



A STEP-BY-STEP GUIDANCE NOTE FOR
CONDUCTING IN-DEPTH ASSESSMENT
OF HUMAN RIGHTS IMPACTS

IN-DEPTH ASSESSMENT OF HUMAN RIGHTS IMPACTS

Guidance note for practitioners

NOMOGAIA



Contents

Acronyms	3
Executive Summary.....	Error! Bookmark not defined.
Introduction	Error! Bookmark not defined.
Human Rights Impact Assessment.....	4
Human Rights.....	5
Rightsholders	5
Methodology.....	5
Rightsholder Engagement.....	7
Overview	Error! Bookmark not defined.
Context.....	Error! Bookmark not defined.
Local	Error! Bookmark not defined.
National.....	Error! Bookmark not defined.
Project.....	Error! Bookmark not defined.
Company	Error! Bookmark not defined.
Rights Topic Catalogs	Error! Bookmark not defined.
Human Rights Topics.....	Error! Bookmark not defined.
Scoring and Rating Human Rights Impacts	8
Special Topics.....	Error! Bookmark not defined.
Catalogs.....	Error! Bookmark not defined.
Human Rights Impact Ratings	Error! Bookmark not defined.
Verification.....	Error! Bookmark not defined.
Implementation and Monitoring	Error! Bookmark not defined.

ACRONYMS

ARV	Anti-retroviral Treatment to treat Human Immunodeficiency Virus (HIV)
DHS	District Health Studies
DSS	Demographic Surveillance Study
EIA	Environmental Impact Assessment
FAO	Food and Agriculture Organization
HIA	Health Impact Assessment
HIV/AIDS	Human Immunodeficiency Virus/Auto-Immune Deficiency Syndrome
HRIA	Human Rights Impact Assessment
IAEA	International Agency for Atomic Energy
ICMM	International Council on Mining and Minerals
IFC	International Finance Corporation
IOM	International Organization for Migration
NGO	Nongovernmental Organization
OHS	Operational Health & Safety
SIA	Social Impact Assessment
STI	Sexually Transmitted Infection
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR	United Nations High Commission on Human Rights
UNICEF	United Nations Children’s Fund
WEF	World Economic Forum
WHO	World Health Organization

INTRODUCTION

Companies are required to respect human rights. This expectation stems from fundamental human rights conventions allocating accountability to ‘all organs of society.’ It was further defined and articulated in the UN Guiding Principles on Business and Human Rights. In 2026, the European Commission published final language requiring large companies doing business in the European Union to carry out due diligence.

Respect is more than just an intention or a platitude. It requires active effort, both to identify the risks inherent in a company’s activities, and to evaluate and address the actual and potential impacts. Scoping for risks and conducting in-depth assessment of actual and potential impacts where risk levels are elevated enables a company to be duly diligent in respecting human rights. This guidance meets the expectations laid out in this suite of instruments.

This guidance accompanies an easy-to-use, fill-in-the-blank template for human rights impact assessment (HRIA), and detailed spreadsheets for cataloging data and information relevant to human rights. The template and catalog can be downloaded from nomogaia.org.

This guidance note aligns with expectations laid out in regulations pertinent to human rights due diligence, such as Europe’s Corporate Social Due Diligence Directive, as well as OECD Guidelines for Multinational Enterprises (Guideline IV), Equator Principles lending requirements, and other hard and soft law tools.

In-Depth Assessment of Human Rights Impacts

Human rights impacts are scoped and screened through risk evaluation processes. In-depth assessment of human rights impacts is undertaken through Human Rights Impact Assessment (HRIA). It is a component of enterprise-wide human rights due diligence, carried out at the operational level and designed to directly define corporate impacts on identified rightsholders. In extractive industries, HRIAs are conducted alongside the traditional suite of impact assessments, combining detailed analysis of preexisting studies with on-the-ground research in collaboration with, or in addition to, ongoing studies. Experience has shown that standard assessments cannot capture the full range of issues that might trigger or exacerbate human rights claims. A Human Rights Impact Assessment (HRIA) relies on traditional assessments when possible and does not duplicate them, but employs a different scope, methodology and perspective to foresee impacts. HRIA can be commenced prior to Project construction, or mid-operation, serving to foresee any changes that will occur in the human rights scene as a result of shifting Project activities. When an HRIA is commenced simultaneously with an environmental and social impact assessment, human rights assessors can incorporate questions and topics into the research (questionnaires, studies, etc) of environmental, social and health impact assessors. Crucially, independent data is collected through interviews with community members, government officials, and Project staff.



