

# Telenor Human Rights Expert Forum Report

## March 2024

### Introduction

We are publishing this short report to share learning and insight from the conversations within the Telenor Human Rights Expert Forum which took place over one year in 2023. It identifies good practice alongside several unresolved business and human rights (B&HR) issues that have been important in our conversations, and we believe have relevance to the wider community focused on B&HR issues. These include:

- Human Rights Due Diligence should be ongoing and incorporate strategic foresight methods.
- Responsible market entry should encompass preparedness to exit, decision-making about exit, and the execution of exit.
- Good practice guidance on how to integrate human rights due diligence into M&A activity, including disposals and acquisition/sale of assets is needed.
- Companies should develop long term strategies, plans, and playbooks to build and exercise leverage.
- There must be sufficient investment of time and resources in engaging with stakeholders.
- Company approaches need to give greater prominence in human rights due diligence to the experience and voices of directly affected stakeholders.
- A company's departure may lead to the reduced enjoyment, realisation, and fulfilment of human rights in-country.

The forum was established in early 2023 to explore dilemmas Telenor may face in a global context where respecting human rights is challenging and during a transition in its operating model. While our conversations were informed by Telenor's experience in Myanmar preceding and following the coup in 2021, all of Telenor's markets were in scope.

The forum had six external members who acted in an individual capacity. They were Vicky Bowman, Mark Hodge, Dunstan Allison Hope, Jason Pielemeier, Liv Torres, and Salil Tripathi. The forum was facilitated by Susan Morgan. Zainab Hussain Siddiqui, Morten Bingen Kristiansen and Marcus Adaktusson were the primary Telenor representatives along with other invited Telenor staff members. The CEO of Telenor, Sigve Brekke, participated in two of the meetings. The forum met five times during 2023, twice in person and virtually three times.

The purpose of the forum was to provide insight and guidance on human rights challenges and dilemmas through a series of high-level conversations with internal Telenor stakeholders. The content of this report is informed by these conversations. We hope our reflections provide further insights that will contribute to ongoing discussions about business and human rights. Our conversations were shaped and informed by the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for

Multinational Enterprises, the Global Network Initiative Principles and Implementation Guidelines as well as relevant Norwegian legislation and policy documents (The Transparency Act 2021 and State Ownership Policy 2023).

We did not intend to and have not carried out an assessment of Telenor activities or provided verification or assurance of Telenor's actions. We have not provided solutions to challenges that have been raised. Instead, we aimed to have constructive discussions around dilemmas and issues relevant for Telenor's due diligence work with the aim to inform future practice and experience. Agendas for the meeting were co-created with Telenor. Suggestions made by the members of the forum during meetings were not binding on Telenor and not part of Telenor's decision-making process. The forum has not replaced Telenor's other existing consultations or activities with stakeholders. Members of the forum have remained independent and were able to speak freely.

An agreed set of principles guided the way the conversations took place emphasising openness, trust, and the independence of members.

#### Issues discussed within the forum.

Telenor shared their experience in Myanmar both before and after the military coup in 2021 as the starting point for conversations within the forum. This included exploring the pre-investment due diligence carried out prior to Telenor's entry into Myanmar, the escalation of issues while they were present in the market, and the difficult choices surrounding Telenor's exit. Running parallel to this forum have been other learning processes within Telenor about their experience in Myanmar.

The forum was created to use Telenor's experience in Myanmar as an entry point into conversations about possible business and human rights challenges in Telenor's remaining markets. This has been particularly pertinent given Telenor's operating model transition from one where the company has overall control in its markets to one where the stake Telenor has is different country by country. Telenor has 100% ownership in Pakistan, majority ownership in Bangladesh, and minority ownership in Thailand and Malaysia. In December 2023, Telenor announced that it was selling its business in Pakistan to PTCL. The forum did not provide guidance on this specific decision.

Topics covered within the forum include:

- Human rights due diligence.
- Responsible market entry, exit, and remain.
- The changing regulatory landscape in Norway and the European Union.
- The evolving global business landscape for mobile network operators.
- Lessons learned from Myanmar.
- Dilemmas faced when local laws conflict with international human rights standards.
- Defining and communicating with stakeholders.
- Points of leverage for companies.
- Human rights risks in Asian markets.
- Responsible approaches to artificial intelligence.

### Insights and learning

Several insights surfaced in the expert forum are relevant to the broader business and human rights community and are summarised here. We reached specific conclusions on some, while others will benefit from further discussion and debate.

