Roraima state, following a government announcement that indigenous land claims would finally receive presidential approval. They held three missionaries hostage for three days, reportedly subjecting them to psychological torture and humiliation. The settlers, apparently coordinated by local landowners, also blocked roads in the area and threatened further attacks against indigenous communities. The process of granting the land to the indigenous inhabitants was postponed. It was subsequently further delayed by legal appeals and at the end of 2004 attacks and threats were ongoing."

Police killings, extrajudicial executions and death squads

High levels of urban violence and crime continued to drive under funded, poorly trained and often corrupt police forces to the further use of repressive methods. Members of the military and civil police were again responsible for thousands of deaths across the country and in many cases the killings indicated excessive use of force or extrajudicial execution. Moreover the killings were rarely investigated as they were often registered as "resistance followed by death", to put the blame on the victim.

Torture and ill-treatment

Torture and ill-treatment continued to be used by elements within all Brazil's police forces as a means of investigation and to extract confessions. Torture was also used to extort money and serve the criminal interests of corrupt officials.^{xvi}

Corruption

In Transparency International's Corruption Perception Index, released on 18th October 2005, Brazil is ranked 62nd out of 158 countries included.^{xvii}

Sources of Information

Amnesty International; www.amnesty.org

Business & Human Rights Resource Centre; www.business-humanrights.org

Nordea; www.nordea.se

Share holders Policy of the Swedish Government 2005 (in Swedish);
<http://www.regeringen.se/content/1/c6/04/69/48/1a7f5772.pdf>

SocialFunds.com; <http://socialfunds.com/>

Sudan Grassroots Activism Center; <http://www.sudanactivism.com>

Transparency International; www.transparency.org

- ⁱ <http://www.regeringen.se/content/1/c6/04/55/45/62bfd0e1.pdf>,
- ⁱⁱ Interview with employee, "Enheten för statligt ägande", 14 June 2006.
- ⁱⁱⁱ Interviews with employees, "Enheten för statligt ägande", end of February 2005, 21 March 2006, and 22 March 2006.
- ^{iv} <http://www.nordea.com/sitemod/default/index.aspx?pid=51332>
- ^v <http://www.equator-principles.com/>
- ^{vi} http://www.sudanactivism.com/stanford_divestment_report.pdf
- ^{vii} <http://www.nordea.com/sitemod/default/index.aspx?pid=50912>
- ^{viii} <http://www.nordea.com/sitemod/default/widecarea.aspx?pid=51572>
- ^{ix} Interview with Nordea, ex Knut Rörbakken 12-14 juni 2006
- ^x Human Rights and Risks in the Extractive Sector:
[http://www2.amnesty.se/amnestybusinessgroup.nsf/d4732c6077aada99c1256efc0036327e/\\$FILE/Extractives.pdf](http://www2.amnesty.se/amnestybusinessgroup.nsf/d4732c6077aada99c1256efc0036327e/$FILE/Extractives.pdf)
- ^{xi} <http://web.amnesty.org/report2005/rus-summary-eng>
- ^{xii} http://www.transparency.org/cpi/2005/cpi2005_infocus.html#cpi
- ^{xiii} IT Hardware and Telecommunications Sector at Risk:
[http://www2.amnesty.se/amnestybusinessgroup.nsf/d4732c6077aada99c1256efc0036327e/\\$FILE/Telecommunicatio ns.pdf](http://www2.amnesty.se/amnestybusinessgroup.nsf/d4732c6077aada99c1256efc0036327e/$FILE/Telecommunicatio ns.pdf) and:
State control of the Internet in China:
<http://web.amnesty.org/library/Index/ENGASA170072002?open&of=ENG-CHN>
- ^{xiv} http://www.transparency.org/cpi/2005/cpi2005_infocus.html#cpi
- ^{xv} <http://web.amnesty.org/library/Index/ENGASA170092000?open&of=ENG-CHN>
- ^{xvi} Amnesty International on Brazil:
<http://web.amnesty.org/library/index/engamr190022005>
<http://web.amnesty.org/report2005/bra-summary-eng>
<http://web.amnesty.org/library/Index/ENGAMR190032004?open&of=ENG-BRA>
- ^{xvii} http://www.transparency.org/cpi/2005/cpi2005_infocus.html#cpi