This is referred to as “meaningful engagement” with rightsholders. Additionally, identified impacts are required to be mitigated, remediated and monitored over time.

Human Rights

HRIAs are conducted based on the rights enumerated in the United Nations’ Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and the eight International Labor Organization (ILO) core conventions. In addition, depending on the Project and the specified goals of the HRIA, other internationally recognized human rights conventions may be considered. These may include such sources such as the Declaration of the Rights of Indigenous Peoples, the Convention on the Rights of the Child, as well as regional conventions such as the African Charter on Human and Peoples Rights. Applicable laws are also taken into account as informative of human rights. Please see **Appendix 1** for a list of relevant rights drawn from these documents.

Rightsholders

Human rights are held by individuals referred to as “rightsholders.” HRIAs necessarily employ this term, which is not used in other assessments, because rights analysis starts and ends with the individuals whose human rights are impacted. Human beings, not corporations, governments, NGOs or other institutions, have human rights and are potential rightsholders. Stakeholders, in contrast, are those individuals, groups or entities that have a “stake” in the project – be it financial, social, environmental, or otherwise. The rightsholders relevant to HRIA are a subset of a Project’s human stakeholders. The rightsholder group can be very large, including even those who have no direct interaction with the Project, for example villagers from communities with no marketable skills to find work with the Project, but who live close enough to feel the effects of rising local prices.

METHODOLOGY

HRIAs are conducted to determine the extent to which a project or operation interacts with social, economic, environmental or political conditions (the “Context”) to influence particular human rights. They build on the enterprise-level work companies undertake to screen their operational portfolios for risks, as well as the site-level work companies undertake to assess the veracity of risks at flagged high risk footprints. Rights can be impacted in complex ways – sometimes simultaneously positively and negatively, depending on the rightsholder; sometimes iteratively positively and negatively, if impacts change during different phases of development and operation, or during seasonal cycles. The role of HRIA is to provide clarity to operators and regulators about how to reduce harms. In particular, HRIAs identify the human rights risks to specific rightsholders, they prioritize the most adverse impacts for most immediate remediation, they use collaborative processes to develop action plans, and they monitor effectiveness over time by benchmarking the reduction in harms.

An HRIA is performed in phases, typical to assessment and management of impacts. These include planning, doing, checking and acting. Planning includes desktop review of available data. Doing includes rigorously conducting assessment. Checking includes verifying findings with affected rightsholders and

triangulating additional data sources as they become available. Acting involves implementing action plans to remediate harm and evaluating effectiveness over time.



- Plan** **Develop Overview**
 - Gather context, project, company data;
 - Review Risk Screens & Assessments
 - Review all other incident, meeting, and impact logs
- Do** **Catalog Topics, Assess Impacts**
 - Conduct fieldwork, interview internal & external respondents,
 - Organize, triangulate & analyze data
 - Evaluate rightsholders by vulnerability; Assess impacts by severity (scale, scope,
- Check** **Verify through Engagement**
 - Develop a draft action plan prioritizing most severe impacts first
 - Acquire feedback from rightsholder & operation to refine an action plan & finalize saliency/impact ratings
- Act** **Implement Remedies**
 - Finalize time-bound remediation plans
 - Set monitoring schedules, track outcomes on rights
- Revise** **Monitor & Update**
 - Modify remediation strategies as monitoring exposes new actual/ potential impacts; periodically repeat cycle

Plan

Planning is the only desktop-based phase of assessment. National, local and project literature is consulted to establish the general outlines of the context. Existing human rights risk screens and assessments, as well as other incident reports, complaint logs, and impact assessments, are consulted in a sweeping literature review. In all other phases assessors include site visits to engage with stakeholders and rightsholders, investigate on-the-ground conditions, and verify their findings with project management, local communities and experts in other subjects, both internal to the company and external.