1. Human Rights Due Diligence should be ongoing and incorporate strategic foresight methods.

A risk assessment undertaken at a particular moment in time (such as pre-investment) provides an essential foundation for ongoing due diligence by identifying risks and mitigation actions relevant for that time; however, as recognized by the UN Guiding Principles on Business and Human Rights due diligence must be updated at regular intervals to reflect changing circumstances and risk.

Due diligence takes place within a wider political and socio-economic context. For example, at the time of considering market entry into Myanmar in 2012/3, the country had limited mobile penetration and lacked a Telecommunications Law or a telecoms regulator. Many technology companies explored how increasing access to their products and services may bring social benefits and some, like Telenor, undertook the social, ethical, and environmental due diligence of their investments.

However, this was a time of optimism, which meant there was arguably little impetus for stakeholders to emphasise downside risks or consider foresights or future risks that might arise with a significant shift in political and socio-economic context.

In light of this experience, due diligence activities could be enhanced by integrating strategic foresight (often referred to as scenario planning or futures) methods into them. These well-established practices involve anticipating different plausible versions of the future that could play out and identifying paths of appropriate action for each, including what action to take if all the worst-case scenarios happen. This will ideally inform existing crisis preparedness by companies.

2. Responsible market entry should encompass preparedness to exit, decision-making about exit, and the execution of exit.

License terms and local legislation govern many options available to companies. But when entering a market, it is still necessary for companies to consider policies and practices for each stage of a potential exit, such as preparedness, decision making processes, and plans to implement exit in a responsible way. Taking this approach could lead to safeguards being considered up front, for example potential clauses in contracts that could trigger dispute settlement mechanisms and provide some degree of protection if in-country conditions change significantly.

In the case of a sale or merger, examples of good practice include the inclusion of human rights due diligence about potential future owners, the sharing of current human rights work and policies with potential owners and a commitment to ongoing engagement during the sale or merger process. Even with policies and practices in place, practical hurdles such as legal and contractual challenges in conducting stakeholder engagement in M&A contexts will remain.

This approach could also crystallise early thinking on the different ways in which a legacy could be left if leaving a market becomes necessary. The necessary conditions for re-engagement could also be considered at this point.

3. Good practice guidance on how to integrate human rights due diligence into M&A activity, including disposals and acquisition/sale of assets is needed.

The responsible sale of assets is an essential part of responsible merger and acquisition (M&A) activity. This should include (1) engagement with potential buyers to assess possible human rights risks that could emerge because of the sale (including owners of potential buyers), (2) sharing human rights insights, approaches, and resources (e.g., prior human rights risk assessments) with a potential buyer to maximise the likelihood that human rights risks are addressed after a sale is complete, (3) identifying key points of leverage, such as encouraging the buyer to participate in relevant multi-stakeholder initiatives, and (4) considering the risks associated with “onward sale” to another buyer, recognising the very limited leverage the company has subsequent to the transfer of assets.

Members of the forum recognize that M&A processes are typically governed by strict confidentiality requirements especially where publicly listed companies are involved. At the same time, companies need to find ways to achieve both confidentiality requirements and due diligence expectations at the same time. The B&HR field would benefit from both: clearer guidance on how to integrate human rights into M&A activity (including the extent and limits of legal requirements on communication with external stakeholders) and human rights due diligence capacity building of the professionals in law firms and commercial banks that manage or advise on M&A deal processes.

4. Companies should develop long term strategies, plans, and playbooks to build and exercise leverage.

Companies need to create a long-term strategy that builds and utilises leverage to achieve respect for human rights. In some industries, such as telecoms, the length of business relationships (e.g., a typical telecommunications licence agreement) means that planning needs to take account of circumstances that could reasonably be foreseen within a fifteen-to-twenty-year timeframe.

There are different stakeholders to consider when building leverage. Engagement with peer companies in the same industry offers the opportunity to share approaches and an understanding of human rights risks and the benefit of collective action which can be far more effective than acting alone. There may be existing multi-stakeholder mechanisms or industry initiatives that can provide a platform for this, or a company could work with other stakeholders to create in-country platforms drawing on learning and experience from international MSI's. In the technology industry it is important to consider the complementary role, insights, and leverage of companies across the technology value chain, including network providers, telecommunications companies, and internet services / social media companies.

When considering who to engage with, it is important to think broadly and not narrowly, taking an ecosystem approach and not a specific industry sector approach. There could be common ground at times with companies in other industries who have a shared interest in the predictable, consistent application of the rule of law. It is preferable to build these relationships in advance of needing to leverage them.

