



# What Do We Mean by an ‘Oppressive Regime’?

## Human Rights Risk

In our Amity Insight ‘Human Rights & Business: Emerging Corporate Risk’ we explore in some detail the business context for human rights risk. The ‘UN Guiding Principles’ provide a ‘protect, respect, and remedy’ framework, whereby governments have an absolute duty to protect human rights, business has a corporate responsibility to respect human rights, and there must be a process of remedy for those affected by human rights violations.

Human Rights risk affects all businesses, but not necessarily equally; in a globalised economy there is an increasing risk that shareholder value will be affected by getting it wrong. Our research highlights key areas of complicity risk in ‘high-risk, high-impact’ sectors such as oil and mining, infrastructure, forestry, plantations and in retail supply chains. Companies in these sectors require a robust process for identifying and mitigating human rights risk. We identify some minimum standards for businesses in these sectors that include:

- The publication of a human rights policy
- Human rights training
- Board level responsibility and accountability for monitoring human rights risk
- Embedded stakeholder and community engagement
- Regular reporting on activities and progress

Multi-national companies will be particularly exposed to potential complicity in human rights violations, and will face acute challenges in monitoring and understanding human rights risk across their global operations. Complicity can occur if companies violate human rights by:

- Providing financial support to an oppressive regime
- Supplying goods and services to an oppressive regime
- Being unable to operate freely and transparently without their supporting an oppressive regime

## Amity Funds Position

The Amity Funds stated position is to review on a case by case basis companies operating in ‘oppressive regimes’ as ranked or defined by Transparency International, Freedom House and Amnesty International. We believe that companies can be a force for good ‘in country’ by influencing a positive approach to human rights, and we therefore distinguish between companies that can only do business by supporting an oppressive regime, from those that can make a genuine contribution to social and community progress by investing and helping to raise standards.

In keeping with the UN Guiding Principles, we expect companies to have adopted a robust approach to monitoring and applying human rights risk processes, especially those in high-risk, high-impact sectors. The Amity Funds continue to apply a general exclusion towards companies operating in Burma (Myanmar) and Sudan, and in China, we do not invest in State Owned Enterprises (SOEs).

## Screening Tools: Helping to Define What We Mean By ‘Oppressive Regime’

There is no universally accepted definition of ‘oppressive regime’ or what constitutes one, although the term is widely used and understood. Dictionary definitions include the prevalence of established laws, customs or practices that systematically produce inequalities that oppress specific groups within a society. If oppressive consequences accrue from institutional laws, customs or practices then the regime may be defined as ‘oppressive’ irrespective of the intentions of those responsible for maintaining or implementing those practices. Oppressive, in an institutional sense, can be thought of as unjust, severe, arbitrary and tyrannous, or in the worst extremes, murderous.

In screening our investments, we make use of ‘watch-lists’ maintained by leading credible human rights organisations such as Freedom House and Transparency International. These separately assess, measure and record human rights in over 180 countries across a robust matrix of criteria including political and civil rights, freedom of expression and the media, and the use of torture.

### Transparency International



- *Corruption Perception Index Scores 1-10*
- *1= very corrupt 10= very clean*
- *183 territories measured*
- *Press freedom index*
- *Rule of Law Index*
- *Judicial Independence Index*
- *Bribe Payers Index*

### Freedom House



- *Proxy for poor human rights protection*
- *Freedom in the World Index*
- *195 countries surveyed*
- *87 countries ‘free’ (45%)*
- *48 countries ‘not free’ (24%)*
- *60 countries ‘partly free’ (31%)*
- *Rated 1-7; 1=free 7=most un-free*

As well as these primary tools, we also refer to human rights country reports prepared by Amnesty International and the US Department of State, the prevalence of any international sanctions regimes, and our own in-house desk research. These combined resources help to build a picture of ‘oppressiveness’ within a territory, and the degree of due diligence we believe will be required by companies in monitoring their activity and operations there.

It also helps us ‘map’ the likely appetite for corporate investment. This can be influenced by the maturity of the market system in place; for example some ‘oppressive regimes’, such as Somalia or North Korea, have little or no functioning commercial market either owing to sanctions or because they are ‘failing states’. The likelihood of complicity through ‘regime support’, and the potential for making a genuine and sustained contribution to social and community improvement within an otherwise ‘un-free’ regime (such as China) are also taken into account.

Freedom House and Transparency International measure different regime criteria; however there is significant commonality between the two in ranking the ‘most oppressive or worst’ regimes. Of the bottom ten countries in each survey, five appear in both (Sudan, Turkmenistan, Uzbekistan, North Korea and Somalia), whilst Burma lies just outside the Freedom House bottom ten based on its recent progress, but remains ranked among the bottom ten by Transparency International. Other countries that receive bottom ratings in each survey include Iraq, Syria, Eritrea, Afghanistan and Haiti. Conflict, civil unrest and poverty mark out many of these territories. Our Amity positive screening approach would highlight any material operations in these countries and look to avoid them.