To organize the material aggregated in the planning phases, assessors may wish to develop brief overviews of the local and national context, operational profile, and company history pertinent to the operation under assessment. Assessors may also want to tabulate the documentation assessed, for ease of reference.

Local Context

Local content pertinent to the operation may include the project location, type and strength of local government, presence (and, if any, strength) of traditional governance systems for any Indigenous Peoples in the vicinity, climate and landscape data, and key information about the socioeconomics and health baseline in the area. Other particularities about a local context may be apparent from data review that should be included. For example, if pastoralist and agricultural livelihoods are driving local conflict, this should be included

National Context

The legal frameworks in the host country of an operation are important to HRIA, both in letter and in enforcement. The location of government headquarters, type of government, basics of the legal structure and duration of the current administration are basic inputs to this context. Additional indicators on corruption, conflict risk, education and literacy levels nationwide, as well as social fissures are included. In addition to internal documents, assessors often consult publicly available indices and

reports that evaluate baseline conditions in a country, including press freedoms, development indicators, and civil and political rights reports. If there are health, environmental or socioeconomic challenges that characterize the national context, those should be included. A common example from the early 2000s was the influence of HIV/AIDS on society in sub-Saharan African nations.

Operation

Background information on the project or operation is essentially a description of the industry, operation type, size, duration, ownership history, labor demands, and relevant business associations. Business associations can include development financing which carries heightened expectations for environmental and social performance. It can also include business partnerships that could dilute enforcement incentives from the state. The operational level risk scoping and assessment that many companies will have undertaken as a component of EU Corporate Social Due Diligence requirements is also an essential input into the operational overview for HRIA.

Company

Companies are often conducting or commissioning HRIAs in compliance with their own standards or legal requirements. An in-depth assessment of an operation's impacts will also consider the operation's adherence to the full suite of relevant corporate policies, procedures and standards. Additionally, there are sometimes internal organizational conditions that are relevant to assessment of particular operations. For example, if a company is diversifying its activities and has limited experience in a specific industry, that is a contextual data point for in-depth assessment.

Do

Doing is actively assessing outcomes for specific rightsholders. This phase involves fieldwork, internal interviews, external interviews (with both authority figures and vulnerable or marginalized rightsholders), direct observation, and fact-checking the documentation reviewed during the planning phase. For more on the nature of 'rightsholder engagement' and other types of meaningful engagement with affected people, see below. Once fieldwork is completed and additional data is gathered, a process of evaluating the severity of impacts on specific rightsholders is undertaken. This process involves consideration of the scale, scope and remediability of an impact. Scale refers to the intensity of an impact (how severely a single rightsholder is affected); scope refers to the extent of impact (how many rightsholders are influenced by an impact); remediability refers to the reversibility of an impact based on both the nature of the impact itself (fatalities are irremediable, for example), as well as the resiliency of affected rightsholders (impoverished and socially marginalized rightsholders are less resilient in displacement than wealthy and mobile rightsholders). Once you have evaluated the severity of impacts and the vulnerability of rightsholders, you can draft interventions and prioritize actions.



Cataloging Human Rights Topics

We have found that given the breadth of human rights, it is easiest to manage in-depth assessment by categorizing rights into the information types that are available to assessors. Human rights issues are divided into 6 categories in this approach: Labor, Health, Education, Economy, Political/Legal, and Social/Economic. These categories are divided into topics and subtopics. Each subtopic is associated with the rights most likely to be impacted, the rightsholders most likely to feel affects, and an "impact score."

The catalogs occupy dozens of pages once completed, and they become unwieldy within a word document. This guidance document links to a spreadsheet where catalogs can be completed. The spreadsheet includes five columns for input, including one called "Sources." The Sources column is partially completed with recommended sources. While conducting research, assessors will find additional sources that should be incorporated into the existing list in the column. The recommended sources are a starting point and are generally not sufficient to complete the assessment.

