

CHRB response to the destruction of a 46,000-year-old Aboriginal heritage site by Rio Tinto at Juukan Gorge in Western Australia on 24 May 2020

Date: 09 July 2020

Overview

Due to the destruction of a 46,000-year-old Aboriginal heritage site by Rio Tinto at Juukan Gorge in Western Australia on 24 May 2020, the Corporate Human Rights Benchmark (CHRB) and the World Benchmarking Alliance (WBA) have decided to append this statement to Rio Tinto's latest CHRB results.

CHRB and WBA condemn the destruction of invaluable cultural heritage at Juukan Gorge. This incident is a severe adverse impact on cultural rights that has engendered extreme concern and outrage among the Puutu Kuntj Kurrama and Pinikura traditional owners of the site as well as Aboriginal and Torres Strait Islander communities and their allies. CHRB and WBA call on Rio Tinto to take appropriate action to carry out an independent investigation of the incident, involving affected stakeholders, to provide effective remedy and to prevent similar impacts in the future, in Australia and elsewhere.

It would be inappropriate for CHRB to continue to assess and rank Rio Tinto in one of the highest-scoring bands and as the top mining company without reference to this incident. The CHRB seeks to provide robust and credible information on companies' actions to respect human rights across their business, and it would be misleading not to reference this severe impact as a complement to the latest results.

The CHRB assessment provides a snapshot in time, looking at a company's human rights performance over the course of an entire year. However, this incident highlights the need for CHRB to be able to respond to exceptional circumstances connected to benchmarked companies that occur between the yearly scoring periods. CHRB did so in 2019 when it suspended Vale as a consequence of the devastating Brumadinho dam collapse, which caused the death of more than 270 persons, extensive and long-term environmental and health impacts, and massive disruptions to communities.

This incident also highlights the need for a discussion on how such impacts should and could be captured by CHRB going forward. This topic is currently being explored in the context of the methodology review that CHRB is undertaking this year.

Detail

Since the publication of the first Benchmark in 2017, Rio Tinto has consistently ranked amongst the top scoring companies, with an initial score of 63% which went up to 76% in 2018 and was subsequently maintained in 2019. The destruction of the Aboriginal heritage site is in stark contradiction with these high scores and is an extremely concerning departure from the company's public commitment to respect human rights (indicator A.1.1), including

to free, prior and informed consent (indicator A.1.3), its commitment to engage with (potentially affected) stakeholders (indicator A.1.4) and its statements that it undertakes due diligence in line with the UN Guiding Principles on Business and Human Rights (indicators B.2.1-B.2.5). The incident at Juukan Gorge also highlights the possibility of a concerning disconnect between a company's commitments and procedures as described in public disclosures on the one hand, and its actual decisions and impacts on the other hand.

The severity of the impact and the context in which it took place, including the process that led to it and allegations of other similar impacts involving the company, raise concerns that go beyond this specific incident and point to possibly more systemic weaknesses in the company's approach to human rights.¹

The CHRB is undertaking a major review of its methodology this year. This incident emphasises the limitations that come with assessing the human rights performance of companies based on their policies and procedures with reference to corporate statements. CHRB does take into account third-party information on allegations of human rights abuses and assesses how companies respond to these allegations, but the methodology review invites stakeholder to discuss whether this is sufficient. In addition, the current static nature of the benchmark involving a once-a-year review, does not accommodate incorporating real-time impacts into the framework as a measure of assessing actual corporate performance.

To some extent, CHRB will always be a proxy measurement for corporate human rights performance. However, this latest incident confirms that these are questions that should be addressed for CHRB to remain a robust and credible source of data. We would like to invite stakeholders with suggestions to participate in the methodology review consultations (more information is available [here](#)).

Following the destruction at Juukan Gorge, CHRB understands that Rio Tinto has launched a board-led review of its heritage management processes.² For the review to be fair and credible, it will be crucial for it to be transparent, co-designed with the affected communities and independent, to avoid conflicts of interest. The review should look at systemic and structural issues to avoid repetition and should be made public to build trust in the results and as a measure of respect for the communities affected.³ Rio Tinto's response to the incident will also be assessed in the context of the CHRB's 2021 assessment, along with any other allegations involving the company that meet the CHRB severity threshold.

For responses from Rio Tinto and regular updates, WBA and CHRB would like to point users of the Benchmark results to the Business and Human Rights Resource Centre's dedicated page (accessible [here](#)).

¹ See e.g. [After the Mine, Living with Rio Tinto's deadly legacy](#), 1 March 2020.

² [Rio Tinto announces details of board-led heritage process review](#), 19 June 2020.

³ For more detailed recommendations, see [How Rio Tinto can ensure its Aboriginal heritage review is transparent and independent](#), 22 June 2020.