## Defining what we mean by ‘oppressive regime’

From the tools so far discussed, it is possible to begin to define what an ‘oppressive regime’ may look like, and perhaps why some countries (e.g. Burma and Sudan) have widely been upheld as being ‘worse’ or as having poorer human rights protection than others. This is important; as investors in multinational companies exposed to myriad ‘challenging’ territories we need to understand why inward investment in, say, China, may be both less harmful and more beneficial for communities and society than, say, Sudan.

In general terms, an ‘oppressive regime’ will exhibit all or some of the following characteristics. The more prevalent or multitudinous these are, the greater the degree of oppression visited upon society, and the less likely companies will be able to make a genuine contribution to social and community progress without being subject to the charge of complicity in human rights abuses.

- Regimes with an absence of democratic accountability in which multi-party participation is discouraged or forcibly prevented; these may be either *authoritarian* (single-party, tribal or Monarchic government) or *totalitarian* (military or civilian dictatorship) in outlook
- Absence of the rule of law; arbitrary detention and trial; disappearances; extrajudicial executions
- Persecution of sections of the community that may include state sanctioned killings or ethnic inspired genocide
- Torture routinely or commonly employed as part of a judicial or extra-judicial process
- Arbitrary surveillance, detention or violent intimidation by State security agencies
- Suppression of civil society institutions as a platform for opposition or community self-expression
- Little or no freedom of expression, persecution of human rights defenders, trades unions etc.
- Little or no freedom of religion, persecution of minority religions not sanctioned by the State
- State sponsored racial segregation or discrimination e.g. apartheid
- Little or no freedom of movement; people forcibly prevented from leaving the country
- Absence of a free media including press and broadcast; internet censorship, surveillance and persecution
- Prevalence of state sanctioned slave or bonded labour; prevalence of systemic child labour, including child soldiers recruited as an instrument of war and conflict
- Persecution and/or forcible eviction and re-settlement of ethnic, indigenous or tribal minorities
- State sponsored persecution or discrimination of women and girls by virtue of their gender

## Conclusion

In assessing the risk from being complicit in human rights violations, companies are more likely to be able to have a positive and progressive impact in situations where, by their presence, standards can be raised. This is more likely where the *society* is not **totalitarian** even though the *regime* may be **authoritarian** i.e. there may be political oppression, but there is a functioning civil society with a degree of political and economic autonomy. In *totalitarian* states, there is little scope for companies to make a progressive impact without aiding the regime given the pervasive control of public and private life by the state; in *authoritarian* states this is not necessarily so. In the latter case, companies may have a role in progressively improving standards over time as a result of their commercial and social investment without providing implicit or explicit support to the regime.

This information is for investment professional only and should not be relied upon by private investors.

Although complex and challenging, we will continue to monitor closely where companies operate, utilising the tools and criteria identified in this Expert SRI Briefing to assess the contribution companies can make to social and community progress, versus the potential for protracted human rights risk. We are well positioned to seek to invest and include in the Funds, businesses that can be a real catalyst for economic and social change.

### The EdenTree SRI Team

We have a specialist in-house Socially Responsible Investment (SRI) team who carry out thematic and stock-specific research to identify ethically responsible investment ideas for our range of [Amity Funds](#). Headed up by our Senior Investment Analyst Ketan Patel, CFA, and Neville White, Head of SRI Policy & Research, the team is also responsible for creating an on-going dialogue with companies, allowing us to engage on a wide variety of ethical and socially responsible investment concerns. For investors, it's an added layer of assurance that client money is being invested in companies that are operating in a responsible and sustainable way. Our ethical and responsible investment process is overseen by an independent Amity Panel that meets three times a year, and comprises industry and business experts, appointed for their specialist knowledge.



### EdenTree - Ethical Investment Specialist



Since launching the [Amity UK Fund](#) in 1988, EdenTree has taken a leadership role in managing ethical investments through our research, engagement and strong fund performance. Consequently, we were delighted to receive the Moneyfacts Award for Best Ethical Investment Provider 2015, the seventh consecutive year of winning this award. We were particularly pleased to win as it is voted for by the Adviser community. In 2013, the [Amity UK Fund](#) was rated 'Highly Commended' in the Investment Week Climate Change and Ethical Investment Awards. We were also awarded Money Observer Best Ethical-SRI Bond Fund for the [Amity Sterling Bond Fund](#); the [Amity UK Fund](#) won Best Equity Fund in the 2014 Money Observer Ethical/SRI category, and we were nominated for an award in the category of Best Thought Leadership Paper on Sustainable Investing, in the Investment Week Sustainable Investment Awards 2014. Today we offer six SRI funds under our Amity brand, four retail funds and two for charity investors, covering the major markets and investment classes.

### Further information

For further information on EdenTree's SRI range of Amity Funds please contact your EdenTree Business Development Manager, visit [www.edentreeim.com](http://www.edentreeim.com) or call our IFA support team on 0800 011 3821.

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