<https://docs.google.com/spreadsheets/d/1g0h5D-9dGUXuvqLDTLOlaRfQfdVWFv0/edit?usp=sharing&oid=103338050514663908088&rtpof=true&sd=true>

The following pieces of information are incorporated into catalogs:

Category	Topic	Subtopic	Input	Source	Impacted Rights	Impacted Rightsholders	Score
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As you fill in the Input, Source, Rights and Rightsholder blanks in the catalogs, your knowledge of the project and context increases. Each topic is, in itself, simple, but compiling all this information is

daunting. Data gathering and inputting is slow initially, but as you acquaint yourself with frequently used sources the process becomes quicker.

There are over 300 topics cataloged during assessment. These are all listed in Appendix #2 below. A few sample topics are provided here to provide a sense of how detailed the inputs generally are. Note that green-tinted topics are Context Topics, blue-tinted topics are Project Topics, and violet-tinted topics are Company Topics.

Category	Topic	Subtopic	Input	Source	Impacted Rights	Impacted Rights-holders	Score
Labor	Discrimination	Groups at risk for marginalization in hiring	Women say employers are reluctant to hire them because they require maternity pay and must sometimes leave work to attend to sick relatives -- a duty that falls on women rather than men. Rural in-migrants and non-speakers of Spanish struggle to find employment.	CEDLA	Non-Discrimination, Work C'ditions	Women; Indigenous peoples ; Recent in-migrants	-9
Political/Legal	Security	Extent of Project to be patrolled (including monitoring/searching employees)	In the Exbol factory the doors are guarded and strip searches were previously employed to deter and catch thefts. Lower-quality jewelry is produced at contractor entities, and security is outsourced rather than be conducted by Exbol.	CEDLA	Security of Person	Employees	-3
Labor	Discrimination	Non-Discrimination in hiring and promotion	Company workforce is 52% female and 48% male (2007 data) and the company has been rewarded for employing nondiscriminatory practices (Triple Sello Award). Company policy prohibits Discrimination on the grounds of race, gender, age, sexual orientation, political views or religion. Promotions and retaining of employees are based on the results of employee reviews, which include discussions of "behavior" – union-savvy workers are seen to be ill-behaved	2007 CSR Report	Non-Discrimination; Equal Work for Equal Pay	Union supporters; Educated workers	5

Rightsholder Engagement

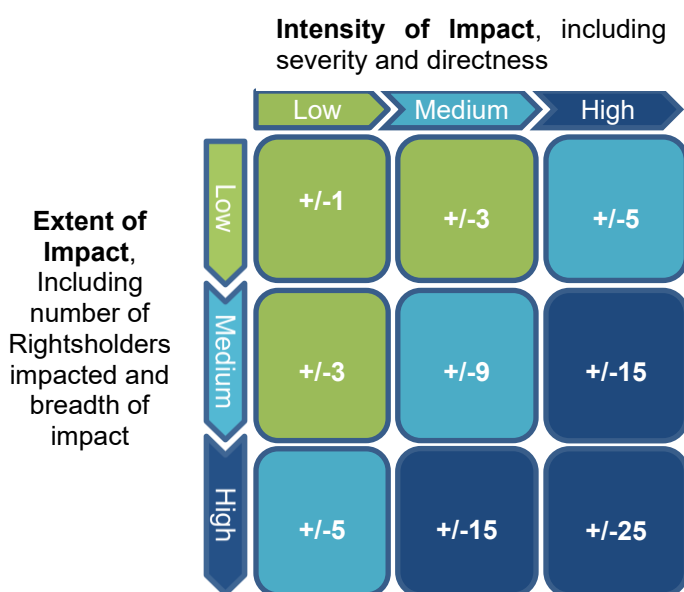
A key component of HRIA is Rightsholder Engagement, a multi-method process of indirectly acquiring human rights data from rightsholders themselves. As the individuals most vulnerable to rights violations, these “rightsholders” are the individuals to be targeted in mitigation steps by the Company. Separate Rightsholder Engagement is integral to HRIA, even when Stakeholder Engagement has already been conducted. Rightsholder engagement includes interviews, focus groups, and (where needed) surveys. This is a time-intensive process described in greater detail in other NomoGaia reports.

An Iterative Process

Assessment cannot be completed in a single sitting. Some topics are addressed in existing literature; some are only available through one-on-one discussion with rightsholders. Some literature will prove to be inaccurate or outdated, and some interviewees will present modified versions of the truth. To produce a comprehensive HRIA, you will often find yourself revisiting topics numerous times. Unanticipated observations may require you to modify your analysis of relevant rights, and this is good. Such changes do not fundamentally challenge the rights issue but rather modify and refine the content of the catalogs and your understanding of underlying realities.