Relationships with governments will take a variety of forms. From a telecoms perspective there will be a relationship with the government offering the licence, and the process of bidding for and awarding the licence offer potential moments of leverage. There are also times when key stakeholders within governments can change abruptly, and it is important for companies to plan for this. For example, telecoms companies have well established and durable relationships with economic ministries and regulatory teams, but during the Covid pandemic health ministries suddenly became essential. Having previous relationships across government will be beneficial for companies in these moments.

We think a best practice playbook on how to create and exercise leverage would be a valuable contribution to the business and human rights field.

5. There must be sufficient investment of time and resources in engaging with stakeholders.

Civil society organisations can be effective allies, offering important information, including for due diligence work, and an alternative point of leverage, especially if relationships and trust have been built up over time. Companies should invest the time to develop effective and trusted relationships with local stakeholders before moments of crisis. Building a shared understanding of the restrictions companies must operate under at certain times (such as M&A activity, the laws and regulations a company is operating under, or technical limitations) will help reduce the potential for misunderstanding and miscommunication as well as open the potential to find creative ways of involving civil society as business decisions evolve.

Companies must share sufficient information so that the public can understand the steps they are taking to respect human rights and trust their due diligence work, accountability, and transparency. The best communication options for different stakeholders must be considered and getting the form and substance of communication right across different national, international, and stakeholder audiences is important. For example, local affected stakeholders are likely to want information in their own language and relevant to their own country rather than a global corporate sustainability report.

Decisions about how a company communicates and through which channels matter. For example, for some challenges it may be possible to communicate more openly on a corporate website rather than a local one. The combination of written and oral briefing is important; written materials hold value in the event of having to exit a market as they can be left behind, while sharing insights orally can be essential when safety and leverage considerations make written or public communications more challenging.

These communication strategies and plans should be reviewed alongside ongoing due diligence to ensure consistency and to update them as necessary as circumstances evolve. Although there are extreme circumstances when companies may have no leverage, for the most part leverage is something that is fluid and companies should not stop exploring how to build it in collaboration with other stakeholders.

6. Company approaches need to give greater prominence in human rights due diligence to the experience and voices of directly affected stakeholders.

Developing relationships and taking the steps described above should make it more possible to bring the voices of directly affected stakeholders into a company's due diligence process. The business and human rights agenda is disproportionately shaped by larger international, regional, or western institutions, and this can present a challenge to prioritising the voices of directly affected stakeholders, especially when their perspective on company actions are not aligned. Some industries (such as telecoms services) are vital both for economic opportunity and connecting people, and this means there can be local support for companies to continue operating in challenging markets when other institutions and organisations are looking for them to exit.

The voice of the workforce can sometimes be overlooked. Labour rights are human rights and workers need to be seen as a key stakeholder group. They, and their representative trade unions, are both part of civil society and employees of the companies. Alongside local civil society they will have vital insight into local issues and should be integral to any due diligence process. Following the OECD Guidelines and in particular the Norwegian Transparency Act and State Ownership Policy, labour rights should be respected. The right to organise and to bargain are among the core conventions of the ILO. Workers should be consulted as key directly affected stakeholders in due diligence and a due diligence process should both ensure this and that labour rights are respected.

7. A company's departure may lead to the reduced enjoyment, realisation, and fulfilment of human rights in-country.

There will be times when companies have no choice but to exit because of market conditions or political circumstances, such as a coup, military activity, or sanctions. However, the unavoidable exit of a company committed to operating responsibly may contribute to an overall decline in the protection and respect for human rights in the sector if remaining companies do not apply the UNGPs. There may also be reduced enjoyment of human rights, for example through the availability of more competitive and innovative mobile services, or better-quality jobs. The hope of forum members is to have companies with meaningful commitments to human rights operating in as wide a range of markets as possible. To facilitate this, governments and other stakeholders should proactively put in place activities in multilateral fora and ambitions in trade and macro-economic policies to encourage and facilitate companies engaging in responsible ways to operate in as broad a set of circumstances as possible.

Conclusion

Members of the forum would like to thank Telenor for creating the space for these discussions and for engaging thoughtfully in the dialogue. The field of business and human

rights benefits considerably from sharing reflections, insights, and lessons learned from practical experience, and we have appreciated the opportunity to participate in this process. We hope that the seven points set out in this short report are valuable for other companies in the telecommunications industry and beyond, and in a wide variety of geographical contexts.