Scoring and Rating Human Rights Impacts

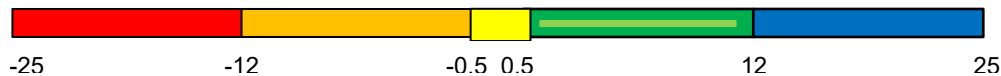
Impact assessment rests on the premise that a baseline can be established, and changes from that baseline represent impacts. With HRIA it is important to define the baseline with care. HRIA does not rate corporate impacts as defined by a national (or even local) human rights baseline. The reason for this is twofold: (1) Developing national ratings and rankings for human rights conditions is a challenge pursued by academics, consultants and investors for decades, and to date no system has demonstrated sufficient capacity to be broadly applicable, and (2) it is not necessary to understand the intricacies and complexities of a nation's entire human rights baseline to understand how a project interacts with human rights within that context. Assessors use knowledge of project design (drawn from project-specific documentation) to predict issues that would invoke human rights impacts if the baseline were neutral (i.e. if rights were adequately protected). Then contextual conditions are overlaid, allowing assessors to see which baseline rights challenges are imminently relevant and which are perhaps not. Assessors review those initial conclusions continually during assessment. This iterative process ensures that rightsholder engagement, stakeholder engagement provide input to develop the most comprehensive baseline possible as it relates specifically to the project.



Each Context Topic is associated with a score designating the extent to which rights are protected or violated at baseline as they pertain to project elements and design. Each Project and Company Topic is scored for the intensity, direction (positive or negative) and extent of impact likely to result from project activities. The scoring system is numerical (see Matrix, left). Intensity is defined as the severity with which an impact will alter life for even a single person, and the degree to which the Company is responsible. Extent is defined as the breadth of the impact. The matrix uses a 1 – 3 – 5 scale for perceptual reasons. The 1 – 3 – 5 scale creates sufficient differentiation

between low and high impacts without employing unwieldy, large increments.

The spreadsheet template provided by NomoGaiia includes functionality to automatically sort scores into baseline and impact ratings. It also develops a matrix to differentiate impact score on each right by each affected rightsholder. Because the scoring system is on a -25 to +25 scale, the ratings system, accordingly ranges from negative to positive 25. Ratings are color coded according to the spectrum below. The range for yellow ratings is a fraction of that for the double-digit spans between other ratings. The zone of "mixed impacts," where the significant positive and negative impacts of a project essentially cancel each other out is narrow because such occurrence is rarely relevant; generally impacts on different rightsholder groups will be separated into those who are significantly positively impacted and those who are significantly negatively impacted, obviating a neutral zone (when impacts are *actually* neutral, they are not considered impacted).



-25 - -12	Red indicates that a right is actually or potentially severely negatively impacted.
-12 - -0.5	Orange indicates that the Project has the potential to impact a right in negative ways.
-0.5 - 0.5	Yellow indicates that impacts are variable but are likely to be significant, whether positive or negative. Because of the contingent nature of yellow ratings, monitoring is necessary to determine whether, which way, and how severely rights end up being impacted.
0.5 - 12	Green indicates the Project is likely to impact a right in positive ways.
12 - 25	Blue ratings acknowledge or anticipate significant project impacts on a human right.
There are times when data gaps or future performance generate uncertainty in ratings. Uncertainty is addressed in gray and black scores. Black scores indicate that uncertainty is too extreme to posit a colored score. These are rare for in-depth assessments, as such assessments are often tasked to reduce the uncertainty that results from less detailed human rights risk evaluations.	
	A gray rating indicates that uncertainty caused by data inadequacy or unavailability creates doubt in the given color rating.
	A black rating is a strong caution of data gaps and unforeseeable risks/impacts.

The scores you input into the linked Excel spreadsheet will automatically generate ratings that are displayed on the Human Rights Impact Ratings table here:

Right is likely to be severely negatively impacted. Poses risks to the Project itself	Red
Project has the potential to impact a right in negative ways	Orange
Project impacts are variable but are likely to be significantly positive or negative	Yellow
Project is likely to impact a right in positive ways	Green
Right is expected to improve significantly as a direct result of Project activities	Blue
Data associated with the rating is flawed, insufficient, or absent. Monitoring needed	Gray
Extreme uncertainty. Lack of data associated with right represents a significant risk	Black
Right is more effectively analyzed in conjunction with other rights, not rated alone.	Special Topic

Human Rights	Employees	Downwind Community
Right to Work		
Right to Just Remuneration, Adequate Standard of Living, Equal Pay		
Right to Strike, Unionize, Associate		
Right to Favorable Work Conditions		
Freedom from Slavery	<i>These rightsholder categories and scores will vary by project; employees will be disaggregated by sub-group</i>	
Nondiscrimination		
Freedom of Housing, Residence		
Right to Food		

Right to Health - Nationwide
Right to Health - Local Communities
Right to Water
Right to Noninterference
Right to Political Participation
Right to Security of Person
Right to Education
Right to Privacy

Human Rights Impact Ratings, derived from Catalogs

In the topic catalogs, a column headed “score” at the far right activates a spreadsheet function that aggregates other impacts on the same identified right and rightsholder into a contextual score and an impact score. As a result, it is straightforward to contrast the baseline and impact scores for each applicable right and later a contrast of impacts on individual rightsholder subgroups. Functions built into the Topic Catalogs sorts inputs by Impacted Right and numerically averages scores to produce a Rating in the -25 and +25 range. Color-coded ratings are automatically generated by the program. Context ratings are issued separately from Project/Company ratings so assessors can understand conditions within a limited baseline and contrast them with likely impacts. Existing conditions have bearing on the Project’s ability to respect rights that are not fully protected. The example below depicts this.

Example: Human Rights Impact Ratings		
Context	Human Rights	Impact
	Adequate Standard of Living	
	Clean Environment	
	Right to Housing	
	Nondiscrimination	
	Right to Food	
	Right to Work	
	Privacy	
	Education	
	Freedom from Child Labor	
	Expression, Thought, Religion	
	Favorable Work Conditions	
	Right to Health	
	Right to Health - HIV	
	Security of Person	
	Equal Work for Equal Pay	
	Property	
	Noninterference	
	Public and Political Participation	
	Right to Water	
	Unionization	
	Collective Bargaining	
	Strike	
	Association	
	Assembly	
	Just Remuneration	
	Holidays with Pay	



CHECK

Checking is a matter of verification. Have you correctly identified the scale and scope of an impact and its remediability? For many ratings, rightsholders themselves are the most valuable experts on their own human rights. Even in communities where human rights terminology does not exist, rightsholders experience changes in their sense of self within society. People are keenly aware of what affects their lives. Human rights are about people's lives. Rightsholder feedback is an opportunity for rightsholders to verify or reject the conclusions assessors make about rights in the course of assessment. By re-engaging impacted rightsholders, you may learn that an impoverished community is more resilient than you had believed; maybe they have alternate lands to use that reduce the severity of the impact they face from a sweeping effect on the lands to be affected. Alternatively, the validation phase may expose additional rightsholders that will face severe harms resulting from land or water impacts. This verification process not only assures that you have correctly identified and quantified affected rights and rightsholders; it also assures that your proposed mitigation measures are acceptable. For example, a community affected by silica dust entrained by a haul truck route might desire to have the road paved, while the company prefers to place flora along the road to control dust. Paving could increase truck speeds and rightsholder safety; flora could displace roadside stalls. Verification of proposed mitigation often results in development of wholly new intervention measures.

Rightsholder Feedback

Example: Rightsholder Feedback

Assessors conclude that a farmer's Right to an Adequate Standard of Living has been negatively impacted by resettlement to less fertile land. During feedback sessions several farmers say they have reduced their farming activities and diversified their livelihood activities, benefitting from improved access to labor markets. Some farmers couldn't find employment, however, and have been impoverished concretely and comparatively, as their colleagues prospered relative to them. Right to an Adequate Standard of Living is then split into two ratings for two rightsholder groups

Right to Adequate Standard of Living – farmers with diversified incomes



Right to Adequate Standard of Living – farmers with no alternative income



Rightsholder feedback must be conducted in a format and style to which rightsholders relate, accounting for literacy rates, gender divides, and work schedules. Although feedback sessions should be tailored to specific rightsholder groups and specific Projects, core elements remain the same. Assessors inform rightsholders of each presumed impacted right and rating and describe how each right is relevant to the community by giving a community-based example.



Show a photo of children fetching water from a remote site familiar to all. Link the intangible concepts of "right to water" and "right to education" with a concrete new challenge in daily life by asking them whether you were correct to see a longer walk to the borehole as an added burden in children's daily lives

Company Feedback

Managers and operators whose facilities are under assessment often have valuable contributions to make to drafts. In some cases, they may correct outdated information and fill in data gaps, as personnel accrue monitoring data and update policies. A negative environmental impact at the time of assessment can be upgraded to neutral or positive rating if new data shows changes in performance. Additionally, company feedback can expose areas where corporate impacts on human rights are unclear or unintuitive. For example, some companies struggle to see how they negatively impact nondiscrimination, as long as they have a gender equality policy. You can use such feedback as a guide to produce explicit links in the chain

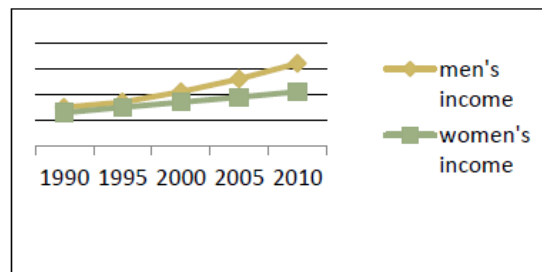
of events that begin with a Company’s hiring strategy and result in vulnerable or marginalized groups’ disempowerment.

Example: Understanding Corporate Complicity in Structural Discrimination

Misogyny is endemic in Tanzania’s southern highlands. The company is not responsible for this reality, but it is responsible for ensuring that its operations do not widen the empowerment gap between men and women. At Project operations, no women hold senior positions. Women rise no higher than junior management – secretaries and dispensary clinics.

Structural inequality¹ is powerful and overwhelms nondiscrimination policies the Company has established. By failing to address contextual inequality, the Project appears to be deepening inequalities between men and women. By improving their workers’ access to cash, the Company is preferentially benefiting its higher-paid employees - men. Only four women are permanent employees. The situation is even more problematic among “temporary” workers. When children are ill or fields need to be tilled, women must stay home. Rough estimates from August 2009 payroll suggest that women comprise 20 percent of temporary workers and earn a mere 17 percent of wages. The resulting income disparity is depicted below:

*This is called **disparate impact**. Enriching men leaves women comparatively impoverished, in a worse economic and social position. The UN has specifically addressed this problem with regard to the costs of unequal household burdens on women, which weakens their access to social security benefits and decreases their available time for education, training, leisure, self-care, and political activities. The Company has a duty to know what its impacts are on women’s mental and physical wellbeing. This data is not currently collected.*



Discrimination has at times been exacerbated by the Project in incidences of sexual harassment. Sexual harassment training should be conducted at the Project on a regular basis, and workers should have access to an anonymous complaints mechanism to level accusations (with substantiation) against managers who may be violating them.

Government feedback

Regulators in both the host country of operation and the home country of the parent company have levels of jurisdiction.

In operating contexts where host governments have human rights expectations for businesses, draft HRIAs can be sent to relevant ministries for review, unless government involvement could pose risks to rightsholders. Some governments will serve an important role in verification, updating government statistics and issuing comments. Generally, excluding government from a discussion of human rights would be both counterproductive and counterintuitive. Draft copies can be emailed or sent in hard copy. Assessors should state the timeline for expected feedback and planned publication. Proponents of human rights generally support transparency and openness, but companies are often hesitant to publish human rights related documentation. The question of confidentiality will eventually arise and deserves a careful weighing of the benefits and risks of making assessments publicly available.

For companies subject to the extraterritorial jurisdiction of due diligence laws, import bans, and reporting requirements, there is an expanding need to competently describe to regulators how impacts are identified and action plans are implemented. At the time of writing, most regulations are still in draft, and public reporting requirements have not been demonstrably tied to the outcomes of due diligence requirements. Nevertheless, reporting directly to governments has taken on an array of forms. In Germany, companies must fill in detailed questionnaires about human rights due diligence. In Canada,

companies must complete similar questionnaires about forced labor risk. In the US, companies seeking to remove suppliers from border patrol seizures and freezes must demonstrate that the abusive conditions that triggered Withhold Release Orders have been modified.

At present, many companies seek to tailor reporting to the particularities of each law. This approach is increasingly inefficient as regulations multiply. Companies with high maturity in environmental management establish policies around impact assessment, impact management, and ongoing monitoring that are fit for purpose for even the most stringent environmental laws. A comparable approach to human rights characterizes companies with high human rights maturity.

Companies have been reluctant to document actual cases of identified adverse human rights impacts. This has been justified in the past as duly diligent companies were the most likely to effectively identify harms and then most likely to face scrutiny by media and advocacy organizations. Moving forward, as more governments require detailed disclosures around adverse human rights impacts, companies should begin preparing for public scrutiny by practicing transparency.

ACT

Acting is a matter of implementing remedies, management strategies and preventative initiatives. It is time-bound and generally involves a wide array of personnel within a company as well as a designated point person for managing implementation. Action includes implementation of the remediation plan as well as active oversight of remediation. In cases where remediation plans are impacted but harms are not reduced, the actions are deemed ineffective and new ones are required.

Recommendations are all developed on a project-specific basis. What is crucial is that recommendations be concretely actionable, directly linked to the human rights risks the aim to mitigate, and commensurate with the intensity and extent of the likely impact.

Example: Recommendation Right to Health – HIV/AIDS

Education, prevention, treatment and counseling are the cornerstones of any effective HIV/AIDS policy in the extractive industry. Although many management systems have been set forth, the policy preferred by experts was produced by the International Petroleum Industry Environmental Conservation Association (IPIECA). The IPIECA standards begin with a Company mandate to clearly define and communicate HIV/AIDS policy, complete with its position of non-discrimination and employee confidentiality. Its focus on implementation includes situational analysis of the epidemic, management responsibilities, voluntary counseling/testing/treatment of employees, education, access to treatment and ongoing monitoring. Recommendations specific to the Project include:

Transmission – *A network of Wellness Centers have has been developed along southern Africa's major trucking routes. Centers are located at HIV 'hotspots' (confluences of high transport volumes, long stoppage times, and high prevalence rates). The sites provide information, education and communication; voluntary counseling and testing referrals; condoms and STI treatments to vulnerable individuals including truckers and sex workers.*

Treatment – *Access to Antiretroviral drugs (ARVs) is poor in Malawi. Although the drugs are provided free of charge by the government, they are only available at district hospitals. Karonga's hospital is over 50 kilometers from Kayelekera, and residents say that long distances and high transportation costs make access to ARVs prohibitively expensive. Bringing ARVs to Kayelekera will require diplomatic networking and collaboration with the Government of Malawi, and this has apparently begun through the government-supported MACRO HIV organization. If such a plan requires company support (e.g. petrol and secure transportation of ARVs from Karonga hospital to Kayelekera clinic), such support is strongly encouraged by Assessors.*



Figure 1 Workers attending a drama presentation hosted and facilitated by the Project, run by the District Health Office. Comedy is employed to educate workers and encourage voluntary testing. J. Nottingham 2010

REVISE

Revising human rights due diligence is both a short-term and long-term activity. In the short-term, it involves revising management actions when they are found not to reduce human rights harms. In the long term, it involves setting and maintaining consistent schedules for reassessment of impacts. Revision is where companies increase their maturity and improve long-term outcomes for rightsholders. This is an essential dimension of the UN Guiding Principles premise of continuous improvement. Clearly respect cannot be demonstrated if a company is continuously surprised and unprepared for adverse human rights impacts. Thus, long-term reduction in adverse impacts and increase in the ability to proactively spot and manage risks is a cornerstone of effective due diligence. Maturity matrices for human rights programs are tailored to specific industries. Examples are available at nomogaia.org

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